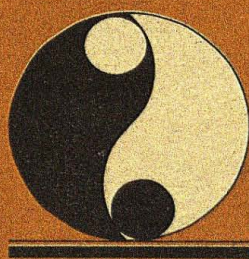


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January-March 1995**



**A Journal
devoted to
the Study of
Indian
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UNIFICATION OF DIVORCE LAWS IN INDIA

Shiv Sahai Singh

India is a multi-religious and multi-ethnic society. The main feature of the matrimonial laws of the different communities has thus been its diversity. This is evidenced in the institution of marriage, grounds for divorce, dissolution of marriage, separation and maintenance. Attempts at unification of these laws have not as yet fructified, despite judicial efforts.

I INTRODUCTION

India has been for centuries a multi-religious and multi-ethnic society and yet it has the distinction of maintaining unity in such diversity. With Independence, the Indian social set-up and norms were seen in the conspectus of the newly adopted Constitution in which the concept of a welfare state came to substitute that of a police state. To arrest separatist tendencies born out of religious and ethnic tensions, the concept of secularism has been adopted by giving freedom of religion to citizens and aliens making them subservient to public order, morality and health. Reasonable restrictions have been imposed on economic, financial, political or other secular activities which may be associated with religious practices.

The framers of the Constitution incorporated certain provisions to arrest the country's sufferings from a congeries of religions and sects. Article 44 of the Constitution envisages the unification of civil laws; it lays down the directive that 'The state shall endeavour to secure for the citizens a uniform civil code throughout the territory of India'. Article 25 provides freedom of religion to persons, subject to maintenance of cohesion in the norms of social set-up and smooth functioning of the government. Articles 15 and 16 prohibit the state from discriminating among citizens on grounds of religion. Article 17 provides for the abolition of untouchability throughout India. The wide interpretation of articles 15, 16, 17, 25 and 44 paves the way for introducing uniformity in the various personal laws prevalent in the country. The Constitution also confers powers on the state to introduce measures of social welfare and reforms. Ultimately, under the ambit of these provisions and schemes of social reforms, the personal law of a vast majority of Indians, that is Hindu law, has

been secularised by various Acts, viz., the Hindu Marriage Act (HMA), 1955, the Minority and Guardianship Act, 1956, the Hindu Adoptions and Maintenance Act, 1956, and the Hindu Succession Act, 1956 within a decade after the commencement of the Constitution.

The main feature of the matrimonial laws of India is its diversity. There is no uniform single code of laws applicable to the marital relations of all, irrespective of their religions. There is the uncodified Muslim law governing the Muslims. There is a lack of exactness and uniformity in the Quranic law. It does not give to Muslim wives the specific right to ask for dissolution of marriage even if their husbands commit any matrimonial offence. In order to mitigate the miserable condition of Muslim wives, the Dissolution of Muslim Marriage Act (DMMA) was passed in 1939. However, this Act failed to give justice to women and there is need for change. The position of women under the Hindu law was also the same, but the Indian Parliament was constrained to pass the HMA in 1955. There are separate Acts applicable to the Christians in the matter of marriage and divorce, the Christian Marriage Act (CMA), 1872 and the Indian Divorce Act, 1869, respectively. The Parsis are governed by the Parsi Marriage and Divorce Act (PMDA), 1936, in the matter of marriage and divorce. Besides these legislations, there is the Special Marriage Act (SMA), 1954, a permissive piece of legislation of general application, which can be used by anybody irrespective of religion. This Act provides for a form of civil marriage. Any one in India can avail of a civil form of marriage under it. An interesting feature of the Act is that a marriage solemnised under any other Indian matrimonial system can be converted into a civil marriage by registration under the Act. The Act is a liberal and progressive piece of legislation and may well provide the basis for a future uniform civil code

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This article is prepared by our editorial staff from his book, *Unification of Divorce Laws in India*, Deep & Deep Publications, New Delhi.

(UCC). But, under the SMA, 1954, the parties are not under compulsion to use the law because of its optional nature. A survey in Uttar Pradesh, in 1973, on marriages performed under the SMA, 1954 showed a poor response of the public towards civil marriage registered under the Act, though its provisions are more humane and liberal.

The personal laws of Hindus, Muslims, Christians, Parsis and Jews have different standards and grounds of divorce. They reveal many contradictions *inter se* but there are uniformities as well. A critical examination of these similarities and contrasts would pave the way of exploring the possibilities of uniformity in diversified divorce laws in India. Since 1955, after the various amendments to the HMA, 1955, the grounds of Hindu divorce are to some extent at par with the divorce grounds of Christians and Parsis. So far as the Muslim law is concerned, the grounds of divorce are not exactly similar to those in the Hindu law. Yet, a majority of them are the same as provided in the statutory divorce law for the Hindus. But Muslim women enjoy only a moiety of the right to divorce in comparison with the wide and extensive power of divorce enjoyed by their husbands.

The majority of Indians are governed by personal laws of the Hindus and the Muslims. The concept of *Dharma* in Hinduism has its widest connotation which does not exclude anything from its purview. Islam, too, according to expositions of the Quran and the *Sunna*, together with the doctrines developed by *ulema* of various schools, includes within its fold every activity that a human being is likely to undertake in this world and thereafter. The personal laws of Hindus and Muslims have the same pattern of their origin. The Quran of the Muslims has embodied within it the message of God (Allah) sent through Gabriel to prophet Mohammad. Its violation is the disobedience of *Sharia* or Sacred law. *Shruti* or the *Vedas* of the Hindus are also the revelations of God. They are also as sacred as the Quran. The origin of both the personal laws of the Hindus and the Muslims lies in divinity for which they have given only different nomenclature, viz., God, Iswar, Allah, etc. The same can also be said, though with a little variation, about the origin of

the Christian, Parsi and Jewish personal laws. The personal laws originated at different times and climes and at different junctures of the historical progression of mankind; but their co-existence in the Indian sub-continent is already too long to allow them to be viewed as systems totally unrelated to one another. This inter-relation is also visible in their legal body available to us in the form of various personal laws: Under all the personal laws some specific age of marriage has been prescribed; in addition, the Child Marriage Restraint Act 1929, as amended from time to time, prescribes a minimum age limit for a valid marriage throughout India.

Law which is the product of a rather complicated machinery of social and political organisation was unknown, at any rate, in its present sense, in the primitive ages when society was not, a collection of individuals but an aggregation of families. There was then no king or sovereign to frame rules or set 'law' for these families. One family was independent of another and followed its own head, whose will or pleasure was 'law' unto its own members. As families expanded into a community and the community into a tribe, rules and principles were established for the guidance of its members, and for the regulation of its internal economy. They continued for ages and existed long before any attempt to legislate was made by a sovereign authority. Having been handed down from generation to generation, they came to be regarded as sacred traditions and customs governing the tribe. In most cases law is found to be based on custom. In India, the Hindu and Muslim rulers never tried to rule their subjects by legislation. They never framed a code of laws regulating purely private rights, never attempted to interfere with the diverse social and domestic rights, duties and interests (like marriage, adoption, succession, etc.), of the people over whom they held their sway. Thus, came the importance of customary law. Customary law is composed of a large body of rules observed repeatedly by the members of a community because they are thought and found to be commendable. These customary rules are the groundwork of every system of legislation.

Custom is one of the important agencies for unifying different personal laws in India. One of the most important ingredients of many a custom is that these are applicable to a particular locality, to all persons, irrespective of their religion. From these places most valuable records of villages and tribal customs relating to succession and disposssession have since been collected and incorporated into the judicial system by an enactment. Evidence for such embodiment of customs into enactments lies in the texts of our early sages. Similarly, the dominance of the *adat* law and not of Muslim law is a special feature of the legal institutions of many Muslim countries, like Indonesia. Custom may, therefore, be safely accepted as a link for preparing one uniform civil law for all religious communities in India. There are many customs which are equally prevalent amongst the vast majority of our people and these customs need only the seal of approval by Parliament.

II MARRIAGE AND DIVORCE: CONCEPTUAL ANALYSIS

A. Marriage

In ancient times the institution of marriage was not in vogue. In procuring a partner for connubial union, man demonstrated the same behavioural activity which is adopted by the animal class. Sooner or later man's quest for paternity of children went on and this sowed the seed of marriage as an institution. Marriage is not merely a response to the first instinct of man; it is basically a means to achieve some social goals, viz., social harmony, well-being of the weaker members of the society and promotion of healthy development of human species. Like other parts of the world, polygamy and polyandry were originally common in India as well. In the beginning, sexual intercourse was allowed between men and women of the same tribe and it was prohibited outside the tribe. Sexual intercourse was also prohibited between very close blood relations like mother and son, brother and sister. Historical progression witnessed that

couples could come and cohabit as husband and wife by mutual consent and put an end to it by mutual consent, without any formalities.

Hindu Marriage

The Ancient Hindu Law recognised marriage as a *samaskar*- a sacred duty. A Hindu needs a son to redeem his soul after death. Manus recognises two objects of obtaining a son: first, to provide spiritual benefit and second, to continue family line. The first was religious and the second a secular object of marriage. Marriage under Hindu law was considered a sacramental union and divine in nature; it was binding not only in this life but in the life hereafter. However, the marriage among Hindus is also treated as contractual, exceptionally. A wife could never ask for divorce or for another husband, let her husband be a lunatic, a leper, a deserter, a chronic patient of venereal diseases or even an eunuch. Of course, the husband too could not ask for divorce. But, then he could always mock at the sacramental union with impunity and arrogance by taking another wife into similar sacramental bond; and he could do so as many times as he liked; the only limitation was that of his capacity, physical or otherwise. But a wife could ask for another husband just in five calamities, viz., when the husband was lost (unheard of), was dead, had become a *sanyasi*, was impotent or was *paita*. This text was quoted by Pandit Iswar Chandra Vidyasagar in the agitation for remarriage of widows which culminated in the Hindu Widows Remarriage Act, 1856. The custom of the Hindus had crystalized against re-marriage of widows, probably after the promulgation of Parasara's Institutes. During Alberuni's visit to India (about 1030 A.D.) the remarriage of widows was found prohibited by custom. Manus is against widow remarriage for a maiden can be given only once. The *Arthashastra* of Kautilya, however, declares the right of a wife to marry another husband under certain circumstances.

Vedic texts as well as *Smritis* contain no advertence at all to divorce in ancient Hindu system. Under Kautilya's *Arthashastra*, marriage might be dissolved by mutual consent in cases of

the unapproved forms of marriage e.g., *Gandharva*, *Asura*, or *Rakshasa* forms. In case of approved forms of marriage, i.e., *Brahma*, *Daiva*, *Arsha* and *Prajapatya*, divorce by mutual consent was not prevalent. Therefore, once the ceremonies of marriage were completed, nobody on this earth was given the power to dissolve that union.

The HMA, 1955 infused in Hindu marriages certain contractual elements, viz., (i) the minimum age for the bridegroom is 21 years and 18 years for the bride; (ii) parties must have mental fitness for giving valid consent to the marriage (under section 12, the violation of the requirement renders the marriage voidable); (iii) either spouse has a right to claim dissolution of marriage by a decree of divorce on the grounds set out in section 13; (iv) either party has a right to claim restitution of conjugal rights on the grounds mentioned under section 9; and (v) either spouse has a right to claim Judicial separation under section 10. Prohibitions on the ground of affinity extend both in the direct lines of ascendants and descendants. The sacramental character of Hindu marriage evaporated as a result of induction of the remedy of divorce by the statutory law of Hindu marriage. Of course, the process of wiping off sacramental character of marriage had started in 1856, when remarriage of widows was statutorily recognised in supersession of the concept of eternal union. Now the Hindu marriage is neither sacramental nor contractual though it has semblance of both. Of course, the balancing scale tilts heavily towards contractual concept of marriage by reason of classification of Hindu marriages into valid, void and voidable, to determine matrimonial rights and remedies. Also, under the HMA, 1955, the orthodox concept of the term 'Hindu' has undergone a radical change and it has been given an extended meaning. The codified Acts, viz., The HMA, 1955, the Hindu Succession Act, 1956, etc., not only apply to Hindus by birth or religion but also to a large number of other persons who are not Muslim, Christian, Parsi or Jew. But they do not apply to members of the Scheduled Tribes coming within the meaning of clause 25 of article 366 of the Constitution, unless the central government by a Gazette notification directs that any of the enactments shall apply to them also.

Muslim Marriage

Muhammadan law is that portion of the Islamic civil law which is applied in India to Muslims, the followers of Islam, as a personal law. The pre-Islamic customs regulating the relation between sexes and the status of children were, at the time of the establishment of Islam, uncertain and in a state of transition. There were four kinds of marriages in vogue before Islam: (i) a man could ask another for the hand of the latter's ward or daughter, and then marry her by giving her a dower. This form was later sanctioned by Islam; (ii) a custom according to which a man would ask his wife to send for so and so (naming a famous man) and to have intercourse with him. The husband would then keep away from her society until she had conceived by the man indicated; then he would return to her. This originated from a desire to secure noble seed for offsprings; (iii) a number of men, less than ten, were allowed to go to a woman and have sexual connection with her. If she conceived and delivered a child, she would name whomsoever of them she chose as father. The child would then be ascribed to him, and he was not allowed to disclaim its paternity; and (iv) if a prostitute conceived or brought forth a child, the men that frequented her house would be assembled, and physiognomists used to decide to whom the child belonged. According to pre-Islamic customs, the Arabs used also to contract what has been called a temporary marriage under the name of *Muta*.

The prophet Mohammad was determined to raise the status of women once the Muslim Commonwealth was established. A Muslim marriage (*nikah*) is a contract made between two persons of opposite sexes with the object of intercourse, procreation and legalising of children. It is a civil contract and no priest or *Qazi* is necessary for its performance. The Shia law recognises two kinds of marriages, namely, permanent and temporary or *Muta* but the latter are void according to Sunni law. Every Mohammedan who has attained puberty and who is of sound mind may enter into a contract of marriage. There should be a proposal made by or on behalf of the other, in the presence of two male or one male and two female witnesses. The

proposal and acceptance must be expressed at one meeting. The witnesses must be sane and adult Mohammedans. Under the Islamic law a man is permitted to have four wives at the same time. However, it is not lawful for a Muslim wife to have more than one husband at the same time. Before the establishment of Muslim Commonwealth (Islam) fighting was the order of the day with the result that the number of men was much less than that of women. This state of affairs largely contributed to the continuance of the institution of polygamy during the early period of Islamic history. The Quran only permits, does not enjoin polygamy, and that too only in those cases where the man finds it impossible to safeguard the interests of widows and orphans. If the man does not feel confident of treating all the wives equally without discriminating against any of them, he should have only one. The arbitrary power of the Muslim husband to have more than one wife has been controlled almost in all the Muslim countries. Some countries have totally abolished polygamy, while other have partially. Obviously polygamy which is not expressly permitted by the Quran in normal times, has no practical relevance among the Muslims of India. Statistical researches have proved the incidence of polygamy amongst the Hindus more than among the Muslims. Thus, it will hardly hurt the Muslims if monogamy is legislatively made the rule for them.

Under the Shia law, the marriage of a Shia male or female with a non-Muslim is null and void. Under the Sunni law a Muslim male can validly contract a marriage with a *Kitabia*. As far as a Muslim woman is concerned she can contract a valid marriage only with a Muslim. All the schools of Sunni classify marriages into valid and irregular. Under the Muslim law if a Muslim minor is given in marriage during minority by a guardian, the minor has the right to repudiate such marriage on attaining majority. It also lays down various categories of prohibited relationship—consanguinity, affinity, fosterage and unlawful conjugation. The first three are absolute impediments rendering the marriage null and void, while the last renders the marriage irregular.

Christian Marriage

The Indian Christians, in all matters of marriage are governed by the Indian CMA, 1872. Any person professing and believing in Christian religion is a Christian for the purpose of the CMA, 1872. Marriages among Indian Christians are looked at from two stand points, viz., the law of the land and the canon law. A marriage performed in compliance with the law of the land governing the parties makes the marriage valid and the offsprings legitimate. Under the Canon law, a marriage performed by a schismatic priest, where the parties to the marriage are Roman Catholic, is not recognised as valid by the Catholic Church and the offsprings are described as illegitimate. Such a marriage would be perfectly valid under sections 4 and 5 of the CMA and the progeny perfectly legitimate. The most important provision of the CMA is that a marriage must be registered. The CMA is only concerned with the form in which the marriage is to be solemnised and it does not deal with objections to the validity of marriage. Section 88 of the CMA says that nothing in this Act shall be deemed to validate any marriage which the personal law applicable to either of the parties forbids. Section 6 provides that every marriage between Indian Christians who apply for a certificate may be certified if the following conditions are fulfilled: (i) the man and the woman intending to marry shall not be under 21 and 18, respectively; (ii) neither party to the marriage shall have a wife or husband still living; and (iii) each of the parties shall take the marriage oath in the presence of one person licensed under section 9 and at least two credible witnesses other than such licensed person. About other Christians and their marriages the CMA is silent on some matters— the prohibition to marry against certain relations, provableness of marriage, barring sections 5 and 80 of the CMA, 1872. A Bill to amend this law, the Christian Marriage and Matrimonial Causes Bill, was pending before Parliament in 1962. When the Lok Sabha was dissolved that Bill lapsed. The Christian marriage law appears outdated in comparison to other matrimonial laws in India.

Parsi Marriage

Since 1835 efforts were made by the members of the Parsi community to have a suitable marriage law in keeping with their social requirements and they culminated in the passing of the PMDA, 1865. This Act was based on the Matrimonial Causes Act, 1857 of England. The various defects of PMDA, 1865 were rectified and the law on the subject was made in conformity with the changed conditions and views of the Parsi community by the PMDA 1936. This Act has also been amended in 1988 by the Parsi Marriage and Divorce (Amendment) Act, 1988. A 'Parsi' is defined in section 2(7), as Parsi Zoroastrian, a person who professes the Zoroastrian religion. A Zoroastrian need not necessarily be a Parsi. The word 'Parsi' has only a racial significance and has nothing to do with his religious professions. It takes its derivation from 'Pers' or 'Fars', a province in Persia, from which the original Persian emigrants came to India. Now, it has been held that the word 'Parsi' in the Act means Zoroastrians, both of India and Iran, and the Court constituted under the PMDA, 1936 has jurisdiction over them. After the amendment of 1988, the Act provides that for the marriage to be valid, a Parsi should have completed the age of 21 if male, and 18 if female, and should not be related to each other in any of the degrees of consanguinity or affinity set forth in Schedule I of the Act. However, any child of an invalid marriage, which would have been valid if the age restriction had been observed, shall be considered to be legitimate. Further, a Parsi cannot remarry in the life-time of his/her spouse until the marriage is dissolved by a competent court even after he or she may have converted to any other faith. It shows the strict monogamy in Parsi marriages. If a Parsi, marries again in the life-time of his or her spouse before dissolution of the earlier marriage, he or she shall be punished under sections 494 and 495 of the Indian Penal Code (IPC), 1860. Marriage certificate is required under section 6 but where there is no marriage certificate and no entry in the marriage register, any other relevant evidence is admissible as proof of the marriage having taken place. The register of marriages,

however, is evidence of the truth of the statements contained therein; penalties are prescribed for secreting, destroying or altering the register.

Jew Marriage

The law of marriage and divorce of Jews is not codified in India. Even today they are governed by their religious laws. The book on *Marriage and Divorce* written by David Melzinar is followed in the courts. The entire law of marriage and divorce among Jews in India has been discussed by Justice Crumps in *Benjamin v. Benjamin*. The Jews regard marriage not as a civil contract but as a relation between two persons involving very sacred duties. They may, however, marry under the SMA, 1954 in lieu of religious formalities as prescribed by their personal law because this Act is applicable to all citizens of the country irrespective of their religious affiliations.

B. Divorce

The term 'divorce' is of Latin origin *divortium* which means to turn aside, to separate from, diversion (*dicitur a divertendo, quia viz. divertitur ab uxore*). Divorce is said to be from *divertendo* because a husband is diverted from his wife. This divorce may be either absolute when marriage stands dissolved, or limited when the marriage relation is suspended and the duties and obligations are modified, though the matrimonial bond remains in full force. For this type of divorce which is only from bed and board - *a mensa et thore* - the term used in the modern statutes is judicial separation. It is related to divorce because of the common grounds for these two matrimonial remedies in India. Divorce is one of the legalised forms to enable marital, and in turn familial, disorganisation. Disorganisation is of different kinds. One kind of disorganisation is from an act of God, i.e., death. The disorganisation also takes place by an act of human beings, i.e., by divorce. Among all sorts of disorganisation like death, factual separation and jural separation, the most important is divorce. The concept of divorce is very old and its origin is not traceable. According

to Letourneau, divorce as an institution is the final milestone in the process of freeing a woman from the slavery of man in marital relationship.

Hindu Divorce

The Hindu *Dharmasastras* inculcated sacramental concept of marriage and indissolubility of marriage which existed even beyond death. Kautilya provided for some cases where divorce could be permitted. Again in a number of cases and social circumstances divorce was acceptable as caste custom. In addition to the customary divorce, there was also *Tyaga* prevalent in Hindu society. *Tyaga* is a technical term denoting separation from conjugal intercourse, as opposed to *moksha* the technical divorce. In other words, she remained a legal wife though given up by the husband. Under the old Hindu law the concept of nullity was recognised. However, this remedy was available only in very limited cases. Even an adulterous wife was not allowed to be divorced. She could, at best, be punished if she had committed adultery with men of inferior castes. If she became pregnant as a result of adulterous intercourse she could be renounced. In spite of her being turned out of the house the marriage tie was never dissolved. India being a vast country, the concept of divorce differed from caste to caste and place to place. Legally divorce was never allowed but by custom it was always allowed in many parts of the country.

A demand for a uniform law on divorce was made soon after Independence. The reason for this demand lay in the sufferings of Hindu women. A large section of orthodox Hindus were not in favour of divorce. Ultimately, after heated debates in Parliament, the government was able to introduce the institution of divorce among the Hindu community. The concept of divorce introduced in Hindu law by the HMA, 1955 closely followed the background of English law and the Indian Divorce Act, 1869. So divorce under this statutory Hindu law has been founded upon the offence or guilt theory of divorce. According to this theory, a marriage can be dissolved only if one of the parties to the marriage, after the solemnization of the marriage, commits some matrimonial offence. This theory had been

the basis of section 13 of the Act prior to its amendment in 1964. A significant departure from this theory was made by the Hindu Marriage (Amendment) Act, 1964. The changes made by the amendment were as follows. (i) Before the amendment, the right to apply for divorce was given only to the innocent party. After the amendment the right has been given to either party; and (ii) prior to the amendment, the party *against* whom a decree for judicial separation or for restitution of conjugal rights had been passed was held to be the wrongdoer, if such a party did not comply with that decree for two years or more after its passing. It is this wrong which gave the cause of action (right to apply for divorce) *only* to the party *in whose favour* the decree was passed but not to the party against whom the decree was passed. The amendment has eliminated this distinction. The mere fact, that after the passing of these decrees the cohabitation or restitution of conjugal rights has not come about, is regarded as sufficient to give *either* party a right to apply for divorce. This is the new way of looking at the phenomenon of judicial separation and the non-restitution of conjugal rights between the parties. This phenomenon by itself is regarded as breakdown of the marriage necessitating the grant of divorce, irrespective of the question for whose fault the breakdown of marriage has resulted. The breakdown theory of divorce won further recognition in 1976 when section 13B was incorporated by the Marriage Laws (Amendment) Act, 1976.

Muslim Divorce

The position of women under pre-Islamic customary law was the worst. Prophet Mohammad is the first person to improve the status of women. Islam gave the right of divorce to both the spouses of the marriage. Before the advent of Islam, neither the Jews nor the Arabs recognised the rights of divorce for women, and it was the Holy Quran that for the first time in the history of Arabia gave this great privilege to women. If there are circumstances under which it is not possible for the husband and wife to carry on the marital obligations, the marriage may come to an end on the request of the wife. Yet, about Muslim wife's

right of divorce, there exist too many controversies among different schools and sub-schools of Muslim law. Muslim law is divided in two schools, i.e., the Sunni and Shia. The Sunni School is divided in four sub-schools i.e., Hanafi, Maliki, Shafii and Hanbali. The Shia School is divided into various sub-schools. The important are Ithna Ashari and the Ismailii Schools. Out of all these schools and sub-schools only the Maliki sub-school is favourable to the Muslim women. Under certain circumstances a Maliki Muslim woman can ask for divorce, such as when the husband leaves the wife without means of subsistence; or refuses to provide a habitation for her; or tries to introduce a concubine into the conjugal domicile; or treats her cruelly; etc. The Shafii sub-school also permits a wife to dissolve the marriage if her husband is suffering from madness, elephantiasis or leprosy or if her husband does not treat her impartially. Under Hanafi law, insanity, cruelty and desertion are grounds on which the wife can ask for dissolution of marriage. Under the Hanbali sub-school a wife can ask for dissolution of marriage if her husband fails to fulfil the agreement which was entered at the time of marriage. The Ithna Ashari sub-school permits wife to seek divorce on the grounds of insanity, eunuchism and impotence. Under the Ismailii sub-school elephantiasis, insanity, leprosy and *qaru* (a small tumour like hernia), are mentioned as good grounds for rescission of the marriage. In one case, the court decided that if the Muslim husband failed to observe the pre-nuptial agreement, the wife was at liberty to ask for the dissolution of marriage. Except Islam no other religion of the world gives to the women the right to enter into pre-nuptial agreements. Later on, a Muslim woman could ask for the dissolution of marriage on the following grounds: (i) option on puberty; (ii) husband's impotence; (iii) husband's allegation against wife about her faithfulness; and (iv) option of inequality. Mohammedan marriage being a civil contract, physical cruelty, desertion, persistent failure to maintain, contraction of a loathsome disease, insanity, gross misrepresentation, lack of consensus on a vital matter would be sufficient grounds for dissolution of marriage at the instance of a wife.

The Quran and traditions of Prophet Mohammad have nowhere authorised the Muslim husbands to dissolve their marriages arbitrarily; but still they have acquired arbitrary power of divorce by way of custom. Muslim husbands are exercising the power to end the marriage at their unrestrained option. *Talaq* under the Muslim law is a kind of divorce. It consists of two types, i.e., *talaq-us-sunnat* and *talaq-ul-bidat* in Hanafi Law. The *talaq-us-sunnat* is regarded as one of the most approved form of *Talaq*. It can again be divided into two kinds, i.e., *talaq-ul-ahsan* and *talaq-ul-hasan*. In the case *talaq-ul-ahsan*, the husband must pronounce the formula of divorce once, in a single sentence, when the woman is in a state of purity (*tuhr*) and there is no bar to connubial intercourse nor has there been any intercourse during that state; and must thereafter abstain from the exercise of conjugal rights. As far as *talaq-ul-hasan* is concerned, the husband is required to pronounce the formula three times during three successive *tuhr* periods of the wife. When the last formula is pronounced, the divorce becomes irrevocable. These forms are also approved by Shias. The *talaq-ul-bidat* consists of: (i) three pronouncements made during a single *tuhr* either in one sentence, e.g., 'I divorce thee, I divorce thee, I divorce thee'; or (ii) a single pronouncement made during a *tuhr* clearly indicating an intention irrevocably to dissolve the marriage, e.g., 'I divorce thee irrevocably'. Under the *talaq-ul-bidat*, once a definite and complete separation has taken place the parties so separated cannot remarry without the formality of the woman marrying another man and being divorced from him. It has always been a point of dispute amongst the jurists of Muslim law about *talaq-ul-bidat* as an unapproved form of *talaq*. The Shias and Malikis have not recognised this form of *talaq*. It is only recognised by Hanafis and Shafiis. Muslim law is partial in dealing with the two sexes, male and female, giving unfettered right of divorce to Muslim males and denying the same to women. On account of this discrimination many Muslim countries have tried to improve the status of women through legislation. In India, neither Muslim husbands nor Indian courts recognised the Quranic injunctions about divorce. To rescue the Muslim wives the Bhopal State

passed an Act in the year 1931, through which they were allowed to free themselves from the marriage. Later on, the difficulties faced by the Muslim wives were realised and the DMMA, 1939 was passed. This was made applicable to all wives irrespective of their sects under Muslim law. The Act provides various grounds which may enable a wife to seek divorce from her husband. The methods of dissolution of Muslim marriage are not adequate, justified or reasonable. The law lags far behind the changes in the norms of the society and the social values.

Christian Divorce

The parties to a Christian marriage may approach the court of law to dissolve the marriage tie under the Indian Divorce Act, 1869. A Bill to amend this law, the Christian Marriage and Matrimonial Causes Bill, lapsed with the dissolution of Lok Sabha in 1962. The Christian marriage may be dissolved on the compliance of the requirements set out in section 10 of the Indian Divorce Act, 1869. The Act provides that unless parties to the marriage are domiciled in India at the time when the petition is presented, the courts have no jurisdiction to dissolve the marriage. If a court having no jurisdiction has passed the decree for dissolution of marriage, the marriage would subsist and either of the parties going through a subsequent form of marriage would be guilty of bigamy and any issue from such subsequent union would not be legitimate. In determining the domicile of the parties in a proceeding for dissolution of marriage it is the domicile of the husband alone which is to be considered in as much as a wife takes the domicile of her husband upon her marriage. Domicile means a permanent home, or place where one resides with the intention of remaining there for an indefinite period. Domicile is not the same thing as residence. Residence implies a purely physical fact, the fact of just being and living in a particular place. But domicile is residence coupled with intention to live indefinitely in the place. Section 7 of the Act permits court to interpret its provisions with the help of the principles and rules of English courts. But it (section 7) cannot be read as interfering with or extending the grounds of

dissolution of marriage as incorporated in section 10 of the Act. Hence dissolution of marriage cannot be sought on grounds not mentioned in section 10 of the Act.

Parsi Divorce

A Parsi may file a suit to dissolve the marriage tie under section 31 of the PMDA, 1936. With the compliance of the requirements under the said section the marriage shall be dissolved. The grounds for divorce are provided under section 32 of the Act. When a court passes a decree for divorce, the court shall send a copy of the decree for registration to the Registrar of Marriages within its jurisdiction appointed under section 7 of the Act. The provisions of Part II (Sections 3-17) applicable to the Registrars and registers of marriages shall be applicable to the Registrars and registers of divorces.

Jew Divorce

Jews have no codified divorce laws. They are fully guided by the customary laws. If Jews opt to register their marriage under the SMA, 1954 their divorce cases shall be settled within the provisions of that Act. This secular optional law provides adequate matrimonial remedies including divorce.

III

EXISTING GROUNDS OF DIVORCE: COMPARISON AND CONTRAST

Laws governing the marital relations of persons in India provide the matrimonial remedies, i.e., restitution of conjugal rights, judicial separation and divorce. Divorce, as a rule, is based on a number of grounds upon which the spouses can seek the remedy to terminate the marriage bond. A critical analysis of the grounds for divorce to explore the uniform standards and contrasts in them will be beneficial in formulating the unification equation of making one law throughout India for all the citizens. This is classified as (i) fault grounds (party at fault); (ii) party not at fault; and (iii) breakdown grounds (separation).

A. Fault Grounds

A marriage can be dissolved only if one of the parties to the marriage, after the solemnization of the marriage, commits some matrimonial offence. The petitioner should prove that the respondent is guilty of one or more grounds stipulated in the divorce law of the parties. These grounds include (a) adultery, (b) cruelty, (c) desertion, (d) bigamy, (e) conviction of crime, (f) unnatural offences, (g) conversion (h) adoption of religious order and (i) absence without being heard.

(a) *Adultery*: Almost all legal systems of the world in which the institution of divorce has got some room have laid down adultery as a specific ground for divorce. Until 1937 it was the only ground in England. In India too, adultery has received statutory recognition as a ground for divorce in the Marriage Laws (Amendment) Act, 1976. According to this Amendment, a stray act of adultery is sufficient for divorce. Divorce among the Muslim community by recourse to court is available only to women. Section 2 of the DMMA, 1939 lays down specific grounds for dissolution of marriage. Besides these specific grounds a sweeping clause is also provided- 'On any other ground which is recognised as valid for dissolution of marriage under Muslim law'. Certain schools of Mohammedan law such as the Hanafi do recognise adultery as a good ground for dissolving a Muslim marriage. Islam says that only in three cases a Muslim may be put to death, i.e., apostasy, adultery and murder [Hamilton, Hedaya, p. 178]. If the charge of adultery is proved true, the woman charged with adultery would be condemned to death, if on the other hand, the charge is proved to be false, the person making the charge would receive punishment of eighty stripes. The British brought certain reforms into Muslim law to minimise brutal punishment which was against the principles of equity, justice and good conscience. In 1860, the IPC was introduced in India and the term adultery was incorporated with a new meaning and definition. Some Muslim law scholars have maintained that if the husband has falsely charged his wife with

adultery, the wife is entitled for judicial divorce. Similarly, adultery is a ground for dissolving a marriage tie of the Parsis and Christians in India.

The provision of section 10 of the Indian Divorce Act, 1869 governing Christian divorces is slightly different from the rest of the laws. Adultery has not been defined anywhere in the Act itself. Under the Act, a husband may petition for dissolution of marriage on the ground of adultery of the wife. But a wife can ask for dissolution of marriage on the ground that the husband has been guilty of incestuous adultery or bigamy with adultery or of marriage with another woman with adultery or adultery with cruelty or adultery with desertion. Section 10 is definite that it is only adultery coupled with desertion or with cruelty that would entitle the wife to obtain dissolution of marriage. Under section 22 of the Act, the wife would be entitled on the ground of adultery or cruelty or desertion only to a decree of judicial separation which does not dissolve the marriage.

(b) *Cruelty*: Marital misconduct is unfortunately as old as matrimony itself. Cruelty as a ground for divorce is widely accepted by almost all the legal systems of the world. In India, the Indian Divorce Act, 1869 does not recognise cruelty alone as a ground for divorce. What is required for divorce is cruelty coupled with adultery. The provisions in the PMDA, 1936 seem to lay down the ground with more clarity of expression though the term cruelty has been avoided therein. The terminology of the section is a clear proof of borrowing by the legislature from the judicial pronouncements. The provision in section 2 runs as follows: 'that the defendant has since the marriage voluntarily caused grievous hurt to the plaintiff or has infected the plaintiff with venereal disease, or, where the defendant is the husband, has compelled the wife to submit herself to prostitution, provided that divorce shall not be granted on this ground if the suit has been filed more than two years: (i) after the infliction of the grievous hurt, or (ii) after the plaintiff came to know of the infection, or (iii) after the last act of compulsory prostitution'. Grievous hurt is defined in section 2(4) of the Act. The new sub-clause added by the Parsi Marriage and

Divorce (Amendment) Act, 1988, empowers a plaintiff to sue for divorce on the ground of cruelty of the defendant. However, it is in the discretion of the court to decide whether it should grant divorce or judicial separation only. The old above mentioned clause defining cruelty has been retained as a ground of divorce. These grounds do not find place as grounds for divorce in the Indian Divorce Act but are only treated as grounds for judicial separation.

In Muslim law, the *Hedaya* does not mention anywhere that a Muslim wife is entitled to ask for the dissolution of marriage if her husband is cruel to her. During the British rule, in one case the husband disposed of the property of his wife and confined her into a room like a jail. He also misbehaved with his wife. In appeal, the husband said that under Muslim law, a wife has no right to live separately, even though the conduct of the husband is bad. The Privy Council said: 'If under the Muslim law, no wife can separate herself from her husband under any circumstances whatsoever, the law is clearly repugnant to natural justice and the Privy Council was not bound to follow it' [(1897) Moore's Indian Appeals, 551]. The court decided the case in favour of the wife, keeping in view the doctrine of justice, equity and good conscience. This is probably the first Indian case on the subject of cruelty under Muslim law. There has been much confusion whether Muslim law permits a Muslim wife to ask for the dissolution of marriage on the ground of husband's cruelty or not. Under the DMMA, 1939 a Muslim wife is entitled to divorce, if her husband treats her with cruelty. Section 2 of the Act lays down the whole range of categories of cruelty as it is understood under Muslim law. The work of limiting cruelty to these categories under Muslim divorce law has been done by the legislature along with the judiciary. Such limitations on the interpretative strength of judiciary are found only in this enactment. In other enactments like HMA, 1955 or the SMA, 1954 it has been left to the judiciary wholly to interpret the concept of cruelty.

Cruelty was not initially a ground for divorce under the HMA, 1955. But surprisingly enough, cruelty was a ground for divorce under the SMA, 1954. Now, the provisions of HMA, 1955 and the SMA, 1954 are identical in the matter of cruelty. The HMA as amended in 1976 made cruelty a ground on which a decree for divorce may be granted. The Indian Legislature has also changed the provisions of judicial separation under section 10(1)(b). Factually, the Marriage Laws (Amendment) Act, 1976, which makes cruelty a ground for divorce, is analogous to the provisions of British Matrimonial Causes Act, 1950. The Law Commission of India in its 59th Report had recommended for change in the definition of cruelty in Indian marriage laws following the changes in the concept of cruelty in English law. After the Marriage Laws (Amendment) Act, 1976, the legislature left it to the courts to determine conduct of cruelty on the facts of each case. Relief is granted not only to protect a spouse from physical injury but also from danger to mental health. The scope and nature of cruelty as a ground for divorce under modern matrimonial law in India can be summarised as under: (i) before a conduct can be called cruel, it must reach a certain pitch of severity because cruelty is a question of degree; and (ii) if there is no consummation, the object of marriage is frustrated. Lack of consummation amounts to mental cruelty. The birth of a child is not held as conclusive evidence that the marriage has been consummated as it is well established that *fecundation ab extra* can take place. Lesbianism and sterilisation operation undergone by the husband against the wishes of the wife constitute acts of cruelty provided there is intention to inflict misery or mental pain. The meaning and scope of cruelty as a ground for divorce in all matrimonial system prevalent throughout India irrespective of their religion-oriented differences have much in common, obviously because they deal with the instincts and miseries of human beings in matrimonial home in the gamut of cruelty.

(c) *Desertion*: It is difficult to define what desertion is. The term is quite vague and judicial pronouncements have added more to its vagueness than to its clarity. Halsbury's Laws of

England defines it as the intentional permanent forsaking and abandonment of one spouse by the other without that other's consent and without reasonable cause. It is a total repudiation of the obligation of marriage. Halsbury's also records two ingredients of desertion, *Factum*- the function or act of separation, and *animus deserendi*- the intention to bring cohabitation permanently to an end. In order to constitute desertion there must be both and both should continue throughout the period statutorily prescribed. Similarly, two elements are essential so far as the deserted spouse is concerned: (i) the absence of the consent, and (ii) absence of the conduct giving reasonable cause to the spouse leaving the matrimonial home to form the necessary intention aforesaid. Desertion is a matter of inference to be drawn from the facts and circumstances of each case. Initially, it was left for the judiciary to interpret desertion under different statutes. Later the legislature, through various amendments in marriage laws of the country, not only made desertion one of the grounds of divorce but also explained it under various statutes. The SMA, 1954 requires that desertion must last for a period of two years immediately preceding the date of petition of divorce. Desertion has also been recognised as a ground for divorce in HMA, 1955. In both the above Acts, the term desertion is explained as 'the desertion of the partitioner by the other party to the marriage without reasonable cause and without the consent or against the wish of such party, and includes the wilful neglect of the petitioner by the other party to the marriage and its grammatical variations and cognate expressions shall be construed accordingly.' Desertion in the HMA falls under the following categories: (i) actual desertion; (ii) constructive desertion; and (iii) wilful neglect. The essential factors which must be established to prove actual desertion are (a) the spouses must have parted or terminated all joint life; (b) the deserting spouse must have an intention to desert the other spouse; (c) the deserted spouse must not have agreed to the separation; (d) the desertion must have been without cause; and (e) this state of affairs must have continued at least for the prescribed period immediately before the presentation of the petition. If there is a break between the deserting

period and the date of presenting divorce petition the petitioner cannot succeed. If a spouse by his or her conduct creates a situation under which the other spouse is compelled to leave the matrimonial home, then the spouse, who created such a situation for the other party to leave matrimonial home, is the deserter and not the spouse who left the matrimonial home. This is known as constructive desertion. Wilful neglect adds new dimensions to the notion of desertion, in as much as if the offending spouse consciously neglects the other party without any intention to desert, it would nonetheless amount to desertion. Desertion, under the provisions of the Indian Divorce Act, 1869, has been recognised as a ground for divorce provided it is coupled with adultery. The wife is only entitled to present a petition against her husband on the ground of adultery coupled with desertion. Desertion as a ground for divorce is not available to Christian husbands.

Under the Muslim law, from the very beginning a marriage could be dissolved on the ground of desertion. The DMMA, 1939 does not specifically mention desertion as a ground for divorce but its section 2(ii) lays down a long and wordy statement 'that the husband has neglected or has failed to provide for her maintenance for a period of two years'. This provision as judicially interpreted includes desertion also. Under the Muslim law it is not necessary that the husband must wilfully neglect his wife. If he has neglected his wife, that is a good ground for divorce. In one case under the DMMA, 1939 it is held that failure to maintain, whether on account of poverty, ill-health or imprisonment, is a good ground for the wife to seek divorce. Under section 32(g) of the PMDA, 1936, any married person may sue for divorce if the defendant has deserted the plaintiff for at least two years. But desertion is not defined under the provisions of the Act. Therefore, courts are left with no other alternative but to rely on English common law to find the meaning of desertion.

Wilful neglect should be made as one of the essential elements of desertion which our courts rightly ruled on various occasions in various cases. A spouse who has no intention to desert the other spouse, cannot be ascribed any such fault. The intention is one of the most important factors

in such cases. In one case, the court observes that to make out a case for desertion, it is necessary for the plaintiff to prove (a) that she has been deserted for at least three years, and (b) that she has been deserted without reasonable cause and without her consent or against her will. Desertion is a matter of inference to be drawn from the facts and circumstances of each case. Desertion commences when the fact of separation and *animus deserendi* co-exist. Once it is found that one of the spouses has deserted, the presumption is that desertion continued. Yet occasionally, the parties living under the same roof may have separated and may have ceased to co-habit together. Even in these circumstances it can be proved that there had been constructive desertion by one spouse against another. It is noteworthy that on several occasions quarrels occur between the spouses on account of which the husband or the wife leaves home in a fit of passion, anger or disgust, or due to the goading conduct of the other spouse. It does not imply desertion as there has been no intention to leave the house permanently. To constitute desertion, there must be total repudiation of the obligations of marriage. It is not withdrawal from place but from the state of things. This principle is applicable to every case of desertion in India irrespective of caste and creed of the spouses. All the different statutes dealing with various matrimonial laws provide for the dissolution of marriage if one spouse deserts the other spouse. Courts in interpreting the various matrimonial laws say that desertion would be proved only when there was wilful neglect. All the statutes prescribe some period for the filing of a petition, i.e., two or three years. However, there is no limitation beyond three years within which the petition for divorce has to be presented. There must be a period on the expiry of which the person concerned should not be allowed to present the desertion petition to dissolve the marriage. Thus, in unifying the divorce laws in India, desertion can be incorporated as a common ground which will not hamper the religious rights or sentiment of any community within the territory of India. Resumption of cohabitation, loss of *animus deserendi*, resumption of marital intercourse, supervening *animus revertendi*, or offer of reconciliation are the various modes in which

desertion may terminate under different matrimonial laws. These are common incidents applicable to all persons irrespective of their caste, creed or religious affiliation.

(d) *Bigamy*: Bigamy is a post-nuptial matrimonial offence. It provides grounds for divorce of an existing marriage, annulment of the subsequent marriage and charging the spouse for committing a criminal offence under the legal system which recognises monogamy only. For the purpose of criminal offence, bigamy has been defined in section 494 of the IPC. The Indian Divorce Act, 1869 provides us with two definitions, viz., 'bigamy with adultery' and 'marriage with another woman' but it is difficult to distinguish between 'bigamy' and 'marriage with another woman during the life time of the former wife'. Also the expression 'marriage with another woman with adultery' is not defined in the Act. The distinction which can be drawn in 'bigamy' and 'marriage with another woman' is that in case of bigamy there must be an existing valid marriage at the time of the question; whereas in case of 'marriage with another woman' there is no such presupposition that the first marriage was a valid or invalid one. An analysis of various provisions of different Indian statutes disclose that three of them recognise bigamy as a ground for divorce, though one of them- the Indian Divorce Act, 1869- requires bigamy coupled with adultery, while another recognises it as a ground for nullity, and one does not recognise it as either. The Indian Divorce Act and the HMA grant relief only to the wife on the ground of bigamy. Section 13 of the HMA, 1955 is retrospective in its operation. It gives relief to both the wives- one who was already married to the respondent as well as the wife whom he marries again. Either of them can seek the remedy against the husband. It is true that bigamy is no more a ground for divorce under Hindu Law because bigamous marriage is an impossibility under it. Divorce presumes a marriage tie existing between the parties, one of whom seeks to dissolve it. Bigamy has, however, been recognised as a ground for decree of nullity. The issues of such a marriage, which has since been annulled on the ground of bigamy, have qualified and restricted legitimacy under the

HMA, 1955 though their progenitor and progenitrix are able to be subjected to penal sanctions. The HMA which introduced monogamy among the Hindus, came into force on May 18, 1956. In spite of this statutory prohibition, the practice of polygamy continues in Hindu society. Muslim law, recognises the right of a male Muslim to take as many as four wives at a time whereas the wife can have only one husband at a time. If a Muslim husband marries a fifth wife such a marriage is not void but only irregular. It is necessary for the DMMA to be amended and bigamy to be made a ground for divorce in favour of Muslim wives against their husbands. The uniform law should be made in this context providing bigamy as a ground for divorce to wife and husband equally, irrespective of their religious affiliation. It will arrest the prevalences of polygamous marriages and habilitate the desirable concept of monogamy in the matrimonial laws of the country.

(e) *Conviction of Crime*: Three statutes, namely, the PMDA, 1936, the DMMA, 1939 and the SMA, 1954 provide conviction as a ground for divorce. This ground is having no place either in the Indian Divorce Act or in the HMA. The reason for recognising such a ground for divorce is that the parties cannot fulfil the marital obligations, when one of them is undergoing a sentence of imprisonment.

(f) *Unnatural Offences*: All the matrimonial laws provide for the right of a wife to seek divorce on the grounds of rape, sodomy and bestiality committed by the husband. However, the PMDA, 1936 provides for either spouse this right to seek divorce for unnatural offence of the other spouse. Under the ancient Hindu Law rape was heavily punished. Unnatural intercourse with a man or a woman used to be punished by a fine of 40 *panas*. Illicit sexual intercourse with an unmarried woman is strictly prohibited under the Muslim law. About sodomy, the Islamic law has conflict of opinion and jurists are divided on punishment. As regards, bestiality, if a man has committed this crime, he does not incur *Hidd* or stated punishment.

Sodomy is a connection between two human beings of the same sex. Sodomy and the crime

against nature have often been used as synonymous terms; and hence the crime against nature, either with man or beast made punishable by criminal code includes not only the offence of sodomy, but any other bestial and unnatural copulation. Bestiality is a crime of men having carnal intercourse with beasts. The word bestiality should be seen in the light of its definition contained under section 377 of the IPC, 1860. The offence of bestiality must be proved and mere attempt is not sufficient for punishment. But for obtaining a divorce, it is not necessary that the person must be convicted of the offence under the IPC.

(g) *Rape*: The definition of the word rape is absent in the different matrimonial laws in force. The intention of the legislature was that the definition given under the IPC, 1860 should be taken into consideration. Section 375 of the IPC says that rape is committed (except in certain circumstances) when a man has sexual intercourse with a woman under circumstances falling in any of the following description: against her will; without her consent; with her consent where it was obtained by putting her in fear of death or of hurt; with her consent where the man knew that he was not her husband and that her consent was given because she believed that he was the man to whom she was lawfully married; and with or without her consent where she was under 16 years of age.

The attitude of Indian courts towards rape, sodomy and bestiality as grounds of divorce are without discrimination on the basis of race, caste and creed among persons of this country. There are almost common grounds under all systems of matrimonial law. The probability of one unified law of the future on the basis of the above grounds will not abridge the religious freedom of any one, including Muslims. The special protection to women in this context would be easier and better.

(h) *Conversion (Abjuration of Faith)*: Wherever family law is based on religion, conversion finds an unique place in the law of matrimonial remedies. In India conversion has been recognised as a ground for divorce by all those statutes which have got religious fervour, namely, the PMDA,

1936, the DMMA, 1939, Indian Divorce Act, 1869 and the HMA, 1955. But the SMA, 1954 being a secular Act is completely silent on this point. A Muslim husband who renounces Islam is an apostate and as such his marriage with his Muslim wife is dissolved *ipso facto*. Under the Shia law, if either of the married parties renounces Islam before connubial intercourse, the marriage is cancelled. The wife has no right to *dower* if she be the pervert, but if the husband apostatises, she would be entitled to half the *dower*. If renunciation of the Islam takes place after the parties have cohabited, the cancellation is suspended until after the expiration of the wife's *Iddat*, and no part of the *dower* abates, for the right to it is established by consummation. The Shafis agree with the Shia that when either of the spouses renounces Islam after consummation, the marriage would become dissolved on the expiration of three courses of the woman. According to the old lawyers of the Hanafi school, apostasy from Islam of either husband or wife, whether it takes place before or after consummation, dissolves *ipso facto* the marriage tie. Modern lawyers, on the contrary, hold that where the husband renounces Islam and the wife continues her faith their connection becomes unlawful, but if the man returns to Islam before the expiration of wife's *Iddat* there is no need for remarriage of the parties. In the case of an abjuration of faith by a Muslim woman, jurists of Bokhara hold, whatever religion she adopts, she should be imprisoned and should be compelled to remarry her prior husband in consideration of a very small sum of *dower*. The jurists, of Balkh and Samarkand, on the other hand, have laid down that when a woman abjures Islam for a scriptural or revealed religion like Judaism or Christianity, her renunciation of the faith does not dissolve the marriage. Their arguments for it are two-fold: firstly, because Muslim law recognises the marriage between a Muslim and *Kitabia* and secondly, under the circumstances when she cannot be arrested and imprisoned the recognition that marriage automatically stands dissolved is to further the object for which she apostatises. The effect of either or both the parties to a Mohammedan marriage renouncing the Mohammedan religion was to dissolve the marriage *ipso facto*, so far as the British courts were concerned. This

is merely the practice of the courts in India and not the full treatment on apostasy affecting marriage as it is understood by the ancient texts of Muslim law.

In Hindu law of the past, conversion of either spouse to any other religion could not dissolve a marriage. A Hindu husband is entitled to demand custody of his wife and does not lose his right simply by the fact of her adopting Islam. Such cases are not the cases of the conflict of laws. They are governed by Hindu law. Modern statutory Hindu law recognises conversion from Hinduism to any other religion as a ground for divorce. Either party can take the advantage of this provision.

India is a secular state and this very fact militates against retention of any penal provision on conversion. Arguments are in favour of abolishing conversion as a ground of divorce in matrimonial laws throughout the territory of India. If the legislature desires to preserve conversion as a ground of divorce in matrimonial laws, the rule of equity requires that law should distinguish between wilful conversion and conversion under duress. Also many convert themselves of their own accord to dissolve their marriages and remarry girls of their choice. Such type of conversions are fraud on the society and in such cases court and legislature have to play a constructive role to avoid them.

(i) *Adoption of Religious Order*: If either of the spouse enters into any religious order by renouncing the world, then it becomes sufficient ground for divorce in certain countries. There are religious orders which prohibit their members to cohabit. Among faithful Catholics everywhere only separation can be permitted because Catholics do not recognise divorce. Like the ancient Hindus, marriage to them was a sacrament and not a contract like Muslim. Adoption of any holy order was considered as a civil death of the person. In spite of this fact, the effect of such adoption of the holy order did not amount to dissolution of the marriage tie, though no doubt under such circumstances the wife is entitled to take another husband.

In India, with the exception of the Hindu law, no other matrimonial law permits divorce on the

ground of renunciation of the world by one spouse. Certain necessary ceremonies are required to be performed before one would be deemed to have entered into a religious order, such as performing one's own funeral rites. Hindus recognised *Sanyasa Ashrama* as the last of the four *Ashramas* into which the life of a Hindu is continued. Entering into this *Ashrama* amounts to civil death. The *Sanyasi* gives up his or her name and assumes a new name. Entering into the *Sanyasa Ashrama* in the old age is in accordance with Hindu religion, but entering into this order even at young age is not contrary to it. Under the HMA, 1955 any marriage can be dissolved on the ground that the husband or wife has renounced the world by entering into a religious order. This ground for divorce has been recognised because taking recourse to the life of an ascetic by one spouse may leave the other spouse in misery and agony if the relationship is not cut off instantly. This rule should be provided in the uniform divorce law of the future. But, like conversion, renunciation also affords wonderful opportunity for collusive divorce. Therefore, the court should examine minutely every case of divorce filed on either of these grounds.

(j) *Absence Without Being Heard of*: Absence for a long period has been recognised as a ground for divorce in many countries. In India three enactments, namely, the DMMA, 1939, the SMA, 1954 and the HMA, 1955 provide for long absence as a ground for divorce. The SMA lays down a period of seven years or more. The DMMA, 1939 grants divorce in favour of the wife alone provided the whereabouts of the husband have not been known for a period of four years. This four years' rule is known to both- Maliki and Shafii Law. According to Hanafis, if the wife of the missing man remarries after waiting for four years and after observing the usual *Iddat*, and he appears, 'the wife would be for him' whilst any children born to her by her second husband would belong to the latter [Ameer Ali, 1929, Vol. II, p. 95]. According to section 108 of the Indian Evidence Act, 1872, 'When the question is whether a man is alive or dead, and it is proved that he has not been heard of for seven years by those who would naturally have heard of him if

he had been alive, the burden that he is alive is shifted to the person who affirms it'. This section of the Indian Evidence Act has repealed the Muslim law on the question. The crucial question is, whether on the basis of presumption of death he or she becomes widower or widow and, thus, their marriage stands dissolved; and whether this presumption permits him or her to contract a second marriage. The position may become more awkward if the missing spouse reappears. To avoid all these embarrassments, all statutes provide for approaching the court to dissolve the marriage on the ground that the husband or the wife was not heard of as alive for specified statutory period. After the decree has been made absolute, the petitioner may remarry and the re-marriage is valid, even if the vanished spouse reappears. In the modern industrial age the period of seven years is too long. A few years may be reduced so that the agony of the spouse in distress does not prolong unnecessarily. Such a new and liberal rule may also be included in the uniform divorce laws for all.

B. Party not at Fault

There are valuable objectives of marriage in all fragmented legal systems in India and when chances come to frustrate them, the dissolution of marriage automatically gets berth in the matrimonial tie to arrest the social disruption among human beings. There are situations when parties of the marriage are not guilty of faults, but certain incapacities in either of them due to disease, etc., frustrate the objectives of marriage and result in the disruption of married life. Consequently the dissolution of marriage remains the only remedy to rescue the disorder in the relations of the spouses. Therefore, the factors responsible for dissolution of marriage without the fault of either of the spouses require clarification in matrimonial system.

(a) *Communication of Venereal Disease*: The Indian Divorce Act, 1869 does not recognise venereal disease as a ground for divorce or even for nullity. But the question has been raised under section 19(1) whether venereal disease constitutes impotency, and as such, a ground for divorce

under the aforementioned section. Impotence means incapacity for normal sexual intercourse. Marriage cannot be consummated at all in case of impotency, whereas in case of venereal disease, it is the hidden danger to the health of the other spouse which is the motivating force for recognition of venereal disease as a ground of divorce. The PMDA, provides venereal disease and its implication to the petitioner as a ground for divorce. The DMMA, 1939 provides venereal disease itself as a ground for divorce. Both the SMA, 1954 and the HMA, 1955 provide venereal disease in a communicable form as a ground for divorce.

Thus, under Indian statutes the question as to whether the petitioner was ignorant or it was within his or her knowledge that the other partner whom he or she was going to marry was suffering from any venereal disease, does not arise. The minimum period before which a petition for dissolution of marriage cannot be filed on this ground is different in different statutes. In the absence of case law in India, it is difficult to ascertain the meaning and scope of 'communicable'. There is confusion as to whether it means communicable to husband or wife only or it includes any person other than the wife or husband. It is necessary for venereal disease in a communicable form to be made a ground for divorce under the existing laws of divorce in India, as well as under the future unified law.

(b) *Insanity*: In ancient Hindu law insanity was considered as a ground for declaring the Hindu marriage invalid. The HMA, 1955 also provides insanity or idiocy as a ground for divorce. The Marriage Laws (Amendment) Act, 1976 has changed the language of clause (iii) of section 13(1) drastically. The clause now lays down that a petitioner may get a decree of divorce if the respondent 'has been incurably of unsound mind, or has been suffering continuously or intermittently from mental disorder of such a kind and to such an extent that the petitioner cannot reasonably be expected to live with the respondent. The SMA, 1954 also recognises insanity as a ground for divorce. The Indian Divorce Act, 1869, does not lay down insanity or idiocy as a ground for divorce but the same have been

recognised as ground for annulment of marriage. In order to succeed in a case for annulment of marriage under this Act it must be proved that lunacy or idiocy existed since the time of marriage. The PMDA, 1936 provides that divorce can be granted if the defendant was of unsound mind at the time of marriage and has been habitually so up to the date of the suit. The proviso to section 32(b) of the Act, however, provides that divorce shall not be granted on this ground unless the plaintiff: (1) was ignorant of the fact at the time of marriage, and (2) has filed the suit within three years from the date of the marriage. In section 32 new clause (bb) has been added after clause (b). Under it a plaintiff may sue for divorce if the defendant has been incurably of unsound mind for a period of two years or upwards immediately preceding the filing of the suit or is suffering from mental disorder to such an extent that the plaintiff reasonably cannot be expected to live with the defendant. Mental disorder is defined as illness, arrested or incomplete development of mind, psychopathic disorder or any other disorder or disability of mind and includes schizophrenia. Psychopathic disorder has been explained further to mean persistent disorder or disability of mind resulting in abnormally aggressive or seriously irresponsible conduct.

The Muslim law is complex and contradictory on the issue of insanity as a ground for dissolution of marriage. Under the Hanafi law, for the wife's insanity the husband has no right to annul the marriage. In case of husband's insanity, jurists give conflicting opinions. According to Shafii law, either party can claim separation on the ground of insanity. Under Shia law, husband's insanity empowers the wife to cancel the marriage, whether the insanity is continuous or occasional and whether before or subsequent to connubial intercourse. In the case of wife's insanity, the husband is entitled to cancellation of the marriage, if insanity amounts to total derangement of the intellect. Slight aberrations which easily subside or stupor, though of frequent occurrence, are not sufficient unless they are confirmed or permanent. The DMMA, 1939 lays down a period of two years for the husband to be insane.

Divorce should be permitted only when

unsoundness of mind is of such a kind and extent that the petitioner cannot reasonably be expected to live with the respondent. Shortcomings of different personal laws should be made good by the inclusion of such a provision whenever it is not already provided. Such a provision should also be made a ground for divorce under the proposed scheme of uniform divorce laws in India.

(c) *Leprosy*: In India leprosy is a common problem for all, irrespective of their differences in caste, sect and religion. Surprisingly only three enactments, - the DMMA, 1939, the SMA, 1954 and the HMA, 1955 - lay down leprosy as a ground for divorce. On the point of leprosy the Muslim law is not clear. There is a difference of opinion between Prophet Mohammad and Haneefa on the one hand and Abu Yusuf on the other hand. Prophet Mohammad says that the wife is entitled to an option. Abu Yusuf says that the wife is not entitled to ask for divorce on the ground of husband's leprosy.

Leprosy should not be a ground for divorce where it is curable by medical treatment. Where, however, leprosy is of a type which is incurable by medical treatment, social intercourse becomes extremely hazardous. Only such types of leprosy should be made a ground for divorce, irrespective of religious affiliation of the spouses and also under a future UCC for India.

(d) *Impotency*: Muslim law is probably the only system which allows divorce on the ground of impotency. Impotency under the India Divorce Act, PMDA, SMA and HMA, is a ground for nullity and not for divorce. It is true that the PMDA, 1936 does not lay down impotency as a ground for nullity specifically but the words bear a clear meaning to that effect. Under the Indian Divorce Act, 1869 impotency means incapacity to consummate the marriage and not merely incapacity for procreation. Under the SMA, 1954 the respondent must be impotent at the time of the marriage and at the time of filing of the suit.

Muslim law allows divorce on the ground of impotency. *Talaq* given on this ground is called *Talaq-ul-Innin*. The Hedaya lays down in detail the reasons and principles on which impotency

has been recognised as a ground for divorce. It distinguishes between an impotent and an eunuch. It only applies to the defect in man but where the woman is impotent or sterile, the Hedaya further directs: 'if the defect be on the part of the woman, the husband has no right to annul the marriage' [Hamilton, 1870]. Shafii school maintains that a husband may annul the marriage and put the wife away on account of any of defects, like leprosy, scrofula, madness, etc. Under the DMMA, 1939, which accepts all the principles of Muslim law with slight procedural changes, a Mohammedan wife is entitled to seek divorce on the ground of the husband's impotency, subject to certain conditions.

In Ancient Hindu Law the marriage of an impotent was invalid. *Smritikaras* are of the view that the impotent is unworthy to have a wife and his marriage is a nullity. Truly speaking, the validity of the marriage of an impotent was always considered in the ancient Hindu law as a question of fact rather than a question of law. Impotency in regard to a particular woman as it is understood in modern family law was also known to the *Smritikaras* and they have profusely written on this subject, permitting the wife to take another husband under such circumstances. Under HMA, the marriage of an impotent person is valid until avoided at the instance of the non-impotent spouse. In the event of diametrically opposite and rival versions of the parties, the recourse to medical test resolves the riddle and the medical opinion assumes the acceptable piece of evidence. There is nothing in section 14 of Indian Evidence Act, 1872 which excludes examination of mental or bodily state of a person and medical examination of human body involves no deprivation of personal liberty under article 21 of the Indian Constitution.

Under uniform law of divorce it should be provided that impotency means incurable physical impotency existing at the time of marriage and continuing till the time of the petition. The petitioner should also satisfy the court that he or she had made sufficient efforts for the consummation of the marriage. Impotency should be included as a ground of divorce, irrespective of religious affiliation of persons throughout India.

C. Separation (Break-down of Marriage)

Separation may be of two kinds: (i) separation by mutual consent (agreement) or the voluntary separation; and (ii) separation by judicial pronouncement. The basic common factor in these two sorts of separation is the non-cohabitation of the parties during such separation. Such separations are made in the hope that the parties would come together again in the near future, if an opportunity to have some sort of adjustment is given to them. But unfortunately, where factually a marriage has broken down irretrievably, no useful purpose is served in finding out the guilt or innocence of the parties and in such cases the law proceeds to cut-off the tie.

(a) *Failure to Comply with the Decree of Judicial Separation:* The PMDA, 1936 earlier allowed divorce where a decree or order for judicial separation was passed against the defendant, or an order was passed against the defendant by a magistrate awarding separate residence and maintenance to the plaintiff and the parties had no marital intercourse for three years or more since the date of such decree or order. The new section 32A inserted by the Parsi Marriage and Divorce (Amendment) Act, 1988 empowers either party to a marriage to sue for divorce on the ground of non-resumption of cohabitation within one year after the passing of the decree. However, no decree of divorce would be granted if the plaintiff fails to comply with the order of maintenance passed against him. Similar provisions in the two enactments, i.e., the SMA, 1954 and the HMA, 1955 are noticed. The SMA provides that either party to a marriage whether solemnised before or after the commencement of the Special Marriage (Amendment) Act, 1970, may present a petition for divorce to the District Court on the ground that there has been no resumption of cohabitation as between the parties for a period of one year or upwards after the passing of a decree for judicial separation. Practically the same provisions have been provided in the HMA, 1955 through amendment by the Marriage Laws Amendment Act, 1976.

The Indian Divorce Act, 1869 provides for no provision for a decree for dissolution on the ground that the parties to a decree for judicial separation have not resumed cohabitation for a prescribed period of time since the date of passing of such a decree, although section 22 of the Act provides for judicial separation obtainable by husband or wife. The Act is urgently needed to be reformed in this connection. The Act does not provide for divorce by mutual consent, too. In Muslim law the relief of judicial separation does not carry much weight. Under that law the husband has unfettered powers of divorce against his wife. The wife cannot separate herself from him except under the arrangement called *Khula*, which is made upon terms to which both are assenting parties and operate in law as divorce of the wife by the husband. Thus, whenever the British courts in India found that Muslim law did not give any relief to the wife, the relief was given by the courts by applying the doctrine of justice, equity and good conscience. The law, however, recognises certain grounds where the wife may refuse to live with the husband and still be entitled for judicial separation. One of the important grounds is that the wife is entitled at the time of marriage to enter into some contracts, such as that the husband shall pay the wife a fixed maintenance; that the husband shall maintain the children of the wife by a former husband; that he shall not prevent her from receiving her relations whenever she likes, etc. In case of breach of such contracts, the wife is allowed to live separately. Such type of separations shall be followed finally by way of divorce in Muslim law. The wives are in a position to seek divorce now under the DMMA, 1939. Therefore, separation by contract or judiciary is permissible almost in all the systems of matrimonial law in India. Normally, under various systems judicial separation finally matures into divorce through legal provisions. Yet judicial separations has gained ground because it is a sincere endeavour of the legal system to prevent matrimonial ties from breaking down and thereby to relieve the parties from agony and frustration in life. In practice, petitions for separation are filed only as a device to obtain divorce in due course.

(b) *Failure to Comply with the Decree of Restitution of Conjugal Rights*: Failure to comply with the decree for restitution of conjugal rights is a recognised ground for divorce. Divorce on this ground is founded upon the concept of breakdown of marriage. In these cases, the respondent can be ordered to resume residence with the other spouse even where the marriage has not been consummated and the parties have not previously lived together. The underlying object of restitution of conjugal right is to achieve harmony in matrimonial relationship and provide a chance to make endeavours to live happily and peacefully thereafter. However, it serves no purpose in many cases and is a mere halfway house to divorce or is a counter-blast to an application or suit for maintenance. Three enactments, namely, the PMDA, 1936, the SMA, 1954 and the HMA, 1955 agree on principle that a divorce will be allowed where a decree for restitution of conjugal rights has been granted against the respondent and the same is not honoured by him or her, within a certain specified period. The SMA, 1954 as amended in 1970, provides a ground for divorce to either party to a marriage, when the other party has not complied with a decree for restitution of conjugal rights for a period of one year or upwards after the passing of the decree. The PMDA, 1936 also provides for one year or more time to comply with a decree for restitution of conjugal rights. In case of non-compliance the petitioner is entitled to get a decree for divorce. Under section 13(1A) of the HMA, as amended in 1964 and 1976, a petition for divorce may be filed after the expiry of a period of one year from the date of the decree of judicial separation or of restitution of conjugal rights. The Law Commission recommended that an additional ground to divorce be introduced in the HMA and SMA, viz., divorce on the basis that the parties have lived separate and apart for a period of three years or more. This is the acceptance of the modified version of the concept of irretrievable breakdown of marriage as a ground for divorce as recognised under the Matrimonial Causes Act, 1973 in England. On the basis of the Report of the Law Commission, the Marriage Laws (Amendment) Bill, 1981 was introduced in

Parliament. It was before the Joint Select Committee for some time but it was abandoned subsequently. The Indian Divorce Act, 1869 provides identical essential requisites for restitution of conjugal rights as are under the HMA, 1955. But it does not have provisions to seek divorce on the ground of non-compliance of a decree for restitution of conjugal rights or judicial separation within one year or upwards from the decree of trial court. Under Muslim law in force in India the right to pass a decree for restitution of conjugal rights is at the discretion of the court. The DMMA, 1939 does not provide any provision regarding the remedy of restitution of conjugal rights. Muslim law clearly does not provide any right to the parties to a marriage to file suit or petition for the dissolution of marriage on any breakdown theory in case of non-compliance with a decree for restitution of conjugal rights within a specified time. But by implication, Muslim law of modern India recognised two break-down grounds of divorce under the DMMA: (a) non-payment of maintenance by the husband even if the failure results on account of the wife's conduct, and (b) where there is total irreconcilability between the spouses or in other words, where a marriage breaks down irretrievably. There should be one single ground of divorce, viz., irretrievable breakdown of marriage. This will help in having one uniform law of divorce for all citizens of the country.

(c) *Divorce by Mutual Consent*: Divorce by mutual consent has always been a highly controversial and a much debated issue. Certain systems of the world have denied recognition to divorce by mutual consent. In India dissolution of marriage by mutual consent is very common among the Muslims and it has been hailed as a remarkable feature of the Islamic law. If the desire to separate emanates from the wife it is called *Khula* and if it is effected by mutual aversion and consent it is known as *mubaraat*. Statutory provisions and customary rites (divorce by custom) under Hindu law allow divorce on the ground of mutual consent. Customary divorce by mutual consent of the parties worked satisfactorily among several Hindu communities, while the HMA, 1955 lays down the following averments

which are required to be made by both the spouses in a joint petition for divorce by mutual consent: (a) that they have been living separately for a period of one year; (b) that they have not been able to live together; and (c) that they have mutually agreed to separate. After the presentation of the petition, the spouses are required to wait for six months and in no case for more than eighteen months, and thereafter to move a motion in the court that divorce be granted. The parties are also free to withdraw the petition at any time. But in a joint petition, one of the parties to it cannot withdraw the petition at any time. Section 23 of the HMA applies to the petitions for divorce by mutual consent, particularly the provision of section 23(1)(a) viz., consent of either party has not been obtained by force, fraud or undue influence is significant. The SMA, 1954 provides for analogous provision of divorce by mutual consent. Section 32B of the PMDA, 1936 as amended in 1988, empowers the parties to a marriage to file a suit for divorce by mutual consent. Irretrievable breakdown of marriage and divorce by mutual consent should be retained uniformly under divorce laws in India.

IV
DIVORCE AND MAINTENANCE:
AN ANALYSIS OF CONCEPT AND QUANTUM

Maintenance

The Constitution of India inspired the state to enact a large number of new laws and to modify such laws as were in existence at the time of its commencement, in order to confer upon women special benefits and privileges which were hitherto not available to them, viz., matrimonial maintenance laws. The term 'maintenance' has been given a wider meaning in the laws. 'Maintenance' is now more than bare provision for food and clothing. It includes residence, education, medical relief and other reasonable expenses of life. In modern law, the amount of maintenance payable by one party to another is sometimes differentiated from maintenance in general and identified as alimony. Alimony in England and the United States of America is the allowance which a wife is entitled to receive out of the estate of her husband, during divorce proceedings. The granting of alimony to the husband by the wife is

also allowable, but instances of it are rare. Distinction between alimony and maintenance under English law is that the former is available when marriage is suspended but not dissolved and the latter follows the final break up of marriage. In India multiple matrimonial maintenance laws based on religious faith have provided different sets of provisions to deal with the temporary and permanent maintenance of the spouses in a marriage. In addition to these, there are secular optional matrimonial and compulsory criminal laws, with maintenance provisions to decide the rights and obligations of the spouses during matrimonial proceedings and after dissolution of marriage.

Hindu Maintenance Law: Under the ancient Hindu law, a wife who did not live with her husband, whatever be the cause, was not entitled to maintenance. But the laws have changed since then. The HMA, 1955 provides power to claim maintenance to both the spouses. Under the HMA, maintenance is dealt in two parts, i.e., (a) maintenance *pendent lite* and expenses of the proceedings, and (b) permanent alimony and maintenance. The court can pass interim orders under section 24 of the Act for the maintenance of the applicant and for expenses of the proceedings like nullity, judicial separation, restitution of conjugal rights and divorce proceedings. Under HMA, an order for permanent alimony may be passed, on application of any of the spouses, by the court at the time of the passing of the decree in any matrimonial cause or at any time subsequent to the passing of the decree. Dismissal of petition in a matrimonial cause automatically bars making any order for permanent alimony or maintenance. The right to claim maintenance under HMA, 1955 is an independent right and is not controlled by Hindu Adoption and Maintenance Act, 1956. Section 18(2) of the Hindu Adoption and Maintenance Act provides for separate residence and maintenance for wife in certain cases, i.e., desertion, cruelty, leprosy, another wife is living, husband keeps a concubine, conversion and any other justifiable cause. Section 18(3) lays down that 'a Hindu wife shall not be entitled to separate residence and maintenance from her husband if she is unchaste or ceases to

be a Hindu by conversion to another religion'. Until and unless the marriage is not dissolved, the wife can claim maintenance under the Act. The object of the HMA, is to provide for the payment of maintenance even after the dissolution of marriage. Further, section 25 of the HMA is not so restricted where the wife would forfeit her maintenance, if she is guilty of adultery. Thus the scope and ambit of section 25 of the HMA is wider than those of section 18 of the Hindu Adoption and Maintenance Act.

Muslim Maintenance Law: A Muslim husband is under obligation to maintain his wife, whether she be Muslim or *Kitabia*, poor or rich, enjoyed or unenjoyed, young or old. But, if the wife is too young for matrimonial intercourse, she has no right to maintenance from her husband, whether she is living in his house or with her parents. The obligation of husband to maintain his wife is restricted only in cases where she is not obedient and does not allow the husband free access at all lawful times. If the Muslim husband has not paid the prompt part of *dower* or she refuses to live with her husband because of his cruelty, the husband is bound to maintain her. Where husband has married a second wife or keeps a mistress, the wife may refuse to live with the husband and still can claim maintenance from him. Interestingly, the degree of disobedience is not indicated by courts that may deprive a Muslim wife of getting maintenance. In case of dissolution of Muslim marriage by death of husband, the widow is not entitled to maintenance even during the *Iddat* period. In the case of dissolution of marriage by divorce the wife is entitled to maintenance till the expiry of *Iddat*. The wife's right to maintenance has priority over the rights of all other persons eligible to get maintenance. No maintenance is due to a woman repudiated by irreversible divorce, unless she be pregnant.

Christian Maintenance Law: The Christian marriage and divorce laws are dealt under Indian Christian Marriage, Act, 1872 and the Indian Divorce Act, 1869, respectively. The Indian Divorce Act, 1869 is applicable to the whole of India except Jammu and Kashmir. In Jammu and Kashmir, the Christian Marriage and Divorce

Act, 1957, is applicable. The Christian Marriages Validation Act, 1952 (Madras) is applicable in Tamil Nadu. Under section 36 of the Indian Divorce Act, 1869, the matter of alimony *pendent lite* is contained in which a wife alone can claim maintenance. Section 36 does not provide for payment of maintenance for children. Section 37 of the Indian Divorce Act deals with permanent alimony which authorises the court to make an order for payment of a lump sum for permanent maintenance. Also under this section the husband can have a payment order varied from time to time in accordance with his means.

Parsi Maintenance Law: Section 39 of the PMDA, 1936 as amended in 1988, deals with alimony *pendent lite* to be awarded by the court having regard to the means of the parties involved. Section 40 of the PMDA empowers the court to make an order for permanent alimony while passing any decree or subsequently thereto. Section 40 is based on grounds of public policy and on the principle of not allowing parties whose marital ties are severed to become a burden on charitable institutions of the community.

Secular Maintenance Laws: Section 36 of the SMA 1954 deals with alimony *pendent lite* in which an application for interim maintenance can be moved by the wife only. It is a central secular legislation in which any one in India can avail a civil form of marriage. Interim orders may be made by the District Court during the pendency of proceeding for restitution of conjugal rights, judicial separation, nullity, of void or voidable marriage and divorce. Such orders can be made for payment of the expenses of the proceedings and weekly or monthly payments where the wife has no independent income sufficient for her support. Section 37 provides for payment of permanent alimony by the husband to the wife at the time of passing of a decree or at any time subsequent to the decree. Under section 125 of the Criminal Procedure Code (Cr.P.C.) a wife is given the right to claim maintenance, if her husband who has sufficient source of income neglects to maintain her and she does not have sufficient source of income. Under the section any wife who has been divorced by the husband shall

be entitled for maintenance till she breathes her last or till she remarries. Under the new secular Cr.P.C. a Muslim divorced woman could claim maintenance even after the *Iddat* period. However, it is necessary that the wife must be the legally married wife. The Shah Bano case generated a lot of debate and discussion. Consequently Muslim Women (Protection of Rights on Divorce) Act, 1986 was passed. Under the Act, a divorced Muslim wife is entitled to a reasonable and fair provision and maintenance only during the period of *Iddat* and in case of children, the husband's liability extends till the children reach just the age of two.

In this way, India witnesses multidimensional matrimonial maintenance laws due to multi-ethnic and multi-religious communities continuing in the country. The secular laws made to arrest the differences and to put uniformity in different standards of maintenance in different situations have not played factual impact to achieve the goals of the Indian polity particularly to ameliorate the conditions of women in the country.

Quantum of Maintenance: The provisions for maintenance in different matrimonial laws have different norms in fixing the temporary and permanent alimony in favour of spouses. Majority of court pronouncement have favoured to consider the income of the spouses and circumstances of the case in fixing the amount of maintenance. In fixing the quantum of interim maintenance (temporary maintenance), the Indian courts have followed the English and Christian divorce laws. Neither the western nor the Indian systems lay down any hard and fast rule in determining the amount of maintenance during matrimonial proceedings. Various matrimonial maintenance laws and their interpretation by the courts show diverse norms in different situations for fixing the quantum of interim and permanent maintenance. So the claim of maintenance in various situations has witnessed with different eligibility norms. The amount of interim or permanent maintenance may be changed by the court at any time, if change of circumstances is shown. The alimony amount may be cancelled in changed circumstances. But a decree of divorce on ground of adultery does

not *ipso facto* enable the husband to seek cancellation of maintenance order. The decree only proves that the marriage is dissolved; it does not prove the alleged ground of adultery. Fact of adultery has to be proved independently. Further, a maintenance order cannot be cancelled in execution.

V

JUDICIAL EFFORTS TOWARDS UNIFICATION

Pre-Independence Judicial Efforts

British rulers of India had adopted the policy of retaining and protecting the traditional personal laws of the various religious communities. Accordingly, Hindu and Muslim customs were recognised by the British Parliament and the Indian courts. The Charter of 1753 on the Mayor's Court at Bombay contains the earliest records of preservation of the native laws and customs. The preamble to 21 Geo III Charter of 1781 [page 70] says that inheritance and succession to lands, rents and goods and all matters of contract and dealings, between party and party would be determined, in the case of Mohammedans by Muslim law, and in the case of Hindus by Hindu law. The Bombay Regulation IV of 1827 provides that the law to be observed in the trial of suits would be Acts of Parliament and Regulations of Government, applicable to the case; in the absence of such Acts and Regulations, by the usage of the community; and in the absence of usage, by the law of the defendant; and in the absence of specific law and usage, by applying the principles of justice, equity and good conscience. The High Courts Act of 1861 provides that the High Courts were also bound to decide according to usages in matters of inheritance and succession. The Government of India Act, 1915 by section 112 provides that the High Courts at Calcutta, Madras and Bombay would, in matters of inheritance and succession to lands, rent and goods, and in matters of contract and dealings between party and party, decide according to the personal law or custom having the force of law, to which the parties were subject. The Government of India Act, 1935 by section 223 preserves intact the operation of section 112 of the Government of India Act, 1915. In addition, to the above Acts, there were many other Acts which recognised the importance of custom. It

was held in a number of cases that when a custom, which was opposed to the general law, had been proved, it superseded the general law (under Hindu system clear proof of usage will outweigh the written text of law). But a custom, in order to supersede the law should have certain qualities, i.e. old, certain, continuous, reasonable, moral, not opposed to law and public policy, etc. In deciding cases of personal relations among the Hindus and the Muslims, all the above stipulations debarred the judges from discovering the inarticulate major premises in keeping with the needs of the people; they had to interpret the law in its logical manner, irrespective of the considerations of social justice. Nevertheless, in deciding the reasonability of the customs and in exercising justice, equity and good conscience, judges often moulded the decisions according to the circumstances and long felt needs of justice to the parties involved in the cases. Justice, equity and good conscience have been generally interpreted to mean the rules of English law and equity in such modified form as may suit the Indian conditions and circumstances. The courts by analogy applied principles of natural justice by ignoring many a provision of the textual laws.

Historical developments beginning with the grant of *Diwani* witnessed how the British steadily involved them in the administration of justice and took over the task to mould the traditional systems, in the light of universal reasonings and uniform principles of dispensation of justice. For easier administration of justice, the English judges first administered Hindu law with the assistance of Hindu *Dharmasastris*. This institution of *Pundits* as official referees of the courts was abolished in 1864. With increasing access to the religious personal laws of the Hindus and the Muslims, the English judges of the lower courts, the Presidency Supreme Courts, their successor- the High Courts, and of the Privy Council started deciding cases directly on their own. Since the decisions of the Privy Council were binding on all the courts in British India and the decisions of all High Courts were binding on the subordinate courts thereto, these decisions had slowly but effectively superseded all *Nibandhas* or commentaries. These decisions, immediately binding on the parties thereto, were binding on

the whole community as precedents. Similarly, the same judicial system was applied to Muslim personal law also. This process of social change was very slow and the law made by the British Parliament also had no real relationship with the life of the people. In short, before 1947, the law was an instrument of political coercion imposed by alien rulers upon the Indian people without much consideration of the welfare of the people. Judges were bound themselves to follow precedents. British judges were not authorised to go beyond law. Wherever law permitted them to exercise inherent judicial power, particularly in case of customs in India, they applied their own methods. They tried to apply British rules of interpretation and to some extent moulded the traditional personal laws by infusing traditional legal institutions with English legal concepts. The survey of the judicial decisions before 1947 shows both, non-interference in religious laws of the Indians and application of British judicial system by British judges in India. This process, gradually provided application of universal principles of justice and uniform pattern of law throughout the territory of India.

Post-Independence Judicial Efforts

A change came in the domain of personal laws only after 1947. Adoption of a democratic Constitution with the Fundamental Rights (FR) and the DPSP indicate the method and process of social change. The concept of independent judiciary with the power of judicial review was imagined as protector and guarantor of both the FR and the Constitution. Indian judiciary is not only authorised to interpret the law but it also has power to examine the validity of law made by the legislature. This power is conferred on the High Courts (article 226 of the Constitution) and on the Supreme Court (articles 32, 136) and by virtue of which these courts can declare a law unconstitutional, if it is inconsistent with any of the provisions of Chapter III of the Constitution. Judicial Review has thus become an integral part of our constitutional system; the Constitution is the touch stone for the validity of all laws; the Supreme Court and the High Courts are empowered to strike down the incompatible

provisions. Judicial Review is the interposition of judicial restraint on the legislative as well as the executive organs of the government. The concept has its origin in the theory of limited government and in the theory of two laws- an ordinary and supreme, i.e., the Constitution. From the very assumption that there is a supreme law which constitutes the foundation and source of other legislative authorities in the body politic, it proceeds that any act of the ordinary law-making bodies which contravenes the provisions of the supreme law must be void and there must be some organ which is to possess the power or authority to pronounce such legislative acts void.

The Directive Principles contained under Chapter IV of the Constitution are not justiciable rights. Therefore, the mandate of article 44 is not enforceable in a court of law. But indirectly courts can strike down the application of different personal laws to different groups of citizens, as discrimination by the state on the ground of religion only, which infringes the Fundamental Right guaranteed by article 15 of the Constitution. The British Government in India enforced personal laws by enacting a series of regulations or statutes from the 19th century onwards. In 1937, the Muslim Personal Law (Shariat) Application Act was passed to give effect to the Muslim Personal Law in India. Muslim or Hindu personal laws needed recognition by the legislature and by the courts before their enforcement as laws in India. Article 15(1) prohibits application of different laws to different persons on the ground of religion alone. Separate identity of any personal law cannot be secured and defended under articles 25 and 26. The Constitution does not recognise the freedom of religion at all at the cost of public order, morality, health and other Fundamental Rights. Within the scope of articles 25 and 26 any measure of social welfare and reform can be undertaken by the state without any fear of transgressing on that freedom. Thus, complaints are not tenable that courts have no power to interpret the personal law or state has no power to change it. The attitude of judiciary is in favour of uniform reforms initiated by state throughout India. Article 44 by necessary implication recognises the existence of different codes applicable to Hindus and Muslims in matters of

personal laws and permits their continuance unless the state succeeds in its endeavour to secure for all citizens a Uniform Civil Code (UCC).

The battle for UCC centered around section 488 of the Cr.P.C. (Old Cr.P.C., 1898). It was a secular provision under which a wife who was unable to maintain herself could claim maintenance from a husband who neglected or refused to maintain her although he could afford to do so. The provision was liberally interpreted to unify family laws for all citizens irrespective of their differences in creed and culture. The new Cr.P.C. enacted in 1973 included the old provisions of section 488 Cr.P.C., 1898 in its new section 125 with some additions. The notable addition is the definition of wife; the new Act has also introduced a caveat in section 127 in order to take into consideration the payments made to a divorced wife under the personal law and customary law applicable to her. The Joint Committee on the Cr.P.C. Bill, 1970 recommended the inclusion of divorced wife in the definition of wife in view of the Muslim personal law which permitted husbands to divorce their wives at will in order to avoid payment of maintenance to their wives. However, the intentions of the Joint Committee were frustrated. Sufficient pressure was created by Muslim members of Parliament and leaders of the community to effect a major change in section 127. By this amendment the magistrate is empowered to vary or cancel the maintenance granted to the wife under certain conditions. Orthodox Muslims have time and again disputed the authority of courts in interpreting these provisions of the new Cr.P.C., 1973 on the ground that a liberal interpretation would conflict with the Quranic injunctions. The protagonists rely on incongruities of contemporary social life, social disabilities and exploitation of women and secular nature of policy.

VI

LEGISLATIVE EFFORTS TOWARDS UNIFICATION

Pre-Independence Legislative Efforts

The British rulers of India, from the very beginning, adopted the policy of retaining religion-based traditional personal laws of various communities in India. Criminal and civil law

(excluding the family laws) were secularised gradually. By passing various civil court laws the rulers of British India assumed legislative power to make changes in various personal laws but on political consideration they did not make any change in the family laws in exercise of that power. The First Law Commission in 1837 by its *Lex Loci* Report also recommended not to touch the religion-based family laws. It envisaged a two-tier system of family law and succession-Hindu, Muslim and Parsis personal laws for these communities and a *Lex Loci* application to other citizens of India. The *Lex Loci* Bill drafted by the First Law Commission in 1841, had not denied the government power to make reform by legislation or to codify the various personal laws. The Bill itself included various reforms affecting the personal laws of Hindus and Muslims. In Bengal province section 9 of the Regulation VII of 1832 had abrogated, in an indirect way, those rules of Hindu and Muslim personal laws which provided that an apostate heir would lose all rights of inheritance. The motive behind this was not, however, secularisation of law on the subject. Because of the activities of the Christian missionaries many low-caste Hindus wished to get converted to Christianity without losing proprietary right. Hence abrogation of the provision of the Hindu law relating to exclusion from inheritance for fault of conversion became a necessity. The First Law Commission recommended extension of this legal provision for Bengal throughout the British India and also incorporated the same into the *Lex Loci* Bill. Accordingly, a new statute was enacted in the form of the Caste Disabilities Removal Act, 1850 (also known as the Freedom of Religion Act). The various Law Commissions appointed from time to time were of the view that personal laws ought not to be codified. Influential English men also supported in their writings the Commissions, when they argued that in considering the propriety of altering or abrogating Hindu or Mohammedan law, all preconceived notions of relative excellence of the English and native systems of jurisprudence should be taken as secondary consideration; nor should it be called in question whether such systems are in themselves good or bad, for it would never be forgotten, that, in the

present state of society in India, they were undoubtedly the best adapted to the wants and prejudices of the people who form the great bulk of the population of the country. Also the British felt that though not bound by absolute treaty, they had virtually pledged themselves to preserve these laws by repeated proclamations due to the national sensitiveness of Hindus and Muslims about legislative interference with matters closely touching their religious usages and observances. The First Law Commission, all the same, recommended the enactment of an Indian code on marriage and succession for all the communities in India not professing the Hindu or Mohammedan religion. An Indian Succession Bill on the model of the English law of testamentary and intestate succession was introduced in the legislative council and it became that law in 1865. Its provisions were applicable to all cases of intestate and testamentary succession barring cases of intestate succession to the properties of Hindus, Muslims, Buddhists and Parsis. A separate enactment was made in 1865 (The Parsi Succession Act, 1865) and Parsis also were not to be governed by the Indian Succession Act of 1865 except in respect of wills. Further, the Indian Divorce Act, 1869 and the CMA, 1872 were enacted applicable only to the Christians of India. Certain aspects of the Hindus were directly or indirectly reformed through the Hindu Widows Remarriage Act, 1856. The movement of the Brahmo Samaj gave momentum to the feeling already cherished in certain sections of people that India was in need of a secular law of marriage, one law applicable to all communities, irrespective of their difference in religion, like section 488 of the Cr.P.C. providing wives maintenance against their husbands in the proceedings filed before magistrates. It was a secular law for all women residing in India.

The First Civil Code on Marriage

The Special Marriage Bill, introduced in the central legislative in 1871, proposed that any two citizens of India may have the freedom of adopting the proposed secular law in place of their respective personal laws. The Bill was opposed

in the legislature as well as outside. The government was forced to restrict the application of the Bill only to those Indians who were not Hindu, Buddhist, Sikh, Jain, Muslim, Christian or Parsi. In this modified form, the Bill was enacted and enforced on March 22, 1872. Though it was a small step towards unification of marriage laws in India, the Act could not bring any real succour to enlightened members of the major communities in India as the parties had to renounce their religion for getting married under the Act. Further, the SMA, 1872, did not include any provision relating to dissolution of marriage. It only laid down that any marriage solemnised under its provisions could be declared null and void or dissolved under the Indian Divorce Act, 1869. As regards succession to the properties of the persons marrying under the SMA, 1872, there was no specific provision in the Act itself. However, they would automatically be subjected to the Indian Succession Act, 1865. In practice, the SMA, 1872 furnished a law under which two persons belonging to different religions could marry by declaring their complete severance from their respective religions. On such severance, their succession rights would remain unaffected, as the Caste Disabilities Removal Act, 1850, mentioned above, would come to their rescue. The Act was amended in 1923 and the punitive condition of renunciation of religion implicitly prescribed in respect of marriages under the SMA, 1872, was removed. The amendment made it possible for Hindus to marry under either their personal law or under SMA, 1872 without renouncing their religion. The same provision became applicable also to the Buddhists, Sikhs and Jains. Two persons belonging to different religions from amongst these four religious communities could freely intermarry without giving up allegiance to their respective religious faiths. The Special Marriage (Amendment) Act, 1923 succeeded in retaining the succession rights of parties marrying under the SMA of 1872, in the same way in which an apostate would retain such rights by virtue of the Caste Disabilities Removal Act, 1850. However, protecting the traditions of the coparcenary system, the amending Act laid down that where a Hindu, Buddhist, Jain or Sikh member of an undivided

family married under the SMA, 1872 his connection with the coparcenary would stand automatically severed. The adoption of Special Marriage (Amendment) Act, 1923 to amend the SMA, 1872, did not apply to matters of Muslim personal law. Only a few changes through legislation were made in Muslim law. The reason for only a few changes lay in the uncompromising faith in the Quranic law and absence of flexibility, dynamism and change in the Muslim society. The Muslim community tenaciously resisted change in their personal law by means of a saving provision in every central legislation applicable to all Indians. In 1882, the Transfer of Property Act expressly laid down that nothing in its provisions regulating transfer of property would affect any rule of the Muslim law of gift. Similarly, The Indian Trusts Act enacted in the same year made it clear that the Muslim law of *Waqf* would remain unaffected by its provisions. In 1925, the Indian Succession Act specifically exempted all Muslims from the application of its provisions relating to domicile, consanguinity, affinity inheritance and testamentary succession.

The most important legislation relating to Muslim personal law was made in British India under the Oudh Laws Act of 1876. The Act was a piece of regional legislation applicable in ten districts of Uttar Pradesh which constituted the erstwhile Oudh State. In 1920, an identical act, the Jammu and Kashmir State Muslim Dower Act, 1920, was passed. The Bhopal State passed an Act in 1931, through which women were allowed to free themselves from the heavy yoke of marriage. Further, the Bengal Mohammedan Marriages and Divorces Registration Act, 1876, now applicable in West Bengal, Orissa and Bihar was adopted, *mutatis mutandis*, in Assam as the Assam Moslem Marriage and Divorce Registration Act, 1935. These Acts are of a regulatory nature and they do not affect any provisions of Muslim matrimonial law. Under the provisions of these Acts registration of marriage and divorce is only discretionary and not mandatory. The Act also expressly provides that the mere fact of registration would not validate a marriage or a divorce which is otherwise invalid under the Muslim law. In 1935 at the initiative of the *Jamiat al-ulama*, the *Shariat* Bill was enacted in the form

of the Muslim Personal Law (*Shariat*) Application Act, 1937 with two parallel provisions. It laid down that in regard to cases concerning marriage, divorce, intestate succession, *Waqf* and gifts, the rule of decision would compulsorily be the Muslim personal law; but in matters of wills, legacies and adoption, the Muslims would have the discretion to choose between Islamic law and customary law.

Apart from a number of regional Muslim Personal Laws, at all India level the most important law enacted in British India was the Dissolution of Muslim Marriage Act, 1939. It enabled a married Muslim woman to obtain a decree from the court dissolving her marriage. Yet the lack of spontaneous involvement of the Muslims in the movement for change in their personal law and the attitude of non-interference which was followed by the British in matters of personal laws based on religious faiths resulted in a very slow change in Muslim personal law throughout the British period.

Constituent Assembly and Uniform Civil Code

The Constituent Assembly set up in 1946, adopted a Resolution on January 22, 1947, the relevant part of which was '... (5) wherein shall be guaranteed and secured to all the people of India, Justice, social, economic and political; Equality of status, of opportunity, and before the law; Freedom of thought, expression, belief, faith, worship, vocation, association and action, subject to law and public morality'. In the light of this objective it was suggested to split up the assurances in the Resolution into Fundamental Rights and Fundamental Principles of State Policy. Finding it difficult to come to the conclusion in defining Fundamental Rights and classifying them into justiciable and non-justiciable rights, an Advisory Committee was appointed to work out a practical solution to the problem. Subsequently, the Advisory Committee constituted five sub-committees, one of which was the Sub-committee on Fundamental Rights.

Sub-Committee on Fundamental Rights (FR)

The sub-committee on FR, recommended '(6) The Union and every unit thereof shall endeavour to secure for the citizens a Uniform Civil Code (UCC). (7) Marriage shall be based only on the mutual consent of both sexes and it shall be maintained through mutual co-operation with the equal rights of husband and wife as a basis. Motherhood has a claim upon the protection and care of the state'. The framing of the provision of a UCC was difficult. Any UCC struck at the heart of customs and orthodoxy of the Hindu, Muslim and Sikh communities. Yet some members wanted that the clause relating to the UCC to be in the category of justiciable rights. For them one of the factors holding India back from advancing into nationhood was the personal laws based on religion which kept the nation divided into watertight compartments in many aspects of life. They wanted a UCC to be guaranteed to Indians within a period of five to ten years in the same manner as the right to free and compulsory primary education.

The recommendations of the Sub-Committee on FR, which contained non-justiciable rights, was considered by the Advisory Committee. It was decided by the Committee that clauses 40 and 44 which contained provisions in respect of equality of matrimonial rights of husband and wife, and promotion of international peace and security by elimination of communal discord, respectively, should be deleted from justiciable rights. The Advisory Committee came to the conclusion that in addition to justiciable rights the Constitution should include certain directives of state policy which, though not cognizable in any court of law, should be regarded as fundamental in the governance of the country and their application in the making of law shall be the duty of the state. The report submitted by the Advisory Committee came for the consideration of the Constituent Assembly.

Clause 35, Part IV of the Directive Principles of State Policy, in the revised Draft Constitution, which was published on February 26, 1948, provided that: 'The state shall endeavour to secure for the citizens a Uniform Civil Code throughout

the territory of India'. This clause evoked considerable controversy. A number of Muslim members opposed it on the ground that its enforcement would impinge on the right of a group or community to follow its own personal law. The personal law of a community, they contended, was part of its religion and way of life. Accordingly, the imposition of a UCC would not only conflict with the freedom of religion guaranteed by draft article 19 but would also amount to tyranny over those who wanted to follow their own personal laws. However, the majority view was in favour of the proviso. It was agreed that in the initial stage the application of the UCC could be purely voluntary. Article 44 of the Indian Constitution, therefore retained the following: 'The State shall endeavour to secure for the citizens a Uniform Civil Code throughout the territory of India.'

Post-Constitutional Legislative Efforts

(a) Special Marriage Act (SMA), 1954

In 1952, a new marriage Bill was introduced in Parliament. The provisions of the Bill were patterned mainly after the SMA, 1872, but its scope and extent of application were greatly widened. Any two Indians, whether living in India or in a foreign country, and whether professing the same or different religions (or no religion at all), could contract a marriage under the new proposed law. Even an existing marriage, under whatever law it was originally solemnised, could be turned into a secular marriage by registration under the new law, if it fulfilled the conditions laid down in the proposed Act. With the migration of most of the socially progressive Muslim leaders to Pakistan, the political leadership of the community was left in the hands of religious leaders. All the Muslim political parties and religious organisations made a plea that no Muslim should be allowed to marry under the new SMA. The 1952 Bill could, nevertheless, muster the necessary support in Parliament and was enacted in 1954 in the form of the new SMA which replaced the old SMA, 1872. Unlike the old Act of 1872 the Act of 1954 laid down detailed rules also for the dissolution of marriages solemnised under its provisions. The

new Act was made applicable also to Indians living in foreign countries. Out of the four amendments of 1963, 1969, 1970 and 1976, the Marriage Laws (Amendment) Act, 1976 drastically amended several important provisions of the SMA, 1954. The 1976 amendments were based mostly on the proposals made by the Law Commission of India. The SMA specifies the grounds on which the courts can dissolve a marriage whether originally solemnised under its own provision or contracted under any of the various personal laws but later registered under the SMA. The law of divorce contained in the Act thus furnishes an alternative to each of the personal laws of divorce. An extra judicial divorce is an impossibility under the SMA, 1954 in which only court can dissolve a marriage - the parties to a marriage themselves, or one of them, can never do so. The SMA, however, still suffers from certain flaws which have not been removed. It is necessary to give a new look to the Act as a whole and to modify some of its objectionable provisions.

(b) The Dowry Prohibition Act, 1961

The Dowry Prohibition Act, 1961 as amended in 1984 and 1986 made far-reaching changes in the social structure. The Criminal Law (Second Amendment) Act, 1983 was also passed to amend the IPC, 1860, the Cr.P.C., 1973 and the Indian Evidence Act, 1872 to combat the evil of dowry. In 1986, another amendment was made in the criminal laws. Section 304B was inserted under the IPC which defined the offence of dowry death. Now, whoever commits dowry death shall be punished with imprisonment which shall not be less than seven years but which may extend to imprisonment for life. The Dowry Prohibition (Amendment) Act, 1986 made significant changes in the definition of dowry under section 2, meaning that dowry could be demanded not only at the time of marriage but also thereafter. New section 8A and 8B were added. Section 8A placed the burden of proof of innocence on the persons accused of the offence of demanding or taking dowry. Section 8B provided for the appointment of dowry prohibition officers by the state governments. All the offences under the Act

were made non-bailable. The evil of dowry has become notorious not only among Hindus but also among Muslims in the form of excessive *dahez*. This legislation is truly secular and applicable to all citizens irrespective of their religion and faith. These steps of the Government are in furtherance of article 44 of the Constitution.

(c) *The Child Marriage Restraint Act, 1929*

The Child Marriage Restraint Act, 1929, (as amended by the Act of 1978) is applicable to all the communities irrespective of their religious denominations and faiths. It determines the minimum age of marriage of spouses. It has also been made in furtherance of article 44 of the Constitution. But the implementation of this Act as well as of the Dowry Prohibition Act has not been done properly.

(d) *Provisions for Maintenance under the Criminal Procedure Code*

Section 488 of the old Cr.P.C. was substituted by sections 125-127 of the new Cr.P.C., 1973. The new provisions have been enacted keeping in view the economic conditions of the neglected wives and divorcees on secular considerations. According to these provisions a divorced wife is entitled to maintenance, after taking into account the payment made to her under the personal and customary law applicable to her. The reason for introducing this saving clause under section 127 of the Code, was due to the pressure generated by fundamentalists to frustrate the objectives of section 125. The government conceded to their demands by incorporating section 127(3)(b). The interpretation of these provisions of Cr. P.C. by the Courts has been disputed by orthodox Muslims on the ground that a liberal interpretation would conflict with the Quranic injunctions. Consequently, the Parliament succumbed before the obscurantist forces and pushed the Muslim Women (Protection of Rights on Divorce) Act, 1986, against the constitutional mandate.

(e) *The Family Courts Act, 1984*

The Family Courts Act, 1984 was passed with a view to provide expertise and expeditious disposal of cases related to family matters, such as a decree of nullity, restitution of conjugal rights, judicial separation, divorce, the validity of a marriage, the property of parties, an order or injunction in circumstances arising out of a marital relationship, a declaration as to the legitimacy of any person, maintenance, guardianship of or custody of or access to any minor, and any other matter under the statute for family matters. The object of the Act is to promote conciliation and to secure speedy settlement of disputes relating to marriage and family affairs and all the matters incidental therein. This law is based on common principles and to all irrespective of their religious affiliations.

(f) *Muslim Women (Protection of Rights on Divorce) Act, 1986*

Reversing the decision of the Supreme Court in the *Shah Bano Begum case*, Parliament legislated the Muslim Women (Protection of Rights on Divorce) Act, 1986, to pacify a segment of Muslim opinion. The Act has been criticised on at least five grounds, namely that it, (i) fails to embody accurately Muslim law; (ii) fails to provide a realistic and practical alternative solution to the genuine hardships faced by divorced Muslim women; (iii) is ambiguously and ineptly drafted; (iv) opens a Pandora's box by establishing a dangerous and retrogressive precedent; and (v) is *prima facie* unconstitutional'. The Act has been challenged in the Supreme Court for its alleged unconstitutionality.

CONCLUSIONS

Thus, India has a long way to go before a Uniform Civil Code is introduced. Though the Constitution proclaimed India to be a secular state, in reality the state has become a multi-religious state, trying to balance its laws and policies to meet the aspirations of the different religious communities. In a secular state, there is no question of a majority or a minority in the eyes

of law. Secular state should not make laws on the basis of religion, caste, class and community. The inherent contradictions in the Constitution should be resolved honestly in the light of valuable objectives of the Constitution. There should not be a dichotomy in framing laws, in their interpretation by the courts and implementation by the administration.

ABBREVIATIONS

CMA Christian Marriage Act
Cr.P.C. Criminal Procedure Code

DMMA Dissolution of Muslim Marriage Act
DPSP Directive Principles of State Policy
FR Fundamental Rights
HMA Hindu Marriage Act
IPC Indian Penal Code
PMDA Parsi Marriage and Divorce Act
SMA Special Marriage Act
UCC Uniform Civil Code

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CUSTOMS DUTIES IN INDIA SINCE 1859

M.M. Sury

Prior to 1857, the regulation of customs duties in India was haphazard and lacked all-India uniformity due to unstable political and economic conditions. Having consolidated political power after the disturbances of 1857, the British Indian Government introduced in 1859 a uniform all-India tariff which replaced separate provincial rates of duty. This article traces the history of modern customs tariff in India for the period 1859-1994. The focus of the study is on post-Independence developments and the present pattern of customs duties. The study is largely based on official documents including Central Government budget papers and reports of various Commissions/Committees constituted by the Government from time to time to examine the Indian tax system.

INTRODUCTION

Customs duties are probably the most ancient form of taxation. They are as old as international trade itself. Just as domestic production flows provide the base for excise taxation so also international trade flows are the basis for customs duties. Customs duties are payable on goods exported from or imported into a country. Import duties are usually levied with *ad valorem* rates and their tax base is determined by the domestic value of the imported goods calculated at the official exchange rate. Similarly, export duties are imposed on export values expressed in domestic currency. Customs duties are imposed to raise revenue for the government or as a measure of protective barrier for the domestic industries. Other measures to protect indigenous industries from foreign competition are import licensing, import quotas, and outright import ban.

The term 'customs duty' as an English expression originated in England during a period of disagreement between the King and the Parliament over the King's right to collect these taxes. The King's supporters claimed that the sovereign had been vested with the authority to impose these levies by long established 'custom'. Hence, it is suggested that the term 'custom duty' was derived. The right was claimed on the ground that they were a reasonable return to the King for the protection and security he was supposed to provide on land and sea.

PRE-INDEPENDENCE DEVELOPMENTS

Before 1857, the rates of import duty in India, though not uniform, were relatively low, ranging from 3 to 5 per cent *ad valorem* on raw materials

and manufactured articles. These rates were doubled in the case of goods imported from countries other than Britain.

The Period 1859 to 1894

Consequent upon the events of 1857 and the strain on finances of the Government, import duties were considerably enhanced. In 1859, the British Indian Government introduced a uniform all-India tariff and almost everything imported into India was assessed at 10 per cent of its value for purposes of customs duty. Some important articles, viz., tobacco, beer, wines, and spirits were taxed at 20 per cent. Likewise, nearly all exports from India paid a 3 per cent duty. High rates of customs duties soon proved counter-productive and by mid-1860s a process of lowering import tariff had started. Moreover, the country was also showing signs of recovery. Import duties were reduced to 7.5 per cent in 1864, and further down to 5 per cent in 1875. It culminated in the abolition of the whole of import duties in 1882, excepting those on arms and liquors. For all practical purposes, the imports of goods into India was free until 1894. '...from 1875 to 1900, the Indian customs policy became the subject of a violent controversy between doctrinaire free traders and passionate protectionists; and in consequence there were frequent changes. The ruling caste, taking their cue from the prominent British statesmen, adopted an attitude of uncompromising freedom in trade, irrespective of India's economic or financial interests. The Indian public opinion of the day, such as it was, was gradually driven by the sheer intolerance of the rulers in their second-hand exposition of the free trade principles, to an attitude of equally unyielding protectionism' [Shah, Pp. 281-82].

Broadly speaking, from mid-1870s the Government of India was well on the path of establishing freedom of trade. Even in the case of exports, exemptions from duty were granted freely and in 1875 the only commodities which were still subject to export duties were rice, indigo, and lac.

The Period 1894-1919

The euphoria for free trade which dominated Government's policy between 1875 and 1890 gave way to economic realism with the beginning of 1890s. The loss of revenue from the abolition of import duties was felt to be adversely affecting Central finances. Hence, in a reversal of tariff policy, a general import duty of 5 per cent was reimposed in 1894. A notable exception to this rate was the duty free import of railway materials and machinery. Similarly, a low duty of 1 per cent was imposed on iron and steel. At the other end of the scale were a few commodities, viz., arms, liquors, and tobacco which were subject to a comparatively high rate of duty. This arrangement continued till the outbreak of the First World War.

The outbreak of War led to urgent need for additional revenues and customs duties came in handy for the Government. The general rate of import duty was raised from 5 per cent to 7.5 per cent in 1916. In 1916, an export duty was imposed on jute. A duty on raw hides and skins at 5 per cent *ad valorem* was imposed in 1919.

As already noted, export duties formed an important part of the customs tariff soon after the events of 1857. They were gradually abolished and between 1880 and 1916, rice was the only item subject to export duty. The financial difficulties created by the First World War led to their revival. Jute and tea were brought under export duty net in 1916, and hides and skins in 1919. Justifying the export duty on rice, the Indian Taxation Enquiry Committee, 1924-25, observed, 'Though rice is not a monopoly of India, the export duty has been in operation for many years without any bad effects. Its justification lies in special circumstances. The only countries which export appreciable quantities of

rice are India, Siam (now Thailand), and Indo-China. The Indian share of the trade varies between one-third and one-half. As each of these countries levies an export duty, the Indian duty does not handicap the producer and its remission would in fact put an equivalent amount of money into the hands of the producers and the middlemen' [Todhunter, 1924-25, Vol. I, para 157]. Export duty on tea was justified on similar grounds because India's principal competitor Ceylon (now Sri Lanka) also imposed export duty on tea.

Inter-War Period

The general rate of import duty was raised from 7.5 per cent to 11 per cent in 1921, and further up to 15 per cent in 1922. A new category of 'luxury goods' (such as motor cars, silk goods, and watches) was introduced in 1921 for which a 20 per cent rate was prescribed and the same was increased to 30 per cent the following year. Although, the successive upward revisions in import tariff were made for additional revenue, they did provide much-needed protection to the domestic industry.

In 1921, the Indian Fiscal Commission was appointed to examine the tariff policy of the Government of India. It submitted its report in 1922 with the following main recommendations: '(a) That the Government of India adopt a policy of protection to be applied with discrimination along the lines indicated in this report, (b) That discrimination be exercised in the selection of industries for protection, and in the degree of protection afforded, so as to make the inevitable burden on the community as light as is consistent with the due development of industries, (c) That the Tariff Board in dealing with claims for protection should satisfy itself (i) That the industry possesses natural advantages. (ii) That without the help of protection it is not likely to develop at all, or not so rapidly as is desirable. (iii) That it will eventually be able to face world competition without protection. (d) That raw materials and machinery be ordinarily admitted free of duty and that semi-manufactured goods used in Indian industries be taxed as lightly as possible. (e) That industries essential for purposes of national

defence and for the development of which conditions in India are not unfavourable be adequately protected, if necessary, (f) That no export duties be ordinarily imposed except for purely revenue purposes and then only at very low rates; but that when it is considered necessary to restrict the export of foodgrains, the restriction be effected by temporary export duties and not by prohibition' [Rahimatoola, 1921-22, Pp. xv-xvi].

The recommendations of the Fiscal Commission were debated in the Legislative Assembly in February 1923 and a resolution was passed accepting in principle the need to tailor India's tariff policy for encouraging Indian industries. As suggested by the Fiscal Commission, a Tariff Board was set up which investigated the claims of a number of industries for protective duties. Following the recommendations of the Tariff Board, the Government adopted what came to be called the policy of 'discriminatory protection' under which tariff protection was granted to selected industries against foreign competition. The industries which benefited from the policy of discriminating protection included, *inter alia*, iron and steel, cement, textiles, sugar, paper, matches, and jute.

One adverse consequence of the high rates of customs duty during and after the First World War was the encouragement to smuggling. The Indian Taxation Enquiry Committee, 1924-25 examined the smuggling problem at length and observed, '... while the present high tariff offers great temptations to the smuggler, there is a lack of cohesion in the preventive arrangements, which certainly offer many facilities for his operations. It is not desirable to recite instances of the way in which advantage has been taken of these facilities, but it may be said that, though there is no evidence that any considerable percentage of the customs revenue is lost through smuggling, it is clear that there is a loss amounting at least to several lakhs a year' [Todhunter, 1924-25, Vol. I, para 152].

The economic depression of the early 1930s resulted in heavy deficits in the finances of the Central Government. The general rate of import tariff was raised to 25 per cent as a part of additional taxation efforts introduced under the Indian Finance Act, 1931.

During the inter-war period, customs duties

remained the single largest source of Central revenues. In 1921-22, they accounted for 39.5 per cent or two-fifths of the Central revenues. By 1938-39, their share had gone up to almost one-half, 48.9 per cent to be exact. At the end of the Second World War, i.e., in 1944-45, their contribution was as low as 11.9 per cent: Rs 39.77 crore out of a total revenue of Rs 334.40 crore (Table 1).

TABLE 1. PRE-INDEPENDENCE TRENDS IN THE RELATIVE SHARE OF CUSTOMS DUTIES IN TOTAL REVENUES OF THE CENTRAL GOVERNMENT (Rs Crore)

Year	Total Central Revenues	Customs Duties	Col. 3 as per cent of col. 2
(1)	(2)	(3)	(4)
1921-22	80.00	31.61	39.5
1936-37	81.45	38.11	46.8
1938-39	82.90	40.51	48.9
1944-45	334.40	39.77	11.9

Figures for 1921-22 and 1936-37 are inclusive of those for Burma. Figures for 1938-39 and 1944-45 relate to undivided India.

Source: Government of India, Ministry of Finance, *Report of the Taxation Enquiry Commission, 1953-54*, Vol. 1, p. 23, Table 5 (excerpted).

Changes During the Second World War

In the Finance Act of 1942, an overall surcharge of one-fifth on all duties was imposed. It continued from year to year until 1951, when it was increased to one-fourth in the wake of the Korean boom. In 1944, the rate of surcharge on certain items, viz., potable spirits, cigars, cigarettes, and tobacco, was increased from one-fifth to one-half. During the War, an export duty at 3 per cent was imposed on cotton cloth and yarn but the same was converted into an export cess in 1945.

Another important war-time development was the introduction of import control (quotas) to ensure that available foreign exchange and shipping space were utilised for essential imports. The policy of import control continued during the post-War period to meet conditions created by the partition of the country, in particular, for the import of massive quantities of foodgrains.

It is pertinent to note that during the pre-Independence period, the maritime Princely States enjoyed the right to levy and retain sea customs duties at their own ports. However, they

were not allowed, through conventions with the British Indian Government, to levy such duties at rates lower than those charged at entry into British Indian ports. This arrangement ensured that there was no undue diversion of trade from British Indian ports to ports developed and maintained by the States. The maritime Princely States of British India with their major ports mentioned in parentheses were the following: Travancore State (Trivandrum, Quilon, Alleppey), Cochin State (Cochin), Bhavnagar State (Bhavnagar), Junagadh State (Veraval, Mangrol), Porbandar State (Porbandar), Baroda State (Okha), Nawanagar State (Bedi, Rozi), Morvi State (Navlakhi), and Cutch State (Mandvi, Kandla).

The authority of the Princely States in terms of sea customs and ports was well-recorded in the *Report of the Indian States Enquiry Committee (Financial)*, 1932. It observed, '...the revenue they (Princely States) derive from these customs duties is substantial, elastic, and an important part of their total revenues, from which their State expenditure (including that on nation building activities) has to be met; that the appointment of staff by which they collect, and the manner in which they disburse the revenue so realized from customs duties, are entirely matters for their own decision; and, in particular, that they cannot be debarred from utilizing that revenue in the maintenance and development of the ports at which the customs duties are levied' [Davidson, 1932, para 240].

POST-INDEPENDENCE DEVELOPMENTS

Legal Framework

By virtue of entry 83 of List I of the Seventh Schedule to the Constitution of India, the Central Government is empowered to impose 'duties of customs including export duties'.

During the British rule, various customs and tariff enactments were passed from time to time, the following two being the main: 1. The Sea Customs Act, 1878; and 2. The Tariff Act, 1934. After Independence, the Sea Customs Act and

other allied enactments were repealed by a consolidating and amending legislation entitled the Customs Act, 1962. Similarly, the Act of 1934 was repealed by the Customs Tariff Act, 1975.

Various Types of Customs Duties

In accordance with the provisions of the Constitution, various types of customs duties are imposed by the Government under different Acts of Parliament. Following are the important customs duties levied on goods imported into or exported from India.

1. *Basic customs duty*: Under section 12 of the Customs Act, 1962 (the main enactment), all goods imported into India are chargeable to a duty. The rates of this duty, popularly known as basic customs duty, are indicated in the First Schedule to the Customs Tariff Act, 1975. The duty may be a percentage of the value of the goods or at a specific rate. The Central Government has power to reduce or exempt any goods from these duties.

2. *Auxiliary duty of customs*: Under section 43 of the Finance Act, 1986, an auxiliary duty of customs is leviable on all goods imported into the country at the rate of 50 per cent of their value. However, this statutory rate has been reduced in the case of certain types of goods into different slab rates based on the basic duty chargeable on them.

3. *Additional (countervailing) duty of customs*: Under section 3(1) of the Customs Tariff Act, 1975, an additional duty on goods imported into the country is leviable. The rate of this duty, popularly known as countervailing duty, is equal to the excise duty on like articles if produced or manufactured in India. If the rate of this duty is on *ad valorem* basis, the value for this purpose will be the total of the value of imported article and the customs duty on it (both basic and auxiliary). The underlying philosophy of a countervailing duty is to ensure that the protection provided by the import duty to domestic industry is not reduced. Till the early 1960s, countervailing duty was levied on selected basis on products which were considered to erode the margin of protection to the domestic industry on account of

the excise duty. In course of time when the number of excisable goods increased, the selective use of countervailing duty was found to be inadequate and complicated. Therefore, the Indian Tariff Act, 1934, was amended in 1963 to insert a new section 2A, to provide for the levy of countervailing duty in all cases where excise duty was leviable on a similar indigenous commodity.

4. *Export duty*: Under section 12 of the Customs Act, 1962, the goods exported from India are chargeable to an export duty. The items on which export duty is chargeable and the rate at which the duty is levied are given in the Second Schedule to the Customs Tariff Act, 1975. The Government enjoys emergency powers to increase the existing rate or to levy fresh export duty depending on circumstances under section 8 of the Customs Tariff Act, 1975.

5. *Cesses*: Certain cesses are leviable on specified articles for export under various enactments of the Government of India. These cesses are collected as duties of customs and are handed over to the agencies in-charge of the administration of the commodity concerned. Presently, cesses are imposed on exports of coffee, coir, lac, mica, tobacco (unmanufactured), oil cakes and meal, marine products, cashew kernels, black pepper, cardamom, iron ore, animal feed and turmeric.

New Customs Tariff Nomenclature

As in the case of excise duties, a major problem in the administration of customs duties pertains to disputes and delays relating to interpretation of definitions of dutiable goods. The enactment of the new Customs Tariff Act, 1975, was a landmark in the history of customs tariff in India. The revised nomenclature for customs tariff was recommended by the Tariff Revision Committee, set up in 1964. Though the Government accepted the recommendations of the Committee, the Bill to implement the revised nomenclature could only be passed in 1975 and came into effect from August 2, 1976. The Act of 1975, which replaced the Indian Tariff Act, 1934, is based on the Customs Cooperation Council Nomenclature

(originally known as Brussels Tariff Nomenclature). The First Schedule to the Act contains import tariff while the Second Schedule deals with export tariff. As a further measure to rationalise and modernise customs administration, the Parliament passed the Customs Tariff Amendment Act, 1985, to adopt the Harmonised Commodity Description and Coding System. The new commodity classification became operative from February 28, 1986. Similarly, India adopted the GATT Valuation Agreement (Valuation Code) on August 16, 1988. The GATT Valuation Code lays down broad principles for valuation of goods for levy of customs duty.

REVENUE SIGNIFICANCE

The relative contribution of customs revenue in total tax yield of the Central Government has shown fluctuations due to changes in foreign exchange situation, domestic production levels, and trends in international trade. For example, in the late 1950s, several restrictions and bans were imposed on imports in view of difficult foreign exchange position, resulting in fall in revenue from import duties.

During pre-Independence days and even during early post-Independence period, customs duties formed the mainstay of Central tax revenues. However, the relative share of customs duties started declining from early 1950s in view of protective trade policy and dwindling foreign exchange reserves. The share of customs revenue in the Centre's total tax collections dropped from 38.9 per cent in 1950-51 to as low as 16.3 per cent in 1970-71. Since then customs revenue has maintained an upward swing, accounting for 18.6 per cent, 25.8 per cent, and 33.2 per cent in 1975-76, 1980-81 and 1985-86, respectively. In the 1994-95 budget the estimated share is 28.9 per cent (Table 2).

Customs duties are expected to remain important from the revenue angle in view of the changed emphasis from physical to fiscal controls to regulate imports. As the *Long Term Fiscal Policy Statement*, 1985, maintained, 'The basic thrust of customs tariff reforms will be to place increasing reliance on tariffs to regulate imports and progressively reduce the role of quantitative restrictions in this regard. The move in this direction should increase revenues, encourage

less import-intensive forms of production, moderate the unjustifiably high protection granted by quantitative restrictions to certain industries and reduce the delays and uncertainties associated with the administration of import licensing' [Long Term Fiscal Policy, 1985, para 6.24].

TABLE 2. TRENDS IN RELATIVE SHARE OF CUSTOMS DUTIES IN CENTRAL GOVERNMENT'S TAX COLLECTIONS: SELECTED YEARS

Central taxes	1950-51	1955-56	1960-61	1965-66	1970-71	1975-76	1980-81	1985-86	1990-91	(Rs Crore)
										1994-95 (B.E.)
A + B Total tax collection	404 (100.0)	483 (100.0)	888 (100.0)	2,060 (100.0)	3,206 (100.0)	7,608 (100.0)	13,179 (100.0)	28,671 (100.0)	57,576 (100.0)	87,136 (100.0)
A. Direct taxes	174 (43.1)	171 (35.4)	290 (32.6)	602 (29.2)	870 (27.1)	2,205 (29.0)	3,004 (22.8)	5,657 (19.7)	11,025 (19.1)	24,790 (28.4)
B. Indirect taxes	229 (56.7)	315 (65.2)	599 (67.5)	1,457 (70.7)	2,337 (72.9)	5,403 (71.0)	10,175 (77.2)	23,014 (80.3)	45,551 (80.9)	62,346 (71.6)
of which										
(i) Customs duties	157 (38.9)	166 (34.4)	170 (19.1)	539 (26.2)	524 (16.3)	1,419 (18.6)	3,409 (25.8)	9,526 (33.2)	20,644 (35.8)	25,200 (28.9)

Figures in parentheses are corresponding percentages of total tax collection.

Source: Government of India, Ministry of Finance, *Explanatory Memorandum on the Budget of the Central Government and Receipts Budget* (various years).

Customs revenue is mainly composed of import duties levied on a wide range of commodities. In the budget estimates for 1994-95, import duties account for Rs 25,072 crore (99.5 per cent) out of a total customs revenue of Rs 25,200 crore (Table 3). Apart from the revenue function, import duties act as policy instrument to provide protection to domestic industry, conserve and ration scarce foreign exchange, and frame general international trade policy.

Like excise levies, the revenue from import duties is also concentrated in a select few commodities including petroleum oils and crude,

electrical machinery, organic chemicals, project imports, plastics, etc. These are the items which form the bulk of India's imports and hence customs revenue. The budget papers of the Government of India classify revenue from import duties under 52 specific commodity heads. Table 4 lists commodities which yielded Rs 500 crore or more each as revenue from import duties in 1992-93. These 13 commodities together accounted for Rs 17,662 crore (75.9 per cent) out of the total import duties of Rs 23,260 crore in 1992-93.

TABLE 3. TRENDS IN THE RELATIVE SHARES OF IMPORT AND EXPORT DUTIES IN TOTAL CUSTOMS DUTIES: SELECTED YEARS

Year	Customs duties	Import duties	Export duties	(Rs Crore)	
				As percentage	
				Col.3 of Col.2	Col. 4 of Col.2
(1)	(2)	(3)	(4)	(5)	(6)
1950-51	157	110	47	70.1	29.9
1955-56	166	128	38	77.1	22.9
1960-61	170	156	14	91.8	8.2
1965-66	539	537	2	99.6	0.4
1970-71	524	461	63	88.0	12.0
1975-76	1419	1336	83	94.1	5.9
1980-81	3409	3292	117	96.6	3.4
1985-86	9526	9443	83	99.1	0.9
1990-91	20568	20532	36	99.8	0.2
1994-95 (B.E.)	25200	25072	128	99.5	0.5

Source: Government of India, Ministry of Finance, *Explanatory Memorandum on the Budget of the Central Government and Receipts Budget* (various years).

TABLE 4. LIST OF COMMODITIES WHICH YIELDED RS 500 CRORE OR MORE EACH AS REVENUE FROM IMPORT DUTIES IN 1992-93

		(Rs Crore)
S.No.	Brief description of the commodity	Revenue in descending order
1.	Petroleum oils obtained from bituminous minerals, crude	4,053
2.	Machinery	2,214
3.	Electrical machinery	1,859
4.	Organic chemicals	1,609
5.	Plastics and articles thereof	1,516
6.	Project imports	1,360
7.	Petroleum oils obtained from bituminous minerals other than crude	1,227
8.	Iron and non-alloy steel	876
9.	Copper	693
10.	Baggage	664
11.	Other mineral fuels, oils, and waxes	564
12.	Chemical products	519
13.	Primary materials of iron and steel	508
A.	Total of S. No. 1 to 13	17,662
B.	Total revenue from import duties	23,260
C.	A as per cent of B	75.9

Source: Calculated from Government of India, Ministry of Finance, *Receipts Budget*, 1994-95, Annexure 1.

IMPORT TARIFF POLICY

Soon after Independence, Government decided to follow a restrictive import policy, particularly in view of the rapid depletion of sterling balances. In his very first budget (1947-48) of a free and independent India, the Finance Minister outlined the salient features of this restrictive policy as follows: 'Broadly speaking, that policy consists of dividing imports into three categories: free, restricted, and prohibited. Imports of food, capital goods, the raw material of industry and certain essential consumer goods are free and no exchange restrictions are placed upon their imports. Consumer goods which are not absolutely essential are licensed on a quota basis, while others which in the context of the economy of this country must be regarded as totally unessential and luxury imports have been altogether prohibited' [*Speeches of Union Finance Ministers*, 1984, p. 8].

During the early post-Independence period, customs policy remained in turmoil owing to a series of domestic and international happenings. India's commitments under General Agreement on Tariffs and Trade (GATT) were given effect to in 1948, the rupee was devalued in September 1949, and the Korean War broke out in 1950. Being a signatory to GATT, India could not raise, above a certain level, import duties on a wide

variety of goods, but enjoyed reciprocal concessions from her trade partners. Imports of articles which enjoyed concessions under GATT constituted 19 per cent of the value of total imports, while the value of exports which received concessions was 79.6 per cent of our total exports in 1952-53. The concessions obtained included items like mica, cashewnuts, and various jute goods. The concessions granted pertained mainly to consumer goods and machinery. Since the actual rates of import duty on machinery, which formed the bulk of imports, were already low than the rates fixed by the Agreement, the effective concessions were chiefly on consumer goods. Although the Fiscal Commission, 1949-50, supported India's adherence to GATT in view of the need for international co-operation, the country later on felt the need to withdraw from GATT 'bindings' when domestic production base was strengthened and diversified. Following re-negotiations in 1971 and 1973, a host of items 'bound' under GATT were freed to provide protection to domestic industries.

After the outbreak of the Korean War, important changes were introduced in the tariff structure under the Finance Act, 1951. The general surcharge of one-fifth on import duties (levied in 1942) was increased to one-fourth. The rate of surcharge on liquors which was fixed at 100 per

cent in 1948 was raised to 155 per cent.

In pursuance of its general policy of gradually replacing quantitative restrictions by higher import duties, the Government raised import duties on a number of items including articles made of paper, cutlery, etc., in the 1955-56 budget. Simultaneously, import quotas were liberalised. The already high level of import duties, particularly on luxury articles, did not leave much scope for raising additional revenue from this source, a fact lamented by the Finance Minister in his 1957-58 budget (final) speech.

In January 1957, Government of India appointed The Customs Reorganization Committee under the chairmanship of F.C. Badhwar. The Committee was asked 'to conduct a comprehensive enquiry into customs procedures and organization and to make recommendations for their improvement' [Badhwar, 1957-58, p. 1]. The Committee found that a major cause of disputes and delays in the clearance of imported goods was the faulty and inadequate classification system for determining customs tariff. 'The complexity of the Customs Tariff will be evident from the fact that the whole range of goods constituting the country's foreign trade are grouped under 576 tariff items only as compared with 4,850 classification heads in the 'Statistical Indian Trade Classification' which has recently been adopted for purposes of recording the country's trade statistics. Whilst the range and variety of imported goods have been continuously expanding in the post-war period, there has been little or no corresponding revision or elaboration of the customs tariff schedule' [Badhwar, 1957-58, p. 12].

The Committee was also critical of the too many rates of duty. It observed, 'we should similarly point out the existence in the Indian Customs Tariff of too wide a range of *ad valorem* rates of duty which must inevitably add to the difficulties in the day to day application of the tariff, particularly when tariff descriptions carrying different rates could apply to the same article. Almost all multiples of 5 up to 100 are to be found in these rates' [Badhwar, 1957-58, p. 13].

The Committee recommended, *inter alia*, (a) a thorough revision of the customs tariff by aligning it closely with the Import Trade Control Licensing

Schedule, and (b) removal of anomalies in rates of duty for similar categories of goods.

The worsening foreign exchange crisis reached its climax when, in 1965, foreign exchange reserves touched the critically low level of less than Rs 100 crore. Moreover, the Customs Reorganisation Committee, 1957-58 had criticised the multiplicity of tariff rates. Consequently, a drastic rationalisation of the import duty structure was undertaken in 1965, resulting in the introduction of a set of three rates of import duty: 40 per cent on basic raw materials, 60 per cent on semi-processed and intermediate goods, and 100 per cent on finished consumer goods. The Committee on Rationalisation and Simplification of Tax Structure, 1968 also favoured few rates of import tariff. It opined, 'Except for a few 'luxury' items like watches, jewellery, alcoholic beverages and perfumes, there is need only for three or four rates of duty' [Bhoothalingam, 1968, p. 14]. In spite of the rationalisation exercise of 1965, duty changes were made frequently depending upon emerging situations. The three rates of import duty were scaled down following devaluation of the rupee in June 1966 to prevent the cost of imports going up to the full extent of the devaluation. However, in view of the difficult balance of payments position, the rates of import duty were gradually restored in due course to the pre-devaluation levels. Rationalisation of import tariff was again attempted in 1971 when the following four rates of import duty were introduced: 30 per cent, 40 per cent, 60 per cent, and 100 per cent.

The Indirect Taxation Enquiry Committee, 1978, examined at length the structure of import duties and recommended its rationalisation on the following lines: '(a) a levy adequate to give the degree of protection deemed necessary for particular products, (b) a revenue element, which would generally be the countervailing duty, being equal to the excise duty leviable on the same or similar domestic product and (c) a regulator element which will be used on such factors as reinforcing import restrictions, preventing excess profits on account of scarcity of products in domestic market, and generally to regulate imports from the angle of conserving foreign exchange' [Jha, Part II, 1978, p. 139].

The need for rationalisation of import tariff was underlined in the *Long Term Fiscal Policy* (LTFP), 1985 also. The official document noted that the prevailing tariff rates were high and the tariff system was very complicated. It, therefore, stressed the need to reduce the rates and simplify the system. For carrying out these reforms, the LTFP distinguished between the following broad categories of imports: 1. Capital goods; 2. Raw materials; 3. Other intermediate goods including components; 4. Essential consumer goods like foodgrains, edible oils, and life saving drugs; and 5. Non-essential consumer goods. Understandably, essential goods were preferred to either remain exempt or bear low rates of import duties while non-essential items were singled out to remain either banned or subjected to high import tariff. Regarding the first three categories of goods the LTFP observed: 'Ideally, in the long run, there is a strong case for subjecting all capital goods, raw materials, components and other intermediate products to the same rate of nominal tariff. This system, if it could be implemented, would have several important advantages. First, the substitution of the present multiplicity of nominal tariff rates by a single rate would constitute an enormous simplification for both trade and industry as well as for the customs administration. Second, this would vastly reduce incentives for misclassification of imports to evade taxes. Third, a single nominal rate of import duty would assure a uniform rate of effective protection (that is, protection of value added) at different stages of production of intermediate and capital goods. This would encourage the economy to specialise in those activities in which it has competitive strength' [*Long Term Fiscal Policy*, 1985, para 6.26].

However, the LTFP cautioned that a major deviation from the present pattern of import tariff is not immediately feasible. Domestic industries have grown under different levels of protection and are in different stages of maturity. The rationalisation of import tariff has to be phased over a long period providing some differentials in import tariff, short of a uniform system of duties.

Consequent upon the rationalisation of import tariff on capital goods by the Finance Act, 1987

the rate of import duty on general machinery was reduced to 85 per cent *ad valorem*. Import duty on components for machinery was fixed at 15 per cent below the applicable rate on complete machines. This differential, in line with the recommendations of the LTFP, was intended to encourage the domestic production of capital machines instead of their total imports. Imports of capital goods for certain preferred sectors were allowed at relatively low rates of duty. For example, duty on equipment for fertiliser plants was 15 per cent *ad valorem* and on machines, equipment, and tools for gems and jewellery 25 per cent *ad valorem*. Electronics industry emerged as a preferred sector for fiscal incentives. The Finance Act, 1988, fixed a uniform concessional import duty of 60 per cent *ad valorem* in respect of 280 items of machinery for the electronics sector. By the same Act, the duty on moulds, tools, and dies required by the electronics industry was reduced from 60 per cent to 30 per cent *ad valorem* with the underlying purpose of indigenisation and development of electronics and computers.

Unfortunately, the guidelines suggested by the LTFP for reform of import tariff were never implemented comprehensively. In a half-hearted manner, some rationalisation of rates was effected in the case of components of capital goods, drug intermediates, and electronic goods.

In mid-1991 when the new Government assumed office at the Centre, it began the process of reducing import duties. The Finance Act (No. 2), 1991, reduced the *ad valorem* rate of basic plus auxiliary duties of customs to a maximum of 150 per cent where it was more than that. Thus, tariff peaks above 150 per cent were eliminated with the exceptions of duty on imported alcoholic beverages and passenger baggage. The then prevailing rates of import duty on capital goods for general projects and machinery were reduced from 85 per cent to 80 per cent. The rate of duty on their components was also reduced by 5 percentage points from the existing level of 65 per cent.

Reform of the customs tariff was high on the agenda of the Tax Reforms Committee (Chelliah Committee) constituted by the Government in August 1991. Its terms of reference enjoined it to

examine and make recommendations, *inter alia*, on 'simplification and rationalisation of customs tariffs with a view to reducing the multiplicity and dispersion of rates and to eliminate exemptions which have become unnecessary; and) reducing the level of tariff rates, keeping in view the need for mobilising resources to facilitate fiscal adjustment and the objective of promoting international competitiveness' [Chelliah, 1991, p. 1].

In its Interim Report submitted to the Government in December 1991, the Committee suggested the following as elements of the programme of import tariff reform: '(a) reduction of the general level of tariff; (b) reduction of the spread or dispersion of tariff rates; (c) simplification of the tariff system; (d) rationalisation of tariff rates, along with the abolition of numerous exemptions and concessions; and (e) abolition of the practice of making changes in effective rates through notifications' [Chelliah, 1991, p. 97]. Stressing the need for time-bound action, the

Committee observed, 'By 1995-96, the average tariff rate should be brought down to about 50 per cent and the peak rate to about 80 per cent. In the years 1996-97 to 1998-99, tariff rates should be reduced further to bring down the average rate to around 25 per cent and the maximum rate to 50 per cent by 1998-99' [Chelliah, 1991, Pp. 143-44]. The import duty structure recommended by the Committee for the year 1997-98 is reproduced in Table 5.

Following the recommendations of the Tax Reforms Committee, 1991, the Finance Act, 1992 lowered the peak level of import duties to 110 per cent with the exception of passenger baggage and alcoholic beverages. With a view to reducing the cost of new investment, the duty on project imports was lowered from 80 per cent to 55 per cent, and in the case of electronic industry, to 50 per cent. A steeper reduction to 30 per cent was granted for capital goods for projects of coal mining and crude petroleum refining. For power projects, a uniform duty of 30 per cent was fixed.

TABLE 5. IMPORT DUTY STRUCTURE RECOMMENDED FOR 1997-98 BY THE TAX REFORMS COMMITTEE

Industry	Import Duty (in per cent <i>ad valorem</i>) (excluding countervailing duty)
1. Essential agricultural goods like wheat and rice	0
2. Other agricultural goods like oilseeds and pulses	10
3. Non-essential agricultural goods like almond and cashewnut	50
4. Petrochemical building blocks	15
5. Organic and inorganic chemicals	20
6. Polymers	25
7. Textile fibres and yarn	25
8. Iron and Steel	
a. Pig iron	15
b. Semi and finished steel including stainless steel and other alloy steel	20
9. Copper	20
10. Aluminium	15
11. Nickel	15
12. Lead and zinc	20
13. Tin	15
14. Wastes and scrap and concentrates of ferrous and non-ferrous metals	10
15. Articles of iron and steel	30
16. Articles of non-ferrous metals	
a. of copper, lead and zinc	30
b. of aluminium, nickel and tin	25
17. Machinery including machine tools	20
18. Electronics	
a. Raw materials	20
b. Piece parts, components, sub-assembly and equipment	30
19. Instruments	30
20. Medical equipment	20

Source: Government of India, Ministry of Finance, *Report of the Tax Reforms Committee* (Final Report, Part II), January 1993, p. 138.

As a measure of relief to the asbestos cement industry, which serves the housing, water supply, and irrigation sectors, the Act reduced the import duty on asbestos fibres from 90 per cent to 70 per cent. For the agricultural sector, concessions were granted in the form of reductions in import duty on specified pesticides, pesticide intermediates and full exemption on oilseeds and seeds of vegetables, flowers and ornamental plants, seeds of fruit plants and pulses for the purposes of sowing and planting.

The underlying philosophy of reduction in tariffs was to promote competitiveness in the Indian industry. There was a feeling in Government circles that high tariff rates had the effect of creating a high cost industrial structure.

Continuing the process of reducing import duties, the Finance Act, 1993, made a significant simplification in the import tariff by merging auxiliary duty with basic duty, and also by reducing maximum rate of import duty from 110 per cent to 85 per cent. The process of reducing the high level of protection to domestic industry is continuing so as to foster competition and promote efficiency. Hence, the peak rate of import duty was further reduced from 85 per cent to 65 per cent by the Finance Act, 1994. By the same Act, the basic customs duty on project imports and general capital goods was lowered from 35 per cent to 25 per cent; on computer parts from 80 per cent to 50 per cent; on machinery for watch industry from 50 per cent to 25 per cent; and on coke from 85 per cent to 25 per cent. Hitherto, machine tools attracted duty at varying rates of 40 per cent, 60 per cent, and 80 per cent. The Finance Act, 1994 simplified the structure by fixing duty at 35 per cent or 45 per cent only. Similarly, import duty on steel which ranged from 75 per cent to 85 per cent was fixed at 50 per cent. In the pharmaceutical sector, import duty on a large number of raw materials which varied from 85 per cent to 50 per cent was lowered to two rates of 50 per cent and 25 per cent.

EXPORT TARIFF POLICY

Export duties can become important source of revenue when a country enjoys monopoly or near-monopoly in certain products in the international market. In the early 1950s, India had a

foreign market dominance in commodities such as jute, tea, and textiles. Hence, export duties fetched sizeable revenues. As this dominance grew weaker over the years, the rates of export duty had to be reduced.

The devaluation of rupee, along with the sterling, against the dollar in September 1949, and the Korean boom considerably increased the demand for India's exports. The comparatively strong position in respect of certain commodities in the world market led to wide profit margins, encouraging the Government to impose or enhance export duty on a number of items including jute manufactures, cotton textiles, and black pepper. Apart from raising revenue, export duties also served to stabilise domestic prices. However, the need to promote India's exports led to gradual scaling down of export duties. Following devaluation of the rupee in 1966, export duties were reimposed on a number of goods including jute, manufactures, tea, raw cotton, groundnuts, hides and skins, and mineral ores. The objective was to mop up a part of the windfall gain accruing to the exporters as a result of devaluation. However, they had to be withdrawn in course of time to ensure competitiveness of our exports in world market. Exports are encouraged, in certain cases through subsidies, to narrow the ever-widening deficit in the balance of payments.

Although at present the share of export duties in customs revenue is negligible (0.5 per cent), it was not always so. In the early 1950s, export duties formed a significant proportion of customs revenue, though this situation could not be maintained for long. The yield from export duties reached the peak figure when they formed 29.9 per cent of total customs revenue in 1950-51. By 1960-61, export duty revenue had been reduced to 8.2 per cent of total customs revenue. Another upsurge in the relative share of export duties is observed in 1970-71 when they formed 12.0 per cent of customs revenue. Since then, their revenue importance has continuously decreased and, in fact, they have virtually disappeared (Table 3).

Although export duties have lost their importance from the revenue angle, they have not been completely dispensed with. Occasions do arise when there is considerable disparity between the domestic and international prices of certain goods

enjoying comparatively strong position in export market, and levying of export duties may be justified to mop up a part of the profits of the exporters. At present, export duties are levied on a few commodities such as coffee, mica, black pepper, hides and skins, and leather. Export duty on an item is levied after considering such factors as domestic production and likely exportable surpluses, demand for the item in the foreign markets, changes in exchange rates, and the prices prevailing in the international market. It may be noted that Government enjoys powers to impose and enhance export duties without prior approval of Parliament on the consideration that such duties do not fall on the Indian consumers.

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MACROECONOMIC ADJUSTMENT IN INDIA: POLICY AND PERFORMANCE IN THE RECENT YEARS

Sushanta Kumar Mallick and T. Krishna Kumar

In this paper, an attempt is made to describe the macroeconomic scenario and the policy developments of the Indian economy at a time when the policy framework is changing in the direction of market-oriented reforms. This paper tries to analyse the analytical framework underlying the current economic changes and provides a critical assessment of the reform process. First, the theoretical framework of the IMF and the WB underlying the currently underway macro adjustment policies is examined. Second, an analysis of the performance of macroeconomic policies is made by looking at various macroeconomic indicators such as inflation, fiscal gap and a critical balance-of-payments position. This is done by providing evidence through macroeconomic statistics. This paper identifies the limitations of the analytic framework developed by the Fund and the Bank on the one hand and of the heuristic explanations based on comparing the trend in one macroeconomic variable with trend in another.

1. Introduction

This paper aims at providing a description of the evolution of recent macroeconomic scene in the Indian economy. Particular attention is given to the 1980s and the early 1990s which cover the period of significant macroeconomic adjustment. Macroeconomic adjustment policies can be broadly categorised into two groups - stabilisation policies and structural reforms. While stabilisation policies basically aim at reducing macroeconomic imbalances by reducing the level of aggregate demand in the economy, structural adjustment policies aim at raising the rate of growth of output through policies that bring about major changes in the microeconomic structure by promoting competitiveness, efficiency and dynamism among the production units within the system.

As a country's macroeconomic policies can play a crucial role in shaping the long-run growth, one object of this paper is to see how the macro adjustment policies are being used in India's macro system. We therefore need to first understand the initial conditions or the base line position and the structure of dynamic forces that generate the macroeconomic imbalances in the Indian context. The question that one should examine then is the compatibility of the kind of policy framework that is being pursued by policy makers in India with the framework that is best suited for India given its initial conditions and structural characteristics. It may be noted that the

policy framework being adopted by India is more or less the same as the one advocated by the International Monetary Fund (IMF) and the World Bank (WB) for all those countries that approach them for assistance.¹ We therefore need to understand the analytical approaches employed by the IMF and the WB in designing such adjustment programmes in support of their lending activities. The second section will highlight these issues. This section also presents the policy response to the type of shocks India has faced in the recent years. The third section will discuss the trends in several macroeconomic indicators and offers some comments on how macro policies might have been pursued in a better way. The last section sums up the issues discussed.

2. India's Emerging Macroeconomic Environment - 1950-1990

Before evaluating the macroeconomic policy framework, it is useful to review the salient features of the macroeconomic environment by looking at the major trends which have brought increasing understanding of the nature of the macro economy of India. The evolution of Indian macro economy since 1950 can be broken down into five phases. In phase I (1950-65), India pursued a policy of self-reliance and growth with equity employing a framework developed by Nehru and Mahalanobis [Kumar, 1992, Pp. 2,297-2301; 1994a, Pp. 131-151]. In phase II

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(1965-73), India went through a phase of internal recovery from wars and famines with focus on green revolution and poverty alleviation. The policy makers' focus shifted to poverty alleviation partly because they did not wish to see a recurrence of a situation such as the Bihar famine of 1965-66 and 1966-67. The third phase covers the period 1973-80. This period may be referred to as the period of adjustment to external shocks, i.e., the two oil-price hikes and the Gulf War, which affected India's trade with the Middle East. The fourth phase (1980-91) is the liberalisation phase heralded by Indira Gandhi and Rajiv Gandhi. Finally the last phase since 1991 is the period of stabilisation and structural adjustment under the framework developed by the IMF and the WB. Such economic reforms in India were launched in June 1991 and are now in their mid-course. Even though it is too early for a thorough evaluation of these attempts, it is useful to examine the two years of reform experience.

2.1 The Antecedents of the Indian Macroeconomic Crisis

Looking back at the performance of the Indian economy from 1950 onwards, what is most obvious is poor growth performance. Performance of India's economy during the last four decades has been neither spectacular nor dismal. By most indicators it appears to be modest but in many ways steady. While there have been no spectacular advances, the economy has displayed a remarkable resilience which has enabled it to cope with difficult problems and to survive major shocks. Throughout the planning era since 1950, the growth rate of GDP is less than 6 per cent (Table 1, col. 2). When we see the picture of Indian economy from a disaggregated angle, there has been some improvement in the post-Independence period.

The post-Independence period marks a turning point in the history of Indian agriculture, which is the most predominant sector in India, both in terms of its contribution (in terms of output nearly 33.3 per cent, and in terms of employment about 66.7 per cent) as well as source of demand and supply of wage goods to other sectors in the economy. In the Second Five-year Plan period, large investments were made on major irrigation

projects. Agricultural transformation which was initiated in the mid-sixties through the adoption of a new strategy for agricultural development seems to have made a visible impact on production by the late sixties. Production of foodgrains, particularly in water-assured regions, benefitted largely from this strategy. As a result, the index of agricultural production more than doubled during the three decades between 1950-1980 (Table 5, Col. 1).

The industrial sector in India is consciously planned and developed by the government. At the time of Independence, India had a slender industrial base. It goes without saying that during the course of about four decades following 1951, India's industrial economy had undergone structural changes. Whereas the agricultural sector has shown a wide variation in its rate of growth, sometimes turning negative, the manufacturing sector has maintained a more stable positive growth. From the mid-sixties, however, the industrial growth has been sluggish, which has declined from 9.5 per cent during 1960-65 to 4.3 per cent during 1965-70 and further declined upto 3.5 per cent during 1970-75 (see Table 5, col. 5). This slowing down of the rate of industrial growth has caused much concern and led to a variety of explanations for such a development in the Indian economy. It has been argued by many that the Indian economy did undergo a structural change during the mid sixties [see Srinivasan and Narayana, 1977, Pp. 225-239; Shetty, 1978, Pp. 185-244]. Chakravarty [1979] attributes the industrial retrogression to a decline in growth of demand for home goods. Kumar [1992, Pp. 2,297-2,301] attributes this decline in growth of demand for home goods to an uneven spatial growth. The constraints on the public investment which began during the mid-sixties (especially due to and in terms of foreign exchange shortage) seem to have triggered off such an industrial recession in India. The seventies witnessed sluggish industrial growth accompanied by an equally sluggish growth of agriculture. Now, under the liberalisation era of the 1980s, Indian industry seems to have responded positively to liberalisation, some times reaching a level of 9 per cent rate of growth per annum (Table 5). However, the balance of payments crisis of 1991

resulted in import compression of essential capital goods and industrial raw material. This has resulted in reduced industrial growth in the post reform period to the most dismal figures ever experienced in India's post Independence period.

India was more or less insulated from external shocks for decades, owing to limited volume of exports, imposition of import restrictions, and trade being only a small fraction of gross domestic product (see Table 1). Imports as percentage of GDP ranged between 4.6 and 7.1 per cent between 1950-1980 (Table 2, col. 8) while exports as percentage of GDP ranged between 3.5 and 6.1 per cent during the same period (Table 2, col. 7). Over the last four decades, India has registered a change in the pattern of her exports from an exporter of traditional items like jute, tea, tobacco, and cotton textiles, to a large supplier of manufactured products to overseas markets. Even though the aggregate exports as per cent of GDP has increased from 3.5 per cent during 1965-70 to 6.1 per cent in 1990-91, India's share in world exports has a secular decline from 0.6 per cent in 1970 to 0.5 and 0.4 per cent in 1975 and 1980, respectively and then it increased marginally to 0.5 per cent in 1985 which has remained the same in 1990 and 1991 [Government of India, 1994, Pp. S-95-97].

The engineering exports emerged as one of the most vibrant sectors in India's export profile and had become a major source of foreign exchange earnings for the country upto the late seventies. But during the eighties, engineering exports as a percentage of total exports declined from 11.48 in 1979-80 to 7.85 in 1988-89; again engineering exports as a percentage of the value of engineering production declined from 4.61 in 1979-80 to 2.65 in 1988-89 [Swaminathan, 1993]. Outward looking macroeconomic policies should have looked at the factors that caused such a significant decline in engineering goods exports and the country should have taken the necessary steps to revitalize this sector. This decline in exports of engineering goods could be due to our engineering goods being inferior in quality to the goods produced by our competitors in the world market. If this were so, then there is a clear indication that there is a need to constantly update our technology. This could also be due to limits to capacity expansion imposed by government

regulations, thereby making domestic production only adequate to meet domestic demand. Moreover, the growth rate of imports, has always remained much higher than that of exports which has led to severe balance of payments current account deficits. From 1981 to 1987, the persistence of current account deficits was the result of the almost complete stagnation of exports (fixed at about 4.5 per cent of GDP). India's exports do not cover even two-thirds of her imports and are less than 5 per cent of the GDP during the eighties.

Given this scenario of stagnation of total exports and decline in engineering goods exports, imports being much higher in value terms than exports, and the need to constantly upgrade technology, the best policy then could have been: (i) to put restrictions on certain imports such as luxury consumer goods, (ii) to liberalise capital goods imports, (iii) to deregulate industrial licensing and liberalising the issuance of capital issues, and (iv) to promote joint collaborative investments between the domestic and foreign producers. The trade balance, i.e., the gap between imports and exports, is met through external debt. With the export earnings more or less stagnant, such external borrowings resulted in huge debt service obligation (14.3 per cent of export in 1986-87, which put severe pressure on the balance of payments (Table 7, col. 11)).

India had an adverse balance of trade for most of the years and its performance has been far from impressive. India's balance of trade increased upto a maximum of 4.3 per cent of GDP in 1980-81 (Table 2, col. 9). This may be attributed to three factors, namely: (i) decline in the world demand for India's exports; (ii) expansion of domestic markets not accompanied by a corresponding increase in capacity expansion, and (iii) absence of a vigorous export oriented policy during the fifties and the sixties and even in the eighties when India liberalised her trade. However, it is interesting to note that during the seventies, exports have shown a rapid increase. This, together with a sharp rise in remittances from abroad, led to a comfortable balance of payments (BOP) and foreign exchange reserves position during the latter half of the seventies. The rise in remittances can be shown in the flow of Non-Resident Indians (NRI) deposits on the

Foreign Currency Non-Resident (FCNR) accounts as proportion of BOP deficit in the current account, which was 17.3 per cent during 1975-80 (see Table 7, col. 14). However, the trade gap is characterised by deficit, except for surpluses in 1972-73 and 1976-77. The trade deficit took a turn for the worse since 1980-81 and more so from 1985-86 onward, which coincides with the liberalisation phase introduced by Congress(I) governments under the leadership of Indira Gandhi and Rajiv Gandhi (Table 2, col. 4). It must be noted that such a policy without adequate steps being taken for export growth might have led the country into the kind of BOP crisis that the country faced in 1990-91.

India's worst trade gap position is attributed to poor policy and performance, wars, natural calamities during 1956 to 1972 and oil price hikes of the Organisation of Petroleum Exporting Countries (OPEC), industrial recession, draining of foreign aid, raising interest on foreign loans, foreign exchange crisis during 1973 to 1983. Nevertheless, in the earlier decades of development experience, India was able to secure international assistance through grants and soft loans at low interest rates. The country was also able to withstand major external shocks such as wars with China in 1962 and Pakistan in 1965 and 1971, respectively, successive droughts (including the disastrous droughts of 1965-66 and 1966-67), oil price hikes of 1973 and 1979, etc. This was the period from the time of Independence to the end of the 1970s or about three decades of development experience. India had tried twice to stabilise external shocks through devaluation of its currency. The first programme involved devaluation-cum-liberalisation in 1966 aimed to please external aid donors after the wars with China in 1962 and Pakistan in 1965. The second was an orthodox package following the first oil shock in 1973 with a focus on trade liberalisation in a comfortable BOP situation in order to shift the emphasis from import substitution to export promotion. Deficit reduction is the *sine qua non* of orthodox stabilisation packages of the type usually proposed by the Fund and the Bank. The net result was a substantial improvement in India's export performance (Table 2) and dramatic improvement in net invisibles, primarily on account of remittances by

NRIs from the Gulf countries in the seventies, which gave rise to a small current account BOP surplus (0.2 per cent of GDP on an average during 1975-80) [Nayyar, 1994].

On the domestic front it contained inflation within reasonable limits through fiscal discipline and monetary restraints during the earlier decades (monetised deficit as per cent of GDP was around 1 per cent during most of the 1950-1980 period, see Table 8, col. 7). The annual inflation rate was 13.3 per cent during 1970-75, which came down to 4.7 per cent during 1975-80. This decline in inflation rate could also be due to the increase in GDP growth rate from 2.1 per cent during 1970-75 to 3.7 per cent during 1975-80. The macroeconomic scene was markedly different during the eighties. Throughout the 1980s the total gross fiscal deficits of the centre and states increased secularly and by 1990-91 the total gross fiscal deficit of the centre and states became 10.0 per cent of GDP, of which the centre accounted for 8.4 per cent (see Table 8) [Bhattacharya, Barman and Nag, 1994, p. 7].

The savings in the economy improved from 9.6 per cent during 1950-55 to 21.3 per cent during 1975-80 (Table 4, col. 4). These savings could not be channelled entirely into productive private sector investments, which might be due to the prevailing system of government control on capital issues, Monopolies and Restrictive Trade Practices (MRTP) legislation, the industrial policy of reserving certain items for small industries and for the public sector, and industrial licensing, etc. These enormous private savings might have been channelled into public sector investment, thereby creating a domestic public debt, which forms the major part of the government borrowing in India. This public debt increased from 23.1 per cent of GDP during 1960-65 to 36.0 per cent during 1975-80 (Table 7, col. 6). A much larger proportion of the total investment was in the public sector than in the private sector. The share of public sector investment in over-all investment was 68.9 per cent during 1951-56 and declined to 66.7, 64.7 and 63.9 per cent during 1956-61, 1961-66 and 1969-74, respectively and then increased upto 66 per cent during 1974-79, after which it has shown a declining trend (calculated from the Table 1 of Dandekar [1992, Pp. 33-84]. While the rate of investment in the economy as a

whole has been steadily increasing since the 1950s, i.e., 9.8 per cent during 1950-55 to 20.9 and 24.2 per cent during 1975-80 and 1985-90, respectively (Table 1, col. 10), the same pattern is not experienced in the case of the agricultural sector despite its highest contribution to GDP. For any increase in the rate of growth of output in agriculture one would expect a corresponding increase in the rate of growth of real capital formation in the agricultural sector. Moreover, crop failures in India not only generate poverty and hunger for the poor in rural areas, but also put pressures on the price level and on the balance of payments. Hence, policy makers in India need to respond to such situations through large investments in agriculture, particularly in irrigation and/or another breakthrough in biotechnology. Unfortunately, the growth rate of investment in agriculture during the 1980s has been even negative, -0.56 per cent, which implies that investment in the agricultural sector has received inadequate attention in the macroeconomic policy formulation [Mallick, 1993, Pp. 667-677].

There has been a secular decline in the share of capital expenditure in total central government expenditure since 1984-85 (Table 6, Col. 15). The relative movement between the rates of growth in public and private investments does not give a clear picture of evidence of either complementarity (crowding-in) or substitutability (crowding-out) between the two (Table 10, Col. 6 and 7). However, from the mid-eighties until the reform period there has been a decline in the share of public sector investment in total investment (Table 10, Col. 8). This was accompanied by, with one year lag, a reduction in the growth rate of private investment. This evidence suggests that the growth of the economy is possibly constrained by, what we might call a fourth-gap, a gap in public investment in infrastructure. In order to get a clearer picture one needs to disaggregate the public investment and examine the relation between investment in infrastructure and private investment.

An examination of the trade balance as a percentage of GDP (Table 1, col. 5) and the savings-investment gap as percentage of GDP (Table 4, col. 7) shows that these are quite close until 1975. The divergence between these two after 1975 demonstrates the disequilibrium in

balance of payments which led to the first IMF loan in 1981 and the second one a decade later in 1991.

The Indian experience shows that during the two quinquennial periods 1950-55 and 1975-80, India recorded a low inflation rate, a low Savings-Investment gap, and a low current account deficit (Table 1, col. 3, Table 4, col. 7, and Table 2, col. 10). This experience suggests that India can insulate itself from external shocks by lowering the savings-investment gap and current account deficits. It seems that the concept of self-reliance was quite mistakenly interpreted as import compression, instead of export promotion, to meet the increasing demand for essential imports such as capital goods and Petrol, Oil and Lubricants (POL). In a large economy, with growing domestic demand, exports can grow only with greater investment and modernisation of technology.

It is well documented in the literature that India had no pressing need to go for an IMF loan in 1981 with its conditionalities. This aspect is discussed in some detail a little later. It was the inability of the Indian Government to meet its revenue deficits and planned investments through domestic savings that forced the Government to go for an IMF loan in 1981. Several dissenting economists warned at that time of an impending debt trap. The experience is a clear evidence of the importance of that warning. There was an almost five-fold increase in the trade-balance and current account deficit in 1980-81. Due to trade liberalisation policies that accompanied the IMF loan as conditionalities during the 1980s, the imports steadily increased with no matching efforts at export promotion (Table 2, cols. 2 to 5). Trade liberalisation without any structural adjustments in the economy during the 1980s was ultimately responsible for mounting debt and debt service obligations.

Government budget operations and deficit financing have an immense influence on the economic activity and price level in the economy. The weakening of the political stronghold of the Congress party and the desire of the non-Congress governments in later part of the seventies to lure the voters had resulted in the adoption of populist welfare schemes, whose cost outstripped the government's ability to mobilise tax revenues.

The per capita government (both states and centre) social sector expenditure, i.e., expenditure on education, health, housing, other social services, and transfers under agriculture and allied activities which comprise of direct spending on anti-poverty programmes and food subsidy, has increased from 18.2 per cent of total per capita government expenditure in 1971-72 to 25.4 per cent in 1980-81 and remained at 25 to 26 per cent throughout the 1980s (calculated from the Table 8 of Mundle and Mukhopadhyay [1993, Pp. 265-300]). The total tax revenue of the government as a proportion of GDP had remained stagnant around 6 to 7 per cent during 1970 to 1985 (Table 6, col. 12). The political vulnerability had also forced the government to do little to improve tax collection through enforcement of tax laws in the face of widespread tax evasion. The net result was a huge public debt to finance the populist welfare schemes especially through government borrowing from the RBI or monetised deficit, which went on rising upto 3 per cent of GDP in 1989-90 (Table 8, col. 7). By the year 1990-91, the fiscal deficit reached a level of 8.4 per cent of GDP while it was only 6.1 per cent of GDP in 1980-81. In contrast it may be noted that the fiscal deficit was only 3.4 and 4.6 per cent of GDP during 1970-75 and 1975-80, respectively (Table 8, col. 6). This resulted in an alarming situation during 1980-90 where public debt is resorted upon, not to finance the deficit in the government's capital account but, to finance the deficit in the government's current or revenue account (Table 8 cols. 6 and 9). The government started living beyond its means. It became necessary for the government even to borrow from abroad to finance partly the current account deficit.

At a time when the fiscal deficit is already so high² (6.1 per cent in 1980-81), creating alarming inflationary pressure (9.8 per cent in 1980-81), instead of reducing pressure on balance of payments (current account deficit of 1.2 per cent of GDP in 1980-81) the country launched a massive import liberalisation policy in the beginning of the eighties which resulted in large trade deficits to be financed through external borrowing at high commercial rates of interest. The idea behind import liberalisation is that our export-led growth should be preceded by import-led exports. The

crucial question now is: how far have the inflows of imports facilitated the growth of exports. Imports as per cent of GDP have always been higher than exports as per cent of GDP (see Table 2). Moreover, India cannot curtail imports because it can affect economic growth adversely. Econometric evidence suggests that it is increase in imports which causes economic growth, which in turn, gives rise to export growth in India [Mallick, 1994]. However, the fast deteriorating balance of payments position has become a consequence of imports growing at a faster rate than exports. Several factors have contributed to an increase in imports. First, the expenditure on defence and imports of defence equipment have increased in the 1980s. Second, the import intensity of Indian industry, i.e., capital goods (engineering), iron and steel, and especially of consumer durable industries such as washing machines, has been increasing in the recent years. And third, increasing POL imports have also contributed to the trade deficit [Vyasulu *et al.*, 1991, Pp. 2,205-2,212].

As exports were growing rapidly in the late 1980s, the trade deficit as per cent of GDP, which was 1.2 and 3.1 per cent during 1975-80 and 1980-85, respectively, declined to 2.2 per cent during 1985-90 and further to 1.3 per cent during 1990-93 (Table 1, col. 5). The current account deficit averaged 36 per cent of exports during 1982-84; it averaged 47 per cent during 1985-90, and was never less than 40 per cent of exports after the liberalisation phase (Table 2, col. 11). At the beginning of 1980-81, the Government of India entered into an arrangement for a large loan (SDR 5 billion, which was then equivalent to Rs 5,400 crore) from the IMF under the Extended Fund Facility (EFF), which was supposed to be disbursed over a period of four fiscal years 1980-81 to 1984-85. For the IMF loan, India had to accept a number of restrictive conditions. The liberalisation policy followed in the early eighties, which was continued in the latter part of the eighties, is the result of the traditional conditionality clause of IMF's EFF.³ India, however, drew only SDR 3.9 billion and the arrangement was terminated in early 1984 at India's request. This was done apparently with a political purpose prior to the approaching general elections in which Rajiv Gandhi got elected as prime minister

with Congress(I) winning the election with a huge majority. But the large BOP deficits in the current account, particularly after 1984-85, had to be met instead through heavy borrowing from commercial sources at high commercial rates leading to serious debt service problem [Joshi and Little, 1993, Pp. 2,659-2,665]. More precisely, according to the Fund's 'conditionalities', the adjustment requirements include liberalisation of external trade (now called 'outward orientation'), restraints on government expenditure, reduction of personal income and corporate profit taxes, limits on the growth of wages and salaries and on different types of transfers and subsidies, exchange rate adjustments (always downward), etc. [Datta, 1992; p. 151].

Import liberalisation and external borrowings came at a time when the official exchange rate was set at a level lower than a free market rate, thereby creating a dual exchange rate regime with a dual black market or *havala* rate. As imports and budget deficit created inflation, the gap between the official exchange rate and the *havala* rate widened [Nandi, 1994, Pp. 252-272; Kiguel and O'Connell, 1994]. The spread between the black market and official exchange rate as per cent of the official exchange rate was about 30 per cent during the seventies while it went as high as 42 per cent in 1990-91 [calculated from Table 8 of Nandi, 1994, Pp. 267-268]. The lenders and NRIs became sceptical of the value of the rupee in the international currency market. This resulted in a dwindling of remittances from NRIs and unprecedented downgrading of India's credit rating in the international capital market [Basu, 1991 and Bhagwati, 1993]. NRI deposits as a percentage of debt service payments increased from 22 per cent in 1980-81 to 133 per cent in 1985-86 and then it dwindled to 69 per cent in 1990-91 before the NRIs started withdrawing heavily from their FCNR accounts in 1991-92 (see Table 7, cols. 12 and 13). The Gulf War of 1990-91 and the political instability around that time aggravated the situation further. The foreign exchange reserves dwindled to such alarmingly low levels, at 1.4 and 2.2 per cent of GDP in 1989-90 and 1990-91, respectively (see Table 7, col. 9), as to be just enough to pay for only two weeks of import bills. The country was thus led to a balance of payments crisis, never experienced

before, requiring that the newly elected government should seek IMF's assistance and IMF-type policies to resolve the crisis and to avoid default in debt-service payments.

2.2 The Policy Response

In response to the immediate crisis, which is not caused by any major supply shock unlike all major crises in the past, the initial policy response was really an effort to formulate and implement a strategy of macroeconomic adjustment in order to bring the economy back to positive growth. The initial macroeconomic policy response focused on the issues of fiscal stabilisation, monetary restraint and currency convertibility. Macro-stabilisation policies include: (a) fiscal policy; (b) monetary and credit policy; and (c) exchange rate adjustment. Structural adjustment policies were also contemplated to be introduced in a phased manner. These contain: (a) trade policy reforms; (b) industrial policy reforms; (c) public sector reforms; (d) factor market reforms - land reform, labour policy, financial sector reforms, etc.; (e) tariff policy; and (f) administered price policy [Government of India, 1993; Bhagwati and Srivivasan, 1993; Das, 1993, Pp. 20-56].

How do these policies fit into an IMF-type austerity programme? Foreign exchange shortages are the most common cause of macroeconomic instability in the third world, especially in the recent period. When the economy is in such a situation, it undertakes stabilisation programmes. Such stabilisation programmes based upon austerity always concentrate on reducing the fiscal deficit [Taylor, 1993a]. Most stabilisation programmes in developing countries are carried out as per the advice of international agencies. The two most commonly involved such agencies are the Bretton Woods institutions - the World Bank and (especially) the International Monetary Fund. Both agencies often have a hand in stabilisation exercises. Hence they are usually described as Fund-Bank affairs [Taylor, 1988]. Interestingly, the macroeconomic theoretical framework used by the Indian policy makers seems to be monetarist, which is the approach of the Bretton Woods agencies. In other words, macroeconomic policy in India has thus been more Friedmanite than Keynesian [Joshi and Little, 1987, Pp. 371-378]. When most of the developing countries, including India, are using

the basic macroeconomic models of IMF and WB as key components of their analytical framework, it is necessary to know the analytical approaches employed most frequently by the Fund and the Bank in designing developing-country policies that deal with adjustment and growth.

There is debate in the literature whether the macroeconomic policies are forced on India through IMF's conditionality clauses or they are considered as most desirable by the Indian policy advisers who advise the government. As such policies result from an agreement between IMF and the Indian Government this debate is meaningless. What is important is to examine the process through which our Government takes such policy decisions and whether it consults Parliament or not, and whether it consults the economists before taking policy decisions or after such decisions are made. Ultimately what should be of real concern and interest is who will benefit from such policies and by how much and who will bear the cost and to what extent. Some of these issues are widely discussed in the Indian literature [e.g., Kumar, 1992, Pp. 2,297-2,301; 1993, Pp. 815-823; 1994b].

According to the IMF [1987], the structure of all Fund programmes is built on a framework that links the monetary sector with the balance of payments, which is generally referred to as 'financial programming'. The analytical foundation underpinning financial programming has come to be known in the literature as 'the monetary approach to balance of payments' (MABOPs). This approach is particularly used to explain balance of payments disequilibria. Broadly defined, a financial (or stabilisation) programme is a package of policies designed to eliminate disequilibrium between aggregate demand and supply in the economy, which typically manifests itself in BOP deficits and inflation. In other words, it essentially aims at ensuring consistency between the impact of proposed policy measures and a desired BOP outcome. The desired balance of payments level can be achieved through a curious mix of Keynesian and monetarist prescriptions. While in a closed economy, controlling government expenditure through reduction of fiscal deficit via reduction in central bank's credit to the government is a Keynesian-cum-monetarist prescription for controlling (domestic) inflation, the exchange rate policy is the only monetarist prescription in an open economy to

alter the balance of trade position which is a component of BOP. Thus the exchange rate policy and reduction of fiscal deficit can be used to control BOP deficit and inflation. Fiscal deficit reduction is a demand management policy that reduces the level of inflation under a short-term constant supply situation. In other words, the monetary approach of IMF is a policy framework with two targets and two instruments [Tinbergen, 1952; 1956]. Given desired balance of payments deficit and desired inflation rate, the two instruments, viz., exchange rate and domestic credit can be chosen to meet the targets. The stabilisation programmes of the Fund are thus oriented by two fundamental prescriptions: balance the budget and get the prices right [see IMF, 1987].

The major deficiency of the IMF model lies in its failure to link together fiscal and monetary policies. Such a linkage is essential particularly in a country in which the largest component of the monetary base or 'reserve money' is the government's borrowing from the Reserve Bank, including both treasury bills and dated securities held by the Bank. Fiscal policy is only one of the many complex factors that determine increases in outputs and exports. But in India, the question of monetary policy is largely subsumed in the fiscal policy, because the government's monetised deficit is the largest contributor to the growth of liquidity in the system [Datta, 1992, p. 190]. In other words, the fiscal policy as a very important adjustment instrument has implications for monetary policy. Moreover, the institutional arrangements in India, where the RBI is not autonomous and is under the Finance Ministry, make it easier to coordinate fiscal and monetary policy. With such a strong linkage between the fiscal and monetary measures in an economy where the state plays a key role, adoption of monetary approach to stabilisation can create major adverse supply shocks.

The Bank's approach is a variant and complements the Fund's approach. It is a variant of the two-gap growth model or a modified Harrod-Domar model of an open economy, defined as the Revised Minimum Standards Model (RMSM) by the World Bank [Khan, Montiel and Haque, 1990, Pp. 155-179]. The concern of RMSM is with medium-term growth and its financing through savings and foreign assistance. Inflation is not determined within the model because price is assumed as exogenously

given in the Bank framework. At present, the Fund and the Bank use their respective models as inputs into their respective policy analysis. In the simple Fund model, real output is essentially determined outside the system, whereas in the Bank model, prices and monetary variables do not play any direct role. In sum, the Fund model is a short-run monetary stabilisation model involving short-run disequilibrium adjustment through price changes while the Bank model is a medium-term neoclassical equilibrium growth model. But what we need is growth-oriented adjustment as growth cannot be sacrificed at the altar of adjustment.

However, Khan and Montiel [1989, Pp. 279-306] and Khan, Montiel and Haque [1990, Pp. 155-179] attempted to integrate these two models in order to provide an eclectic policy model for developing economies. But the analytical approach of the merged model, which merges a variant of a neoclassical growth model frequently employed by the WB with the MABOPs associated with the IMF, is still a simple highly aggregated and primitive theoretical paradigm. It is a fixed-target Tinbergen type model with a highly aggregative general growth model. More importantly, the original Fund view, by and large, ignored the existence of domestic structural problems and adverse external environments. Khan and Knight [1981, Pp. 1-53] formulated a structural version of the monetary model, which makes inflation and output endogenous along with the balance of payments. While the Bank approach is captured through a highly aggregated growth model, its detailed policy guidelines for structural adjustment are based on the neoclassical theory of market mechanism. Particularly, liberalisation of external trade has been accepted as a well-advertised Fund-Bank remedy. It is interesting to observe that the Fund-Bank policies are based on the old neoclassical wisdom rather than the new wisdom which replaces the assumption of constant returns to scale. The 'new international economics' literature [Krugman, 1990] suggests that 'strategic trade policy' can provide more benefits to the home country than a free-trade policy.

Moreover, the Fund-Bank approach to stabilisation and structural adjustment has prescribed almost always a standard menu for all developing countries irrespective of their structural characteristics. This was based on the assumption that

the problems faced by all of them are traceable to market imperfections, which are assumed to exist in those countries either naturally or because they are deliberately created in order to bring about equity at the cost of some loss in efficiency. There are several critiques of this approach. The most prominent among them is Taylor [1983, 1988, 1993b]. Different economies with different institutional relationships and varying lines of causality in their economic systems require different approaches to stabilisation and structural reforms [Bajpai, 1993, Pp. 990-994]. But when countries embark on structural reforms in a situation of deep macroeconomic disequilibrium, stabilisation policies squeeze supply responses. This often leads to a situation where the economy achieves neither stabilisation nor adjustment, so that the outcome is stagflation and poverty rather than growth and prosperity [Nayyar, 1993a]. Furthermore, it is supposed and believed that the Fund and the Bank are choosing their policies based on their extensive and varied experience in lending to countries that faced severe BOP crises [Kumar, 1993, Pp. 815-823]. This lending experience is again based on the monetary approach of the Fund and neoclassical development approaches of the Bank. In other words, they are framing such programmes by augmenting the analytical framework described above by various country experiences. But such country experiences are quite varied and the Fund-Bank policy framework cannot adequately explain this variety in country experiences [Taylor, 1988, 1993b, 1994 and Kumar, 1994b].

Sundararajan [1986, Pp. 75-105], Kannan [1989, Pp. 627-636] and Sau [1992, Pp. 675-679] had addressed themselves to the problem of providing an analytical framework for India's stabilisation policies. Sundararajan [1986, Pp. 75-105] used the traditional monetary approach to balance of payments type IMF model to evaluate, through policy simulation, alternate policies such as credit contraction and devaluation. He favoured the devaluation policy. Kannan employed the so-called monetary approach to balance of payments or the Polak's [1957, 1977, Pp. 15-64] approach employed and advocated by the IMF in late seventies and early sixties. It concludes on the lines that the state of equilibrium or disequilibrium in the Indian money market had a dominant influence on India's international reserves or, in other words, the MABOP seems

relevant in the Indian case. Sau's work is cast in terms of certain postulated economic relations within a simple static Keynesian macroeconomic model, which has argued that the IMF's financial programming based on the MABOPs is incomplete and hence inadequate as a framework for policy formulation. Sau's analysis did not provide adequate statistical evidence from the Indian economy. Hence, a scientific analysis basing on a well defined model, which causally links the specific policy interventions indicated above, has yet to be designed.⁴

What we need is a more disaggregated and realistic growth model with fluctuations and also a replacement of fixed targets by flexible targets. This is what is achieved by a control theoretic model. Moreover, the combined Fund-Bank approach does not incorporate other major macro features such as interest rate effects, price-wage determination, and employment. With an increasing role for the financial sector there is also a need to model the financial sector to explain the equilibrium relations between financial aggregates such as money, equity capital, foreign direct investment, etc. Hence, given the shortcomings of this merged model, there is a need to have a dynamic econometric policy model, particularly for the Indian economy, which will fulfil the above deficiencies of the IMF-WB model being followed by India for deciding on the macroeconomic policies that are specific to India. Development of such a model is not the basic purpose of the present paper. This is the agenda for our on-going research.

3. An Analysis of Performance of Recent Macroeconomic Policies in India Since 1980

In this section we discuss the results of the macroeconomic crisis management measures. This section also highlights the contrasting experiences of growth, inflation, and fiscal and balance of payments deficits in the recent years. The two immediate problems are: (a) achieving macroeconomic balance internally, (b) achieving an equilibrium in the balance of India's external payments.

3.1 Effect of Liberalisation on Growth

The impact of liberalisation on the growth scene can be measured broadly by looking into aggregate and sectoral growth rates. The aggregate growth rate has been calculated in terms of GDP which is highly aggregative and the sectoral growth rates have been calculated by using index of agricultural and industrial production for agriculture and industry, respectively. The GDP growth rate has declined to 1.3 per cent in 1991-92 from 6.6 per cent in 1980-81. The GDP growth rate was 7.4 and 10.2 per cent in 1983-84 and 1988-89, respectively (Table 3, col. 9).

The GDP growth rate has gone up to 4.4 per cent in 1992-93, principally due to a strong performance in agriculture (Table 5). A sustained progress in agricultural production has been witnessed for the last two years 1992-93 and 1993-94, which is mainly attributable to the improved performance of the foodgrains production. In 1991-92, there was a reduction of about 1.7 per cent in growth of index of agricultural production, which has grown at the rate of about 3.9 per cent in 1992-93 (Table 5). The high growth of agricultural production in 1992-93 is attributable partly to good weather and partly to a shift in cropping pattern towards high value cash crops - such as oil seeds, pulses, and sugarcane. Looking at the actual rainfall as percentage of normal rainfall for the country as a whole, we find that the agricultural growth rate fluctuates exactly in relation to fluctuation of actual rainfall as a proportion of normal rainfall. The most bountiful rain years over the period we are looking at are 1983-84 and 1988-89, when the actual rainfall as percentage of normal rainfall was 113 per cent and 119 per cent, respectively. Corresponding to these years the agricultural growth rate was highest (see Table 5, col. 4). Since in the year 1991-92, we had a bad agricultural season, the agricultural growth was negative, which has improved in the later years. In 1992-93, the rainfall index is 93 per cent, and for the year 1993-94, as a result of favourable monsoon, it is 101 per cent [Government of India, 1994]. This is reflected by an increase in growth rate of index of agricultural production.

One reason for the low growth of GDP in 1991-92 was the near stagnation of industrial

production. Actually, industrial production was in the doldrums in 1991-92 as the growth of index of industrial production was negative, -0.05 per cent, which went up to 1.8 per cent in 1992-93 (Table 5, col. 5). This increase does not mean much given that it reflects a partial recovery from the dismal performance in 1991-92. Though the overall rate of industrial growth has picked up in 1992-93 as compared to the preceding year of stagnation, this is well below the average rate of growth of 7.2 per cent for the period 1980-81 to 1989-90. One telling and concrete instance is that of government spending to which the system has got tuned during the last four decades. The reduction in government spending has not at all been compensated by a matching increase in private spending. This is a clear instance of stabilisation through reduction in government expenditure being not accompanied by a structural adjustment of privatisation and collaboration between the private sector and the state. The result has been a recession in several important industries. In the short-run, both the inflation rate and the budget deficit are affected by the growth rate. A supply shock will both reduce the growth rate and raise the inflation rate, and given government spending a reduction in growth will increase the deficit [Fischer, 1993]. It appears that the current scenario remains one of uncertainty and diffidence. The longer it persists, the slower is likely to be the pace and widening of the coverage of reforms which in turn, is bound to be harmful [Pandit, Krishnamurty, Krishna, and Saibaba, 1993, p. 7].

During the initial years of the recent stabilisation and structural adjustment experience the focus was on stabilisation of price level and controlling the balance of payments deficit through a reduction in the gross fiscal deficit and devaluation of the rupee. The manner in which the gross fiscal deficit is reduced must be noted. In a soft democratic State, such as India, the government finds it extremely difficult, politically, to bring about a significant reduction in its expenditure on the subsidies, poverty alleviation and grants to the States and the Union Territories. The *Economic Survey 1993-94* [Government of India, 1994, p. 20] shows clearly that as a proportion of GDP, government expenditure on defence, subsidies and grants to the States and the

Union Territories did decrease but only marginally. On the other hand the government expenditure on interest payments (as a proportion of GDP) had registered an increase. This meant that the IMF stipulated reduction in the gross fiscal deficit could be achieved only through a reduction in public investment.

The government could raise its revenues during these initial years through tax reforms. It was thus able to recognise the adverse impact of reduction in public investment. It is currently correcting the situation through promotion of privatization of power and transport sectors [Government of India, 1994, Pp. 129-145].

The mobilisation of domestic savings has been one of the most impressive achievements of the Indian economy in the last few decades. The gross domestic saving as a percentage of GDP at current market prices has increased upto the maximum of 24.1 per cent in 1989-90 with fluctuations in the earlier years. The gross savings rate declined from 21.2 to 18.8 per cent between 1980-81 and 1983-84, and remained more or less stagnant upto 1985-86, and then it peaked up to 24.1 per cent in 1989-90 (Table 4, col. 4). Since 1989-90, the increase in savings rate has not been that remarkable. It has declined from 23.4 per cent of GDP in 1991-92 to 22.3 per cent in 1992-93 due to a decrease in household financial saving rate [RBI, 1994, Pp. 399-408]. While it is true that our savings rate has risen all the way through the 1950s, 1960s and 1970s, it is clear that the sharp rise took place in the late 1960s and the 1970s. It seems that a part of the better growth performance in the 1980s was a lagged impact of the increase in savings [Basu, 1993, Pp. 2,599-2,605]. The rate of investment has increased from 22.7 per cent in 1980-81 to 27.5 per cent in 1990-91 (Table 4, col. 5). But there is a marginal decline in the investment rate (from 27.5 per cent in 1990-91 to 24.5 per cent in 1992-93) in the post-reform period due to a squeeze on public expenditure mainly on capital account (Table 6, Col. 15). The investment-savings gap (or the rate of net capital inflow from abroad) accelerated from 1.0 per cent of GDP during 1991-92 to 2.2 per cent during 1992-93 (Table 4, col. 7). This situation regarding savings and investment seems to suggest that the real investment in India is being hindered by such a thing as a 'poor investment climate'. This poor

investment climate may be due to poor physical infrastructure such as power, transport and communications, or due to lack of credibility for the policies in view of delays and failures in implementing the major policy reforms. In this regard the country may repeat the follies of the first IMF loan and its after effects unless the state develops a credible policy environment to promote private investment.

3.2 Effect of Policies on Controlling Inflation

Controlling inflation is a major issue in macroeconomic adjustment process, which is generally given a high weight in the overall social welfare function of the policy makers. The rate of inflation has been very high during 1990-92. It is, in fact, true that inflation rate has been brought down to a very low level of 7 per cent by the end of 1992-93 from a high level of 13.6 per cent in 1991-92 as per official calculation. This calculation of inflation by finance ministry has been done on a point-to-point basis in terms of the wholesale price index (WPI). But, as per annual average data on WPI of all commodities, the calculated inflation rate for 1992-93 is 10 per cent and the GDP deflator for the same period registered a growth rate of 9.5 per cent. GDP deflator is generally a little below the wholesale price indicator. During the second half of the 1980s, the average rate of inflation was 6.7 per cent per annum in terms of WPI, which climbed to 10.3 per cent in 1990-91.

The slowdown in the rate of inflation on an average-of-period basis is much less than what the point-to-point rates suggest (see col. 5 and col. 6 of Table 3). Thus, the weekly rate of inflation has decelerated steadily but the annual rate based on the 52-week average of the WPI is a little higher than 10 per cent - the critical double digit mark. The official claims regarding controlling inflation are quite deceptive as the following arguments will demonstrate: (i) the stabilisation policies introduced in July 1991 pushed up the rate of inflation in the second half of 1991 and the first half of 1992 so that point-to-point rates now show a decline in comparison with those high price levels; (ii) the measurement of inflation on a point-to-point basis is somewhat deceptive because it tends to overstate both the acceleration

and the deceleration in inflation [Nayyar, 1993b, Pp. 639-653]. Thus, it is more appropriate to calculate the trends in inflation on the average-of-period basis. Table 3 provides the information on annual rates of income growth and of inflation in India. Moreover, the important point is not just the stabilisation of the economy by bringing down the inflation rate but it is rather at what cost we were able to do so. It is obvious from Table 3 that we have been able to reduce the rate of inflation at the cost of accepting negligible growth. Despite this, the recovery in the rate of growth has been from just 1.3 per cent in 1991-92 to 4.4 per cent in 1992-93, still much below the average growth rate of 6 per cent for the period 1980-81 to 1989-90. High inflation of 1991-92 was created by the Fund-Bank policy (because of devaluation and increase in money supply) and it was reduced to a level prevailing during the pre-IMF policy period through the IMF policies. Thus the policy only annulled its own impact on inflation but in the process also created a serious recession. The net impact of the policy is recessionary.

Table 3 also gives the annual rates of change in money supply (narrow and broad) along with the wholesale price index of all commodities. The trends in money supply since 1980-81 show that the growth of money supply has no steady acceleration. In fact, with the exception of the year 1989-90, which records the highest rate of (broad) money supply growth, i.e., 20.4 per cent, and the year 1983-84, acceleration has all along been followed by deceleration. M_1 has increased by only 7.3 per cent in 1992-93 compared to 1991-92, while the expansion of M_3 has been kept down to no more than 14.2 per cent. Changes in reserve (or high powered) money which are largely determined by government's borrowing from the Reserve Bank to cover budgetary deficit, (i.e., the monetised deficit) have increased by over 11.5 per cent in 1992-93 (Table 4, Col. 10). Thus, increase in fiscal deficit gives rise to increase in money creation thereby leading to inflation. This is because the non-plan expenditure is a major part of government expenditure, and wages and salaries, which are (through DA) indexed to rate of inflation, form a major part of this non-plan expenditure. But it is also quite possible that the fiscal deficit itself may also depend on the rate of inflation. Hence there is a need to test for the

causal nexus between the two. In this connection, another point to be noted is that the demand for money itself also depends on inflation. So inflation will not occur if the supply of money keeps up with the growth in the demand for money, which depends, along with some other factors, on the expected rate of inflation.

On the other hand, the wholesale price index (point-to-point) for all commodities shows a steady acceleration since 1985-86, with the exception of 1988-89. This shows that the Finance Ministry's perception that the problem of inflation can be controlled by placing excessive emphasis on controlling the monetary expansion through a reduction in RBI's credit to the government seems to have been exaggerated. In view of the above, in a recent paper Pandit [1993, Pp. 39-42] indicates that in the Indian economy in recent years cost-push phenomena play a vital role in determining the course of price movements rather than the demand-pull factors. Balakrishnan [1992] also pointed out that the continuous slowing down of money (M_3) growth has not been able to dampen the inflationary pressure, which implies that in India inflation is not a purely monetary phenomenon. More importantly, in the Indian private corporate sector, the ratio of value added to output has declined both in the engineering goods sector and manufacturing sector in the eighties, which suggests a rise in input costs and inefficient material management [Swaminathan, 1993]. This rise in costs may be treated as one of the factors in generating inflationary pressures in the economy.

The general price level did not fall or even stabilise in any year throughout the 1980s. Even in 1983-84 and 1988-89, when agricultural production increased by as much as 14 and 21 per cent, respectively, the inflation rate continued to be as high as 8 per cent [Bhattacharya, 1992]. If it is claimed that inflation is only due to structural factors, then one may ask why the inflation rate was as high as 8 per cent during 1983-84 and 1988-89, when the agricultural growth rate was 14 and 21 per cent, respectively. One may offer two possible explanations for this. First, the agricultural price policy does not in general accommodate a downward shift in the procurement prices when the agricultural production is good. Second, in the non-agricultural sector the

adjustment for excess supply might be in terms of quantity adjustment, through holding of inventories instead of a downward adjustment in prices. Brahmananda *et al.* [1992] also find that money plays an important role in the short-period in causing upward drift in prices, which gives support to the policies to restrict growth rates of money supply with a view to reducing the inflation rate. In fact, it is evident from Table 3 that from 1990-91 to 1992-93, any change in money (M_3) growth has been reflected in corresponding change in inflation rate.

From these observations it appears that the studies incorporating structural factors in causing inflation might not have taken due note of the demand-pull factors. Studies which emphasise monetary factors may not have given adequate attention to the cost-push factors. Hence there is a difference of opinion and evidence regarding the rate of inflation in the country. A real model to explain inflation should incorporate both demand and supply sides of the problem. To the extent that these two types of studies do not incorporate adequately both these factors, each one of them may be overstating the influence of either the demand-pull or the cost-push factors. It is quite possible that certain prices are affected more by one type of factors than the other. There is therefore a need for a detailed disaggregated study on inflation employing the data collected by the Government organisations.

3.3 The Nexus Between Fiscal Deficit, Balance of Payments, and Money Supply

The imbalances in the fiscal system started developing since 1983-84 as revenue deficit exceeded the budget deficit with 1986-87 as an exception (Table 8). Large revenue deficit in the central budget indicates that a significant part of the revenue expenditure is financed by borrowed resources on which there are interest and repayment liabilities. Table 6 shows that there is a shift away from investment (capital) expenditure to current (revenue) expenditure during the 1980s. The fiscal discipline or lack of it is reflected in the size of the fiscal deficit. The gross fiscal deficit in the central government's budget measures the difference between revenue receipts plus grants and total expenditure plus net domestic lending.

This gross fiscal deficit had been running high for quite some years in the past, and it became 8.4 per cent of GDP in the second half of the 1980s, as compared with 6.3 per cent during the first half of the 1980s. It rose from 6.1 per cent of GDP in 1980-81 to 9 per cent in 1986-87 and hovered around the 8 per cent level till 1990-91 and has declined to 5.7 per cent in 1992-93, in view of the fiscal adjustment currently underway (Table 8, col. 6).

This gross fiscal deficit was met by borrowings, both domestic and foreign, which led to sharp rise in public debt. Particularly, it resulted in monetary deficit which remained more or less the same at 3.0 per cent of the GDP in 1989-90. Such high levels of fiscal and monetised deficits (monetised deficit as a percentage of fiscal deficit became 38.8 per cent in 1989-90) have been largely responsible for the high rate of inflation and the high BOP deficit on current account that have afflicted the Indian economy during recent years. Additionally, a portion of the external borrowings was utilised to finance revenue deficit (the difference between government's revenue receipts and expenditure on current account), which gave rise to the critical BOP position. The deficit in the current account of the BOP in 1992-93 amounts to 2.1 per cent of GDP as compared with 2.6 per cent in 1988-89, 2.2 per cent in 1989-90, 3.3 per cent in 1990-91, and 0.9 per cent in 1991-92 (when import compression measures were adopted in the face of a BOP crisis). It doubled from the first half of the 1980s to the second half of the 1980s.

Table 2 gives the evidence of this sequence. Hence it is the revenue deficit which is the source of rising current account deficit. Looking at the figures of revenue deficits as per cent of GDP (Table 8, col. 9) and current account deficits as per cent of GDP (Table 2, col. 10), it is obvious that any change in revenue deficit is reflected in a change in current account deficit, particularly during 1987-90. Moreover, large amount of revenue deficits seem to have gone for unproductive government expenditure, which eventually gave rise to payment problems. The current account of the BOP can only be improved through a reduction in domestic expenditure (absorption) - combined with policies that 'switch' demand away from tradables to nontradables, and supply

from nontradables to tradables, if an unnecessary fall in the total output is to be avoided.

The persistent current account deficits which were most probably financed by borrowing from abroad, led to a continuous increase in external debt of the nation: it rose from 10 per cent of GDP at the end of 1980-81 to 15.1 per cent at the end of 1990-91 and 24.3 per cent in 1992-93 (Table 7, col. 7). Exports as percentage of GDP have virtually remained the same in the 1980s, which have improved only in the early 1990s as a result of the policy reforms. Since there exists an inverse relationship between inflation and exports growth, any increase in inflation rate will result in corresponding decline in exports growth. Hence, controlling inflation is of prime importance internally along with the external stabilisation. At the macro level, the ratio of imports to GDP is generally regarded as an indicator of import-intensity, which has however, fallen from 9.2 in 1980-81 to 6.7 in 1987-88 and then increased upto 8.1 per cent in 1990-91. It has become 9 per cent in 1992-93. The uptrend in rupee value of imports could be explained in terms of three factors, viz., the steady depreciation in the value of rupee, the increase in the unit prices of imports and the persistent uptrend in the volume of imports [Singh, 1994].

The debt service burden for India in terms of exports is also too high. The debt service burden rose from 12 per cent of export earnings in 1980-81 to 14.4 per cent of export earnings in 1990-91. The debt indicators in Table 7 suggest that India's total foreign debt as percentage of GDP has been increasing at a very rapid rate. Internal debt of the government also accumulated rapidly, rising from 22.7 per cent of GDP at the end of 1980-81 to 29.0 per cent of GDP at the end of 1990-91 (Table 7, col. 6). As a result, interest payments increased from 2.2 per cent of GDP and 13.3 per cent of total central government expenditure in 1980-81 to 5.6 per cent of GDP and 28.4 per cent of total central government expenditure in 1990-91 (Table 9, cols. 7 and 8). The reduction in the gross fiscal deficit of the central government during the post-reform period has arrested the rapid increase in internal debt which has remained in the range of 28 per cent as a proportion of GDP (Table 7, col. 6).

Our foreign currency reserves have increased

from 1.4 per cent of GDP in 1989-90 to 4.4 per cent of GDP in 1992-93, mainly due to the IMF loan, NRI remittances and inflows of financial capital from Foreign Institutional Investors (FIIs). After the shift to 'full convertibility' on the trade account, the foreign exchange value of the rupee has been stabilised. There has been a deliberate attempt by the RBI to maintain a stable exchange rate by buying dollars in the foreign exchange market. One newspaper estimate states that the Indian rupee would have appreciated by about 12 per cent if the RBI did not intervene. It is an interesting question whether the RBI's act of purchasing dollars is guided by the IMF's pressure to keep the dollar value intact or by Indian Government's concern to stabilise the exchange rate to avoid speculation on the forex market. A recent statement by the RBI that it is going to liberalise consumer goods imports even further lends some credibility to the view that such intervention by the RBI has been to help the dollar and to help increase consumer goods imports from the U.S. than to arrest fluctuations in the exchange rate. But it is an equally convincing argument to say that if the dollar-rupee exchange rate is not maintained at the current level there could be a decline in exports. That can be a great setback to export promotion drive. Which one of these two is more significant can be ascertained only through a detailed policy simulation model. However, the movement in the fiscal deficit and trade deficit as a per cent of GDP indicates that the period of fiscal expansion has coincided with the growing trade gap. In other words, this implies that a part of the borrowing to finance the fiscal deficit is occurring abroad and not domestically. The presumed link running from fiscal deficit to trade deficit has been examined by Mohanty and Joshi [1992, Pp. 141-172] through a formal test of causality and they found that trade deficit is significantly correlated with the past values of public sector deficit and this relationship was found to be statistically significant.

Of course, it remains true that the Indian economy has shown remarkable resilience. Most important among the positive outcomes of the last two years has been the performance of agriculture whose output in 1992-93 was 4 per cent above that in 1990-91, itself a record year, and there are indications that it may grow further. Linked

closely to this is the downturn in the rate of inflation, which is attributable to a sharp reduction in the inflation rate for agricultural goods and agro-based manufactures. To the extent that these good harvests were a consequence of good monsoons rather than the fruits of good government policy, the lower inflation rate is also largely, it seems to be, a result of benign divine intervention of the weather God rather than an outcome of successful stabilisation policy.

One may say from Table 3 that India had reduced inflation rate from 9.8 per cent in 1980-81 to 4.9 in 1982-83 without any reduction in gross fiscal deficit, while we reduced inflation from 13.7 in 1991-92 to only 10 per cent in 1992-93 by a significant reduction in gross fiscal deficit. Of course, one must be cautious in making such statements as we are really not sure what would have been the inflation in 1992-93 if policies suggested by IMF were not used. A comparison of real GDP growth and growth in M_3 prior to 1980s and after, clearly shows that there was more M_3 growth prior to 1980s than after for more or less the same real GDP growth rate of about 4 to 5 per cent. Gross fiscal deficit (GFD) as percentage of GDP was as high as 9.0 in 1986-87. When it was reduced marginally to 8.1 by 1987-88, the inflation rate was brought down almost by 50 per cent - from 10.7 to 5.6 per cent. A rigorous analysis requires a policy simulation model.

The analysis presented here has one serious drawback. It is based either on the time trend of a single macroeconomic variable or on the comparisons of time trends of two variables taken at a time. In the real world the time trend of any single macroeconomic variable depends on, not just one other, but on several other macroeconomic variables. To fully comprehend what is happening and what is likely to happen under alternate policy regimes, one needs a 'dependable' dynamic econometric model of the Indian economy. Mallick and Kumar [1994] provide a critical review of the existing macroeconomic models and emphasise the need for developing a dynamic econometric policy model using time-series analysis for estimation, prediction, and policy evaluation.

4. Conclusion

India's reform programme remains in deep crisis because it has failed to accelerate growth, diversify the economy, stimulate investment and domestic savings and create the basis for a sustained growth process which can lead to greater self-reliance in terms of reduced borrowing and substantial reduction in mass poverty. There has been a sizeable fiscal adjustment since 1991 but its impact is still quite uncertain. It seems that the macroeconomic climate is still filled with clouds of doubt and scepticism which have to be cleared. Kumar [1994b] explains the success and failure of structural reforms through the new theories of real business cycle that are based on the theory of rational expectations. From such a theoretical interpretation it follows that the success of reforms depends crucially on the state's role in creating realistic optimistic expectations through the credibility of the policy makers and through the state's role in promoting investment in infrastructure such as power, transport, communications, etc.

A sizable portion of the adjustment has come from a reduction in domestic investment, which has to be stepped up in order to attain long-term growth. What gains have been registered in the area of improved agricultural production and exports, have largely been the result of favourable monsoon and market conditions. The increase in export earnings could be due to the reason that there is no undervaluation (or underinvoicing) of exports volumes, because there is no longer any existence of dual exchange rate, which normally makes such things possible. As a result export earnings have increased substantially. A careful choice of projects and technology should be made to keep imports down so that balance of trade position will improve.

It is also worth noting that the decline in the average-of-period rate of inflation is largely attributable to the good monsoon and its impact on the prices of agricultural commodities. An overall picture that comes to the fore suggests that the new policy initiatives or the IMF prescriptions have not yet succeeded in reviving the economy. Particularly, the two crucial parameters of the economic situation, namely, the inflation and the

adverse balance-of-payments strains, have remained still serious, although there is an improvement in BOP position due to external borrowing, which may be equivalent to reducing current BOP deficit by postponing the BOP crisis to the future. In fact, the IMF loan has eased the adjustment problems of the Indian economy as far as the current balance of payments difficulties are concerned. But it has also imposed serious debt-servicing obligations for the future. The important question to ask is whether the current policies are aimed at bringing about radical structural changes to promote a sustainable export-led growth with adequate safeguards on equity or whether they are only aimed at inter-generational transfer of the crisis.

In this connection it is interesting to observe that most of the arguments advanced in favour of the structural adjustment reforms are based on the neoclassical economic paradigm and the conclusions emerging therefrom. Even in the Indian context, the debate seems to confine itself with whether one is right or left of the centre, or whether the focus is on growth or equity, or on what trade-off one is willing to accept between growth and equity. The real issues are, in our opinion, how India can, given its base-line position and institutional structures, move on fast to a new institutional framework that is best suited for it in the prevailing global political and economic environment, and what role the state should play in bringing about such changes and how. We do not see any clear-cut state policy on these issues. It is even surprising that Srinivasan and Bhagwati [1993] argue that an economy with a potential rate of return of 12 per cent in the aggregate can afford to take an IMF loan to bring about the desired growth, not specifying how the sovereign debt will be repaid in the light of widespread tax-evasion and political compulsions which increase government expenditure and reduce its revenues.

The real problem in designing, implementing, and evaluating the stabilisation and structural adjustment policies seems to be the straight jacket approach that is being used by the IMF - almost the same general approach being used for all countries, irrespective of country-specific features. This is the reason why people who criticise

the Fund and the Bank try to attribute what the country is doing to what the Fund and the Bank want the country to do. It could very well be the intention of the Fund and the Bank that the country's government reduce wasteful government expenditure and not to cut public investment in infrastructure. Most of the confusion and conflicts in argument can possibly be resolved by recognising that there are three IMFs and three Indias. These are: IMF 1, the real IMF as it is created; IMF 2, the IMF the way IMF 1 would like India to perceive it to be; and IMF 3, the way India actually perceives IMF 1 to be. The three Indias can also be defined in similar fashion.⁵

There seems to be no strategic plan, especially suited to Indian conditions, on state intervention with regard to a partnership between the public sector and the private sector in creating the necessary infrastructure investment in the key sectors of the economy such as power, transport, and communications. At a time when such a planning function by the state is so crucial, instead of adapting the plan strategies to rapidly changing internal and external conditions, it is unfortunate that planning is being ridiculed and too much reliance is being placed on market forces [Kumar, 1994a, Pp. 131-151]. If we do not bring planning back to the prominent position it should have, we will miss the boat again as we did with the first IMF loan in 1981 and end up with another BOP crisis.

If action had been taken in time, during the 1980s, to reduce wasteful government expenditure to contain the budget deficits, to restrain imports, and to create better climate for private investment and export growth, the macroeconomic imbalances would not have reached the distressing magnitudes that were experienced in 1991. It serves no useful purpose now to brood over these policy lapses of the yester years. Instead, one must look ahead and ask how best one can use the political and economic opportunity of the current environment of structural reforms so as to take the Indian economy from the cross roads it finds itself to the globally competitive highways and express ways. Therefore, we conclude by expressing our agreement with Taylor [1994, Pp. 2,209-2,211]: 'I would not bet the family farm on the success of the

current reform attempt... on the other hand, a push toward sensible public investment policy and directed intervention as in East Asia would make a wager on an Indian Growth miracle a much more appealing choice'.

NOTES

1. Similar view has been expressed by several people, e.g. Mookherjee [1992, Pp. 791-801], Sau [1993, Pp. 675-679], Kumar [1993, 815-823], and Mundle and Mukhopadhyay [1993, Pp. 265-300]. The liberalisation policies of the early 1980s were also those suggested by the Fund and the Bank. For further details on the 1981 IMF loan and the early phase of liberalisation one may see Section 2, pages 5-6 and footnote 3.

2. The gross fiscal deficit as a ratio of GDP in India is large compared to other developing countries, which has widened significantly during the 1980s [Rangarajan, Basu and Jadhav, 1989].

3. The fact that India had accepted the typical IMF conditionalities such as import liberalisation (which also resulted in importing wheat and sugar from the U.S.A. in years of bumper crops), tariff reduction, relaxation of restrictive conditions for industrial expansion (MRTP Act), facilitating technology imports and foreign direct investment, etc. can be ascertained from various issues of *Economic and Political Weekly (EPW)*, [Vol. 16, 1981].

4. The authors are developing one such framework. For an earlier attempt of a similar nature, one may refer to Sundarajan [1986], which provides empirical support for exchange rate adjustment against credit policy in India.

5. This notion is quite similar to the notion of 'Three Johns and Three Thomases' that the American writer Oliver Wendell Holmes (a Professor of Anatomy at Harvard University) introduced in his essay by the same title in his book *The Autocrat of the Breakfast Table*. For an elaboration of the three types of IMFs the reader may refer to Kumar [1993, Pp. 815-823].

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TABLE 1. MAJOR TRENDS IN BASIC MACROECONOMIC INDICATORS, 1950-1993

(% increases and ratios)

Period	GDP growth rate	Average inflation rate	Exchange rate change	Trade Balance as % of GDP	Budget Deficit as % of GDP	Agricultural growth rate	Industrial growth rate	Saving rate	Investment rate	Pub. debt as % of GDP	External debt as % of GDP
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)
1950-55	4.2	-2.2	0.0	-1.0	0.5	5.5	6.1	9.6	9.8	4.1	0.1
1955-60	3.8	3.9	0.0	-2.4	1.9	2.4	7.1	11.9	14.2	3.8	0.2
1960-65	5.2	5.5	0.0	-2.4	0.4	4.0	9.5	12.9	15.2	31.3	8.1
1965-70	3.0	7.2	10.8	-1.8	0.6	2.2	4.3	14.1	15.9	35.8	16.5
1970-75	2.1	13.3	1.2	-0.7	1.0	1.1	3.5	16.8	17.6	37.3	12.6
1975-80	3.7	4.7	0.4	-1.2	1.0	2.2	5.3	21.3	20.9	45.3	9.3
1980-85	5.6	9.3	8.2	-3.1	1.2	6.0	6.3	19.4	20.9	55.6	11.7
1985-90	6.1	6.7	7.1	-2.2	2.0	4.2	8.5	21.7	24.2	56.7	14.4
1990-93	2.3	6.8	10.0	-1.3	1.6	0.9	2.0	23.3	25.4	47.6	19.1

Notes: (a) Ratios and percentages in the period refer to the arithmetic averages.

(b) Inflation rate is for the annual average WPI (Base 1981-82=100).

(c) GDP growth rate is based on the GDP at constant market prices (Base 1980-81=100).

(d) All other variables are expressed at current prices. Hence the growth rates and ratios are based on values at current prices.

(e) Figures given for the quinquennial period in this and all subsequent tables are annual averages. The quinquennial periods are defined as follows: the period 1950-55 represents five fiscal years- 1950-51 to 1954-55 and so on.

Source: CSO, *National Accounts Statistics* (various issues). RBI, *Report on Currency and Finance* (various issues). Government of India, *Economic Survey* (relevant issues).

TABLE 2. EXTERNAL TRADE INDICATORS

Year	Nominal Exports Rs crore	Nominal Imports Rs crore	Trade Balance Rs crore	Current Account Deficit Rs crore	GDP at current market price (6)	Col.(2) as % of Col.(6)	Col.(3) as % of Col.(6)	Col.(4) as % of Col.(6)	Col.(5) as % of Col.(6)	Col.(5) as % of Col.(2)	Exchange Rate	Change in Exchange Rate(%)
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)
1950-55	605	702	-97	-2	9,963	6.1	7.0	-1.0	0.0	-0.3	4.76	0.0
1955-60	599	903	-304	-250	12,780	4.7	7.1	-2.4	-2.0	-41.7	4.76	0.0
1960-65	719	1,183	-464	-374	19,571	3.7	6.0	-2.4	-1.9	-52.0	4.76	0.0
1965-70	1,187	1,797	-610	-561	33,478	3.5	5.4	-1.8	-1.7	-47.3	6.85	10.8
1970-75	2,193	2,560	-367	-553	55,133	4.0	4.6	-0.7	-1.0	-25.2	7.70	1.2
1975-80	5,346	6,463	-1,117	210	95,653	5.6	6.8	-1.2	0.2	3.9	8.49	0.4
1980-81	6,711	12,549	-5,838	-2,214	136,013	4.9	9.2	-4.3	-1.6	-33.0	7.91	-2.1
1981-82	7,806	13,608	-5,802	-2,839	159,760	4.9	8.5	-3.6	-1.8	-36.4	8.97	13.4
1982-83	8,803	14,293	-5,490	-3,280	178,132	4.9	8.0	-3.1	-1.8	-37.3	9.67	7.8
1983-84	9,771	15,831	-6,060	-3,316	207,589	4.7	7.6	-2.9	-1.6	-33.9	10.34	7.0
1984-85	11,744	17,134	-5,390	-2,873	231,343	5.1	7.4	-2.3	-1.2	-24.5	11.89	15.0
1985-86	10,895	19,658	-8,763	-5,956	262,243	4.2	7.5	-3.3	-2.3	-54.7	12.24	2.9
1986-87	12,452	20,096	-7,644	-5,830	292,949	4.3	6.9	-2.6	-2.0	-46.8	12.78	4.4
1987-88	15,674	22,244	-6,570	-6,293	333,201	4.7	6.7	-2.0	-1.9	-40.1	12.97	1.5
1988-89	20,232	28,235	-8,003	-10,410	396,593	5.1	7.1	-2.0	-2.6	-51.5	14.48	11.7
1989-90	27,681	35,416	-7,735	-9,830	453,986	6.1	7.8	-1.7	-2.2	-35.5	16.65	15.0
1990-91	32,553	43,193	-10,640	-17,366	530,865	6.1	8.1	-2.0	-3.3	-53.3	17.94	7.8
1991-92	44,042	47,851	-3,809	-5,186	609,500	7.2	7.9	-0.6	-0.9	-11.8	24.47	36.4
1992-93	53,351	62,923	-9,572	-14,631	705,566	7.6	8.9	-1.4	-2.1	-27.4	25.89	5.8

Note: The figures for current account deficit are taken from the RBI, whose data differ considerably from, but superior to the DGCIS data that are often quoted.

Source: Government of India, *Economic Survey* (various issues), RBI, *Report on Currency and Finance* (various issues).

TABLE 3. INFLATION RATE AND GROWTH RATES OF GDP AND MONEY SUPPLY

Year	Whole-sale Price Index (PTP)	Whole-sale Price Index (ANA)	GDP Deflator	Inflation Rate from Col.(2)	Inflation Rate from Col.(3)	Inflation Rate from Col.(4)	GDP at Constant Market Prices Rs crore	GDP Growth Rate	Narrow Money Supply (M ¹) Rs crore	Broad Money Supply (M ²) Rs crore	Growth Rate of M ¹	Growth Rate of M ²
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)
1950-55	-	16.5	18.4	-	-2.2	-2.1	49,312	4.2	1844	2235	1.3	0.6
1955-60	-	16.9	19.2	-	3.9	4.2	60,241	3.8	2444	3208	6.9	10.1
1960-65	-	21.1	23.7	-	5.5	5.5	74,501	5.2	3411	4659	8.5	7.5
1965-70	-	30.9	34.6	-	7.2	7.2	87,280	3.0	5429	7671	9.9	11.9
1970-75	-	45.3	48.0	-	13.3	10.5	103,916	2.1	9681	15143	12.8	15.1
1975-80	-	66.8	69.2	-	4.7	5.7	124,926	3.7	16063	33830	11.4	19.2
1980-81	-	91.5	90.7	-	18.2	11.6	136,013	6.6	23424	55774	17.4	19.2
1981-82	100.0	100.0	100.0	-	9.3	10.3	144,900	6.5	23919	62426	2.1	11.9
1982-83	107.2	104.9	107.4	7.2	4.9	7.4	150,379	3.8	26563	72868	11.1	16.7
1983-84	114.8	112.8	116.5	7.1	7.5	8.5	161,547	7.4	30449	85899	14.6	17.9
1984-85	121.2	120.1	125.3	5.6	6.5	7.5	167,489	3.7	36034	101957	18.3	18.7
1985-86	127.4	125.4	134.6	5.1	4.4	7.5	176,648	5.5	44095	119394	22.4	17.1
1986-87	134.2	132.7	143.4	5.3	5.8	6.5	185,250	4.9	47102	140633	6.8	17.8
1987-88	148.5	143.6	155.7	10.7	8.2	8.6	194,085	4.8	53988	162660	14.6	15.7
1988-89	156.9	154.3	168.2	5.7	7.5	8.0	213,827	10.2	62123	192076	15.1	18.1
1989-90	171.1	165.7	182.7	9.1	7.4	8.6	225,417	5.4	74485	231343	19.9	20.4
1990-91	191.8	182.7	202.2	12.1	10.3	10.7	238,144	5.6	92892	265828	24.7	14.9
1991-92	217.8	207.8	229.1	13.6	13.7	13.3	241,261	1.3	114838	317481	23.6	19.4
1992-93	233.1	228.6	254.0	7.0	10.0	10.8	251,962	4.4	123278	362665	7.3	14.2

Notes: (a) - not available

(b) Wholesale price index inflation rates

(c) Growth rate refers to average annual growth rate in per cent.

Source: CSO, *National Accounts Statistics* (various issues).

RBI, *Report on Currency and Finance* (various issues).

TABLE 4. SAVING, INVESTMENT, AND MONEY SUPPLY INDICATORS

Year	Gross Domestic Saving Rs crore	Gross Domestic Investment Rs crore	Saving Rate	Investment Rate	Investment Saving Gap Rs crore	Col.(6) as % of GDP	Money(M ³) as % of GDP	Reserve Money Rs crore	Increase in Reserve Money (%)
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
1950-55	952	979	9.6	9.8	26	0.3	22.4	1,398	1.1
1955-60	1,515	1,810	11.9	14.2	296	2.3	25.1	1,844	7.3
1960-65	2,519	2,980	12.9	15.2	461	2.4	23.8	2,576	7.2
1965-70	4,709	5,312	14.1	15.9	603	1.8	22.9	3,771	8.4
1970-75	9,256	9,699	16.8	17.6	443	0.8	27.5	6,173	10.9
1975-80	20,405	19,968	21.3	20.9	-437	-0.5	35.4	11,837	17.8
1980-81	28,786	30,880	21.2	22.7	2,094	1.5	41.0	19,452	17.4
1981-82	33,478	36,089	21.0	22.6	2,611	1.6	39.1	20,463	5.2
1982-83	34,068	36,634	19.1	20.6	2,566	1.4	40.9	23,110	12.9
1983-84	38,971	41,488	18.8	20.0	2,517	1.2	41.4	28,824	24.7
1984-85	42,114	45,406	18.2	19.6	3,292	1.4	44.1	31,477	9.2
1985-86	49,655	55,889	18.9	21.3	6,234	2.4	45.5	38,165	21.2
1986-87	57,072	63,427	19.5	21.7	6,355	2.2	48.0	44,758	17.3
1987-88	71,747	78,572	21.5	23.6	6,825	2.0	48.8	53,352	19.2
1988-89	87,152	99,456	22.0	25.1	12,304	3.1	48.4	62,310	16.8
1989-90	109,559	121,838	24.1	26.8	12,279	2.7	51.0	77,591	24.5
1990-91	127,535	145,731	24.0	27.5	18,196	3.4	50.1	87,779	13.1
1991-92	142,479	148,715	23.4	24.4	6,236	1.0	52.1	99,505	13.4
1992-93	157,186	172,908	22.3	24.5	15,722	2.2	51.4	110,943	11.5

Notes: Saving and investment are at current prices. The savings rate and investment rate are percentages of gross domestic product (GDP) at current market prices.

Source: RBI, *Report on Currency and Finance* (various issues). Government of India, *Economic Survey* (relevant issues).

TABLE 5. AGRICULTURAL AND INDUSTRIAL PRODUCTION INDICATORS

Year	Index of Agricultural Production	Index of Industrial Production	Growth Rate of Col.(2)	Growth Rate of Col.(3)	Actual Rainfall as per cent of Normal Rainfall
(1)	(2)	(3)	(4)	(5)	(6)
1950-55	47.9	20.9	5.5	6.1	-
1955-60	56.3	28.9	2.4	7.1	-
1960-65	65.5	43.2	4.0	9.5	-
1965-70	68.2	56.8	2.2	4.3	-
1970-75	80.7	70.7	1.1	3.5	-
1975-80	93.0	90.2	2.2	5.3	-
1980-81	100.0	100.0	15.6	4.0	104
1981-82	105.6	109.3	5.6	9.3	100
1982-83	101.6	112.8	-3.8	3.2	85
1983-84	115.6	120.4	13.7	6.7	113
1984-85	114.3	130.7	-1.2	8.6	96
1985-86	117.1	142.1	2.5	8.7	93
1986-87	112.7	155.1	-3.7	9.1	87
1987-88	111.8	166.4	-0.8	7.3	81
1988-89	135.4	180.9	21.1	8.7	119
1989-90	138.2	196.4	2.1	8.6	101
1990-91	141.8	212.6	2.6	8.2	106
1991-92	139.3	212.5	-1.7	0.0	91
1992-93	144.7	216.3	3.9	1.8	93

Notes: Indices have been converted from the old series by simple arithmetic conversion method. Index numbers of industrial production are groupwise for financial years. Growth rates are average over the quinquennial period of annual growth rates from 1950 to 1980. Source: (i) Government of India, *All India Index Numbers of Area, Production & Yield of Principal Crops*, Directorate of Economics & Statistics, Ministry of Agriculture, GOI. (ii) CSO, *Monthly Statistics of Production of Selected Industries*. (iii) Actual rainfall as percentage of normal rainfall has been taken from *Economic Survey* (various issues), Ministry of Finance, Government of India, New Delhi.

TABLE 6. REVENUES AND EXPENDITURES BY CENTRAL GOVERNMENT

Year	Total Receipts (Rs crore)	Revenue Receipts (Rs crore)	Tax Revenue (Rs crore)	Non-tax Revenue (Rs crore)	Capital Receipts (Rs crore)	Total Expenditure (Rs crore)	Revenue Expenditure (Rs crore)	Capital Expenditure (Rs crore)	Col.(2) as % of GDP	Col.(7) as % of GDP	Col.(4) as % of GDP	Col.(5) as % of GDP	Col.(8) as % of GDP	Col.(9) as % of GDP
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)
1950-51	101	88	71	16	13	102	77	25	1.0	1.0	0.7	18.7	0.8	24.4
1955-56	143	107	82	23	36	175	99	76	1.1	1.4	0.6	21.1	0.8	43.5
1960-65	2,424	1,523	1,121	318	900	2,523	1,373	1,150	12.4	12.9	5.7	20.8	7.0	45.6
1965-70	3,887	2,650	1,975	652	1,237	4,084	2,478	1,606	11.6	12.2	5.9	24.6	7.4	39.3
1970-75	6,044	4,716	3,564	1,106	1,328	6,546	4,457	2,089	11.0	11.9	6.5	23.4	8.1	31.9
1975-80	13,283	9,837	7,357	2,231	3,446	14,054	9,404	4,650	13.9	14.7	7.7	22.7	9.8	33.1
1980-81	19,139	12,829	9,388	3,094	6,310	22,495	14,385	8,110	14.1	16.5	6.9	24.1	10.6	36.1
1981-82	22,849	15,574	11,573	3,564	7,275	25,401	17,027	8,374	14.3	15.9	7.2	22.9	10.7	33.0
1982-83	27,202	18,091	13,056	4,448	9,111	30,494	20,982	9,512	15.3	17.1	7.3	24.6	11.8	31.2
1983-84	32,609	20,493	15,476	4,239	12,116	35,988	24,852	11,136	15.7	17.3	7.5	20.7	12.0	30.9
1984-85	38,425	24,384	17,694	5,853	14,041	43,879	27,938	15,941	16.6	19.0	7.6	24.0	12.1	36.3
1985-86	48,522	29,207	21,140	6,895	19,315	52,666	33,924	18,742	18.5	20.1	8.1	23.6	12.9	35.6
1986-87	55,826	34,254	24,319	8,764	21,572	62,916	40,860	22,056	19.1	21.5	8.3	25.6	13.9	35.1
1987-88	63,811	38,403	28,015	9,022	25,408	68,261	46,174	22,087	19.2	20.5	8.4	23.5	13.9	32.4
1988-89	74,931	45,052	33,751	9,840	29,879	79,111	54,106	25,005	18.9	19.9	8.5	21.8	13.6	31.6
1989-90	83,986	53,966	38,349	13,947	30,020	92,908	64,210	28,698	18.5	20.5	8.4	25.8	14.1	30.9
1990-91	93,931	54,954	42,978	11,976	38,977	105,298	73,516	31,782	17.7	19.8	8.1	21.8	13.8	30.2
1991-92	104,559	66,031	50,069	15,962	38,528	111,412	82,291	29,121	17.2	18.3	8.2	24.2	13.5	26.1
1992-93	110,306	74,128	54,044	20,084	36,178	122,618	92,702	29,916	15.6	17.4	7.7	27.1	13.1	24.4

Note: Since comparable data is not available for all the individual years during the fifties, we could not calculate the annual average of the five years period. Hence we have presented the annual figures for the first year of the first two quinquennial periods.

Source: Government of India, *Economic Survey* (various issues).

TABLE 7. IMPORTANT DEBT INDICATORS

Year	Total Public Debt (Rs crore)	Internal Debt (Rs crore)	External Debt (Rs crore)	Col.(2) as % of GDP	Col.(3) as % of GDP	Col.(4) as % of GDP	Foreign Exchange Reserves (Rs crore)	Col.(8) as % of GDP	Debt Servicing (Rs crore)	Col.(10) as % of Exports	NRI Deposits (Rs crore)	Col.(12) as % of Col.(10)	Col.(12) as % of Cu.Ac.Def.
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)
1950-55	411	404	6	4.1	4.1	0.1	915	9.2	-	-	-	-	-
1955-60	489	466	23	3.8	3.6	0.2	549	4.3	-	-	-	-	-
1960-65	6,117	4,530	1,587	31.3	23.1	8.1	290	1.5	-	-	-	-	-
1965-70	11,987	6,447	5,540	35.8	19.3	16.5	543	1.6	-	-	-	-	-
1970-75	20,591	13,652	6,939	37.3	24.8	12.6	898	1.6	532	24.2	-	-	-
1975-80	43,308	34,424	8,884	45.3	36.0	9.3	4,349	4.5	716	13.4	36	5.1	17.3
1980-81	44,294	30,864	13,430	32.6	22.7	9.9	5,544	4.1	804	12.0	178	22.1	-8.0
1981-82	53,086	35,653	17,433	33.2	22.3	10.9	4,024	2.5	849	10.9	206	24.2	-7.3
1982-83	67,237	46,939	20,298	37.7	26.4	11.4	4,782	2.7	948	10.8	383	40.5	-11.7
1983-84	75,557	50,263	25,294	36.4	24.2	12.2	5,972	2.9	1,033	10.6	709	68.7	-21.4
1984-85	88,993	58,537	30,456	38.5	25.3	13.2	7,243	3.1	1,176	10.0	879	74.7	-30.6
1985-86	106,839	71,039	35,800	40.7	27.1	13.7	7,820	3.0	1,367	12.5	1,767	129.3	-29.7
1986-87	126,815	86,313	40,502	43.3	29.5	13.8	8,151	2.8	1,782	14.3	1,650	92.6	-28.3
1987-88	147,848	98,646	49,202	44.4	29.6	14.8	7,687	2.3	2,153	13.7	1,840	85.5	-29.2
1988-89	169,377	114,498	54,879	42.7	28.9	13.8	7,040	1.8	2,798	13.8	2,465	88.1	-23.7
1989-90	202,726	133,193	69,533	44.7	29.3	15.3	6,251	1.4	3,342	12.1	2,442	73.1	-24.8
1990-91	234,350	154,004	80,346	44.1	29.0	15.1	11,416	2.2	3,993	12.3	2,756	69.0	-15.9
1991-92	273,175	172,750	100,425	44.8	28.3	16.5	23,850	3.9	5,562	12.6	-1,111	-20.0	21.4
1992-93	370,405	199,100	171,305	52.5	28.2	24.3	30,745	4.4	7,659	14.4	5,419	70.8	-37.0

Notes: External debt figures represent borrowings by central government from external sources and are based upon historical rates of exchange. '-' indicates not available.

Source: (a) Government of India, *Economic Survey* (various issues). (b) RBI, *India's Balance of Payments, 1948-49 to 1988-89*, July 1993. (c) EPW Research Foundation, 1993, *India's External Debt*, Special Statistics: 1, *Economic and Political Weekly*, Vol. 28, No. 23, June 5, 1993, Pp. 1151-58.

TABLE 8. GOVERNMENT DEFICIT INDICATORS

Year	Gross Fiscal Deficit	Monetised Deficit	Budget Deficit	Revenue Deficit	Col.(2) as % of GDP	Col.(3) as % of GDP	Col.(4) as % of GDP	Col.(5) as % of GDP	Col.(3) as % of Col.(2)
	(Rs crore)								
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
1950-55	-2	-	46	52	0.0	-	0.5	0.5	-
1955-60	337	49	248	43	2.6	0.4	1.9	0.3	14.7
1960-65	1,000	376	87	150	5.1	1.9	0.4	0.8	37.6
1965-70	1,435	186	196	172	4.3	0.6	0.6	0.5	13.0
1970-75	1,870	628	544	216	3.4	1.1	1.0	0.4	33.6
1975-80	4,384	1,030	962	243	4.6	1.1	1.0	0.3	23.5
1980-81	8,299	3,551	2,576	2,037	6.1	2.6	1.9	1.5	42.8
1981-82	8,666	3,207	1,392	392	5.4	2.0	0.9	0.2	37.0
1982-83	10,627	3,368	1,655	1,308	6.0	1.9	0.9	0.7	31.7
1983-84	13,030	3,949	1,417	2,540	6.3	1.9	0.7	1.2	30.3
1984-85	17,416	6,055	3,745	4,225	7.5	2.6	1.6	1.8	34.8
1985-86	21,857	6,190	4,937	5,889	8.3	2.4	1.9	2.2	28.3
1986-87	26,342	7,091	8,261	7,777	9.0	2.4	2.8	2.7	26.9
1987-88	27,044	6,559	5,816	9,137	8.1	2.0	1.7	2.7	24.3
1988-89	30,923	6,503	5,642	10,515	7.8	1.6	1.4	2.7	21.0
1989-90	35,632	13,813	10,592	11,914	7.8	3.0	2.3	2.6	38.8
1990-91	44,632	14,746	11,347	18,562	8.4	2.8	2.1	3.5	33.0
1991-92	36,325	5,508	6,855	16,261	6.0	0.9	1.1	2.7	15.2
1992-93	40,173	5,389	12,132	18,574	5.7	0.8	1.7	2.6	13.4

Notes: Fiscal deficit data from 1980-81 onwards are taken from *RBI Bulletin*, but prior to 1980-81, fiscal deficit is computed by deducting revenue receipts from total central expenditure.

Source: *Economic Survey* (various issues); *Indian Economic Statistics, 1990-91. Report on Currency and Finance* (various issues).

TABLE 9. INTEREST PAID AND INTEREST, DIVIDENDS, AND PROFITS RECEIVED BY GOVERNMENT OF INDIA

Year	Interest Payments	Interest Receipts	Dividends & Profits	Total (3+4)	Col.(5) as % of Col.(2)	Col.(2) as % of GDP	Col.(2) as % of Govt.Exp.
	(Rs crore)						
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1950-51	-	2	23	25	-	-	-
1955-56	62	3	29	32	51.6	0.6	6.4
1960-61	162	15	53	68	42.0	1.0	9.0
1965-66	639	307	82	389	60.9	2.4	16.2
1970-71	1,004	575	121	696	69.3	2.3	18.0
1975-76	2,059	934	195	1,129	54.8	2.6	17.1
1980-81	3,002	1,794	292	2,086	69.5	2.2	13.3
1981-82	3,601	2,215	321	2,536	70.4	2.3	14.2
1982-83	4,422	2,852	419	3,271	74.0	2.5	14.5
1983-84	5,352	2,668*	451	3,119	58.3	2.6	14.9
1984-85	6,624	3,963	407	4,370	66.0	2.9	15.1
1985-86	10,444	4,586	415	5,001	47.9	4.0	19.8
1986-87	13,338	5,339	507	5,846	43.8	4.6	21.2
1987-88	16,115	5,745	604	6,349	39.4	4.8	23.6
1988-89	20,189	6,973	475	7,448	36.9	5.1	25.5
1989-90	25,074	8,466	715	9,181	36.6	5.5	27.0
1990-91	29,955	9,573	779	10,352	34.6	5.6	28.4
1991-92	26,563	9,061	967	10,028	37.8	4.3	23.8
1992-93	32,500	12,436	2,549	14,985	46.1	4.6	26.5

Notes: Data from 1950-51 to 1975-76 is for the corresponding year only, not annual average for quinquennial period.

Source: *RBI, Report on Currency and Finance, Vol. II* (various issues).

TABLE 10. GROSS DOMESTIC CAPITAL FORMATION: PUBLIC AND PRIVATE

Year	Gross Domestic Capital Formation (Rs crore)			Growth Rate of Col.(2)	Growth Rate of Col.(3)	Growth Rate of Col.(4)	Col.(3) as % of Col.(2)
	Total	Public Sector	Private Sector				
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1950-55	979	309	669	6.24	16.21	1.99	31.74
1955-60	1,810	743	1,068	14.68	16.25	14.69	40.78
1960-65	2,980	1,473	1,507	13.85	17.10	10.89	49.02
1965-70	5,312	2,222	3,090	11.65	3.30	19.85	42.35
1970-75	9,699	4,029	5,670	17.17	19.83	16.24	41.61
1975-80	19,968	9,143	10,825	13.86	17.32	12.90	46.37
1980-81	30,880	11,767	19,113	22.16	-0.43	42.00	38.11
1981-82	36,089	16,781	19,308	16.87	42.61	1.02	46.50
1982-83	36,634	20,100	16,534	1.51	19.78	-14.37	54.87
1983-84	41,488	20,381	21,107	13.25	1.40	27.66	49.13
1984-85	45,406	24,915	20,491	9.44	22.25	-2.92	54.87
1985-86	55,889	30,874	25,015	23.09	23.92	22.08	55.24
1986-87	63,427	35,415	28,012	13.49	14.71	11.98	55.84
1987-88	78,572	35,087	43,485	23.88	-0.93	55.24	44.66
1988-89	99,456	42,183	57,273	26.58	20.22	31.71	42.41
1989-90	121,838	48,611	73,227	22.50	15.24	27.86	39.90
1990-91	145,731	55,662	90,069	19.61	14.50	23.00	38.20
1991-92	148,715	61,764	86,951	2.05	10.96	-3.46	41.53
1992-93	172,908	72,986	99,922	16.27	18.17	14.92	42.21

Notes: Nominal gross domestic capital formation (GDCF) in the private sector has been derived by deducting public sector GDCF from aggregate GDCF. Aggregate GDCF is adjusted total series for errors and omissions.

Source: Government of India, *Economic Survey 1993-94*, p. S-7.

WAGE RATES, LABOUR MILITANCY, AND RETARDED INDUSTRIAL GROWTH IN KERALA

Alice Albin

Two important regional factors - wage rates and labour disputes - are studied and are shown to have adversely affected industrial growth in Kerala. Through a multivariate model of wage determination it is shown that wage rates across industries and organisation categories in Kerala are much higher than in India and in other southern states. Left leaning scholars have therefore missed the point in underplaying the important adverse regional factors in the slow growth of industry in Kerala. The main factors that sustain high wage rates in Kerala are identified to be the high disposable incomes on account of remittances, and high wage rates in the agriculture sector. Indices of labour disputes also clearly show that the levels of labour militancy have been significantly higher in Kerala as compared to other competing regions.

Introduction

It is well known that modern industries in India had an enclaved origin around metropolitan cities and remained so till Independence since the colonial state did not encourage nor permit, industrialisation [Bagchi, 1972]. In the post Independence period the spatial spread of industries across regions can be explained in terms of agglomeration and scale economies in the existing centres versus lower cost of labour and land in the potential new centres or what we call the secondary regions. By secondary regions we mean those which had some, even if rudimentary, industrial base at the time of Independence. Further, factors such as differences in wage rates, labour strife, land prices, particular postures taken by state governments¹ and centre state relations would explain the differential spread of industries across these secondary regions. Hence we find it useful to distinguish between metropolitan states like Maharashtra, Tamil Nadu and West Bengal and the non metropolitan (secondary regions) states like Karnataka, Kerala, Gujarat and Andhra Pradesh in that order. Therefore in this study the comparison of Kerala is rightly with regions (states) such as Punjab, Karnataka, Gujarat and Andhra Pradesh which at the time of Independence were secondary regions. The comparison cannot be with the metropolitan regions or the tertiary regions such as Assam or the North East, Orissa, Madhya Pradesh, or eastern Uttar Pradesh which did not have any significant industrial base at the time of Independence.

In the Peninsula the fast growth of centres other than Madras and its immediate surroundings, in

comparison to the entire region (Tamil Nadu) indicates that there has been a spatial diversification away from Madras and its immediate environs. Centres like Coimbatore, Tiruchirappalli in Tamil Nadu, Bangalore, and Hyderabad, represent the spatial spread away from Madras. Similarly the slower growth of Bombay and regions around is being matched by faster growth in centres like Pune, Aurangabad, Ahmednagar, Nagpur, Nasik in Maharashtra; and Vapi, Ahmedabad and Baroda in Gujarat. So the question really is why has Kerala not been able to partake of this spatial diversification?

This paper is divided into four sections. In Section 1 we develop a conceptual bases for answering the question 'Are wage rates in Kerala significantly higher than in other secondary regions?'. In doing so we have gone beyond obtained wage rates (W/L) and built a robust model of wage determination, and show that the 'activity wise' wage rates are significantly higher in Kerala than in all other southern states and India as a whole. Earlier studies [Subrahmanian, 1990] on Kerala show that 58 per cent of the industries in the factory sector had higher wages as compared to all India. Nevertheless, they also pointed out that since partial labour productivity was also generally high, high wages need not be a cause for concern. We find these studies on wage rates did not go beyond a discussion of wage rates as obtained, (W/L) to the 'activity wise' wage rates, and of partial labour productivity, and could therefore only suggest that wage rates were high. In Section 2 we present the results of the regression exercise. In Section 3 we address the question of the sustainability of high wage rates, and argue that the higher output per man in the

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primary sector in Kerala, along with the high wage rates in agriculture, as well as the high remittances from the Gulf sustain these high wage rates in industry. In section 4 we return to the regional factor of labour militancy and show that labour militancy as well as its impact have been very high in Kerala, much higher than in competing secondary regions and comparable to that in metropolitan cities.

Section 1: A model of wage determination

In the neoclassical theory wage rates are determined by the marginal product of labour. Yet evidence from all over the world would question the neoclassical theories [Thaler, 1989]. Studies interested in explaining the inter-industry wage differences are also interested in how the empirical patterns relate to competing theories [Deepak Lal, 1989]. We, on the other hand, ask two questions: (1) Are there significant inter-regional wage differentials? and (2) Are wage rates in Kerala significantly higher than in other regions?.

Before we answer these questions it is important to consider the factors that underlie the obtained wage rates, or the wage rates as revealed in data (wages/number of labourers) or (wages/hours worked). Obtained wage rates in a region can conceivably be seen to be influenced by the following factors:

(1) Skill composition: Wages would depend on the nature of work and the contribution of skilled, semi-skilled and unskilled workers in total employment. Wage rates for a particular job/activity would depend on the nature of the skill required and therefore jobs which require highly skilled labour would pay more. From this it follows that regions that have a preponderance of industries which require higher levels of skill would tend to show higher wage rates. Thus the average wage rates obtained either at the aggregate level or at the two-digit level of disaggregation do not refer to the wage rates for the same activity and wage rates we would argue are very much activity specific.

(2) Capital intensity: The higher the capital intensity in a particular productive activity, the larger would be the need for skilled labour, and hence the obtained wage rates would also tend to be high *ceteris paribus*. A region with more

capital intensive industries would also tend to have higher obtained wage rates in comparison to other regions which have industries that are less capital intensive.

(3) Technology: Differences in the kind of technology used would also mean differences in terms of skill requirements. Monopolised technologies could increase the profitability of firms, leading to an increased ability to pay and hence possibly higher wage rates. There is some empirical support for (1)-(3) from data elsewhere: A comparative survey of wage rates conclude that the inter-industry wage structure is remarkably similar in different eras, in different countries and in different types of workers. Industries with high capital-labour ratio, monopoly power, and high profits pay relatively high wage [Krueger and Summer, 1986].

(4) Growth rate of industry: Industries which have higher growth rates can afford to pay its workers better and therefore the wage rates in such industries will tend to be higher. If a large number of industries in a region are growing faster than this particular region would tend to have a higher overall wage rate *ceteris paribus*.

(5) Risk involved: Wage rates would also depend on the level of risk involved in a particular job. Highly risky jobs would be paid more, *ceteris paribus*.

(6) Nature of organisation of production: Wage rates also depend to a great extent on the nature of the productive enterprise, i.e. whether it is small/medium/large, household/non-household, factory/non-factory, etc. This is particularly so for countries which show a variety of organisational forms for reasons of history and market 'imperfections'. There is a deep divide in the labour market in India, so much so that it is possible to talk of an 'organised' labour market where wages are high, hours of work generally according to the law, and workers' rights come under the purview of the law; and an 'unorganised' labour market where wages are low, working hours long and there is little or no security and laws are typically either not applicable or violated systematically [Vijay and Joshi, 1976, Harris, 1982, Nagaraj, 1989]. The factories, particularly the large factories typically face the organised labour market, whereas the non-factory sector has access to the

cheap 'informal' or 'unorganised' labour market. In the 'organised' labour market the ability of workers to 'fix' wages due in a larger part to their organisation and the labour laws of the country, has to be recognised. As we move down the organisation category (from large to small) there is increasing (open) competition in the labour market and decreasing ability of the workers to fix wages. There may also be decreasing specialisation in labour requirements and also decreasing level of skills used.

We have divided the productive enterprises into four organisation categories- NDME+OAE (Non Directory Manufacturing Establishments and Own Account Enterprises), DME (Directory Manufacturing Establishments), ASIS (Annual Survey of Industries-Sample Sector), ASIC (Annual Survey of Industries-Census Sector). The DME and NDME+OAE together conceptually covers all enterprises other than factory units. We have put together the detailed surveys² in 1978-79 on DME, NDME+OAE along with the ASI so as to give a total picture of the manufacturing sector for one year. There is increasing homogeneity of labour at the NDME+OAE category and the variations due to factors (1),(2) (3) are likely to be less. Hence as suggested before, inter regional differences in wage rates in the lower organisation categories will be a good reflection of differences in micro level activity wage rates across regions. We see from Table 1 that Kerala has the highest rank for all organisation categories among the southern states. Even in comparison to all India its ranks were higher in all organisation categories except DME. This suggests that Kerala has higher wage rates in all organisation categories (except in DME in India). We also note from the Table that the divergence of the ranks of the wage rates and labour productivity is always negative and highest throughout, suggesting that while part of the high wage rates may be justified on account of high partial productivity of labour much of it may not.

It is difficult to come across data on wage rates at the activity or micro level. Yet from the little existing evidence there is a strong suggestion that wages rates for unskilled labour are much higher in Kerala than elsewhere [Oommen, 1979, 1981]. We now take up the question formally. In view

of the above discussion on the determination of wage rates, we expect obtained wage rates (W/L) to depend on a number of factors - skilled/unskilled labour composition, riskiness of operation, capital intensity, technology, etc. Since we do not have variables to represent these factors, we use other proxy variables to explain wage rates across industry groups, organisation categories and states. Our model is as follows.

$$(W/L) = f(O, C, S)$$

Where O represents organisation categories (dummy variables), C is a vector of industry characteristics which have a bearing on wage rates such as skill composition, capital intensity, technology, risk involved, etc., and S represents the region (dummy variables).

We face a problem with C because it is not possible to have data on factors such as skill levels in activity, riskiness involved, technology, etc. Hence, we will use instead K/L (fixed capital to total employment ratio), I/O (ratio of inputs to outputs), L/V (ratio of employment to value added) and tfp ('total factor productivity') to represent industry characteristics. Therefore $C = \{K/L, I/O, L/V, tfp\}$. In the discussion that follows we will explain why we have used the above variables in our analysis.

K/L - or the capital intensity tends to reflect the skill composition. As the capital used per worker increases, the proportion of skill required can be expected to be higher. We expect the coefficient to be positive.

I/O - would reflect the vertical integration of an industry. Higher the I/O, the lower the vertical integration and vice versa. This we would say in some way reflects the activity structure of a particular industry. The more complex the activity the less the I/O. We expect its coefficient to be negative.

L/V - This ratio is the reciprocal of value added per worker. Lower L/V shows that the industry has the ability to pay its workers more. Given the fact that there is some element of bargaining at the level of industry and firms, dependency of wage rates on L/V is expected. We expect its coefficient to be negative.

tfp - The ratio L/V is only a partial indicator of

the ability to pay. Even if L/V is small but if capital used is also large, the total productivity may not be large enough to support higher wages. Hence we use tfp which is value added/weighted average of factor inputs.³ We do not ascribe much meaning to the absolute value of tfp but relatively it has relevance. What we mean is that tfp value of an industry by itself does not make sense but in comparison to the tfp of the same industry in another region it is a useful measure. We expect it to have a positive sign.

Organisation - Since we have four organisation categories we have three dummy variables - Organisation 1, 2 & 3. Organisation 1 (01) will take the value 1 when it refers to DME, organisation 2 (02) will take the value 1 when it refers to ASIS and organisation 3 (03) will take the value 1 when it refers to ASIC. Given the fact that in NDME+OAE category we find the lowest obtained W/L , we expect the W/L to rise in the direction from NDME+OAE to ASIC (increasing size). Hence we expect all of them to be large and positive, and increase in the direction of size.

States - We have five geographical entities - Andhra Pradesh, India, Karnataka, Kerala and Tamil Nadu therefore we have four dummy variables - state 1, 2, 3 and 4. State 1 (S1) will take the value 1 when it is India, state 2 (S2) will take the value 1 when it is Karnataka, state 3 (S3) will take the value 1 when it is Kerala and state 4 (S4) will take the value 1 when it is Tamil Nadu. A significant positive sign for any of the state dummy variables would indicate that the state has higher wage rates than Andhra Pradesh after accounting for all other factors that determine wage rates. A negative sign on the other hand would indicate that it has lower wage rates after accounting for all other factors that determine wage rates. We would confirm that Kerala has higher W/L by obtaining a large positive significant for the S3 (Kerala) variable.

Section II: Regression Results:

The regression was carried out using 365 points⁴ of data for the period 1978-79. There were 18 two digit industry groups across four organisation categories and across five geographical entities. Instead of using the actual values, the logarithms

of independent and dependent variables except tfp were used. This was done in order to make the underlying dependence nearer to the linear. Three regressions were carried out. In the first instance a step wise regression with forward selection was done at 95 per cent level of confidence. The variables K/L , L/V , tfp & S3 (Kerala) 1(DME), 2(ASIS), and 3(ASIC) are selected, for an F-number to equal to 4. Thus we find that the only state that is positively significant is Kerala (S3) and it had a coefficient of 0.299 with a t-value of 4.418. The R^2 was 0.903 and R^2 adjusted was 0.901. We also find that all the organisation categories are positively significant. In the second instance a step-wise regression with backward selection was done at 95 per cent level of confidence. The F-number to remove a variable was again fixed at F number equal to 4. All variables except S2 (Karnataka) and I/O were retained. The R^2 was 0.905 and the R^2 adjusted 0.902. The coefficients of all variables have the expected signs. Kerala (S3) has the highest value with a coefficient (0.38) and t-value of 5.138. Finally we used a simple multiple regression with all variables. We found all the variables except I/O and S2 (Karnataka) to have a t-value greater than 2. The R^2 was 0.906 and R^2 adjusted was 0.903. The reason why I/O is not significant is obviously because what it represents is being captured by other variables. It is very much in keeping with our expectations that S2 (Karnataka) is not significant, i.e., in other words, the wage rates in Karnataka is not significantly different from Andhra Pradesh. Thus both Andhra Pradesh and Karnataka, the secondary regions that compete with Kerala had the lowest wage rates of the set of five regions including India. India and Tamil Nadu had significantly higher wage rates than either Karnataka or Andhra Pradesh. That Tamil Nadu should have higher wage rates than Karnataka or Andhra Pradesh is not surprising being a metropolitan region, with a well diversified industrial base, and wherein agglomeration economies are being overcome by higher costs. But the state of Kerala (S3) has the highest wage rate with a coefficient (0.43) more than twice that of Tamil Nadu (0.20) and India (0.21) and highly significant with a t-value of 5.06. The results of this exercise are presented in

Table 2. Thus Kerala had absolutely higher wage rates. We have also estimated the wage rates using the regression model for Kerala, the other southern states, and India for each organisation category separately. The results are presented in Table 3. We see from the Table that for the NDME+OAE category the coefficient for Kerala is highly significant. In the DME category again Kerala had the highest coefficient and was significant at 5 per cent level. In the ASIS and ASIC categories the coefficients were not significant for any of the states. In the ASIS category Kerala still had the highest coefficient. However in the ASIC category India and Tamil Nadu have a higher coefficient than Kerala. This means that the wage rates in the Census Sector in Kerala is perhaps lower than in Tamil Nadu and India. In the NDME+OAE, DME and ASIS organisation categories Kerala had the highest wage rates. The model is not quite complete in the determination of wage rates in the Census Sector. This is because variations in wage rates in the Census Sector are likely to depend more on industry characteristics which we have discussed earlier and which we are unable to capture fully due to lack of data. What is important is that Kerala had higher wage rates than Andhra Pradesh and Karnataka which are competing secondary regions. The decision to invest in large factories (Census Sector) in a region would not only depend on wage rates in the Census Sector but also on wage rates in interrelated activities outside the Census Sector. This is because any large factory depends upon outside labour for transportation, for contract labour, for construction, for other services like repair and maintenance of building, some items of plant and machinery even when there are no regular subcontracting relations with small firms. The dependence on unorganized labour market at the construction phase is very high.⁵ The peculiarity of Kerala, that distinguishes it from other states is that what is unorganized labour elsewhere is in fact organised labour in Kerala and is able to obtain significantly higher wages. We have shown that wage rates in the DME, NDME & OAE sectors which use this kind of labour are very high. We do not leave the question of high wage rates at this stage since the further question of sustainability of high wage rates arise.

Section III: Sustainability of high wage rates

Now the question is how are high wages sustained in Kerala? We would argue that high wage rates are sustained by two major factors: (1) Higher productivity of labour in agriculture per person and political action that has sought to change the distribution of income in favour of labour; and (2) Income led growth (in wages).

The productivity of labour (product per person) in the primary sector in Kerala has been high arising out of its long history of intensive cash crop cultivation and high productivity of land (see Table 4). In 1961 Kerala had a productivity of labour which was even higher than in Punjab and Haryana. What is more interesting is that output per man in Kerala was nearly twice that in India in 1961; even in 1981, after a long period of near stagnation or slow growth in agriculture, it was much higher than in India and most states except Punjab, Haryana and Gujarat. In West Bengal too, it is high but this is primarily on account of organised mining (coal) rather than agriculture as such. This fact is also clearly brought out in the data on product per man in the agricultural sector alone [Jose, 1988].

We also know from available evidence that the money wages of agricultural labourers in Kerala are higher than in most states except Punjab and Haryana for the period 1970-71 to 1984-85 [Jose, 1988, Tables 3A, 3B, 4A, 4B]. For our purpose it is the money wages rather than real wages which is relevant, since the capitalist is concerned about his costs. The higher wages in the agricultural sector in Kerala is not a phenomena of the seventies and eighties alone. Further data shows that even as far back as in 1950-51, Kerala's wages were higher than in India and most states (see Table 5 for details). It is clear from the Table that the wage rates in Kerala between 1950-51 and 1956-57 was below that in Punjab, Haryana and West Bengal. But from 1961-62 to 1970-71 the only states that had higher wages rates than Kerala in the agricultural sector were Punjab and Haryana. The gap between Kerala and other states has only widened overtime.

It is well known that in an economy where peasant farming is still prevalent, the average product of labour and the wage rates in the

agricultural sector would set the base level for wage rates in the other sectors. Industry is one sector that absorbs the surplus labour from agriculture. Agricultural wages would therefore set a base for industrial wages.

The average product of labour in the primary sector in Kerala has shown a decline between 1961 and 1981 (see Table 6). Despite the decline in the average product of labour in the agricultural sector in Kerala, the wage rate in this sector has grown the fastest in Kerala among all states to catch up with Punjab and Haryana. (See also Table 7). This is not possible, unless there is union action to change the bargaining power of labour. The widespread and intense Communist movement in Kerala has made this possible. The higher wage rates have also led to a situation where cultivation of certain crops have become unprofitable. It is well known that cultivation of rice, originally a major crop, has become unprofitable in large parts of the state, where paddy fields remain uncultivated, awaiting a slow and 'illegal' transfer to other crops [Kannan and Pushpangadan, 1988; George, 1988].

Higher wage rates are also sustained by higher incomes. Higher incomes arise out of transfer payments from outside the Kerala economy particularly from migrants in the Middle East. Migration from Kerala has been a fairly early and continuing phenomena. While the Gulf boom resulted in a spectacular outflow from Kerala, even before this there was a migration from Kerala in substantial numbers to other parts of the country and in a much smaller way internationally. Remittances from workers both in the rest of the country and abroad are not easily estimated. Yet Gulati and Mody show that remittances⁶ from the Middle East alone would raise the income per person over per capita State Domestic Product (SDP) of Kerala by about 25 per cent in the eighties and by about 15-18 per cent in the seventies [Gulati and Mody, 1984]. We have followed them in updating these estimates up to 1984-85. Following Gulati and Mody remittances from migrants in non-Middle East countries would add a further 5 per cent of SDP to Kerala's income. There has been a decline in migration of workers from Kerala to other parts of the country in recent years. Out of the total migration from

Kerala only 7 per cent migrated to other parts of India [Leela Gulati, 1983]. Even then we would guess that it would add a few percentages of SDP to Kerala's income. We have adjusted Kerala's income for the remittance abroad only from outside the country. The adjustment percentages are given in Table 8. We find that remittances as a proportion of SDP was about 2 per cent in 1970-71 and it went up to 14 per cent in 1979-80 and about 23-27 per cent in the eighties.

We have taken a three year average of the per capita SDP of Kerala and major states. We have also taken a three year average of the adjustment percentage. We have converted the per capita SDP of the states and the adjusted per capita SDP of Kerala into an index by using the per capita SDP of Kerala as the base. This makes the comparison across states much simpler (see Table 9).

This adjustment makes Kerala's per capita income for the period 1970-71 to 1975-76 higher than that of states like Andhra Pradesh, Tamil Nadu and equal to Karnataka but lower than Maharashtra, West Bengal, Punjab and Haryana. When we consider the period 1979-80 to 1981-82, we find that the adjusted per capita income of Kerala is higher than Karnataka and West Bengal. In 1982-83 to 1984-85 we find that the only states that have a higher per capita income as compared to Kerala are Maharashtra, Gujarat and Punjab and Haryana. We have taken the per capita SDP as roughly indicative of incomes of all states other than that of Kerala.

The figures for remittances given by the Reserve Bank of India (RBI) do not cover the 'hawala' transactions which could be quite considerable. The proportion of 'hawala' transactions would, among other things depend on the difference between official and black market rates of foreign exchange. In the seventies the black market rates were much higher than the official rates. This would have resulted in larger proportion of 'hawala' transactions. The under-estimation of the remittances were also likely to be large. We may tentatively say that in the early eighties and late seventies the adjustments to be made to the SDP would have been at least as much as 35-40 per cent to get to the actual per capita income including transfers. If this adjustment is

made to Kerala's per capita SDP we find that the per capita income in Kerala has grown fastest to catch up with Gujarat, it was just below Maharashtra but still below Punjab and Haryana in 1984-85.

Gulati and Mody [1983] find a per migrant worker remittance of Rs 24,000 per year in the early eighties. This is based on an estimate of about 800 thousand Indian workers (in total Indian population) in the Gulf, and 350 to 400 thousand (40 to 50 per cent of all Indian workers) workers from Kerala. To anyone familiar with migrants from Kerala to the Middle East, this estimate of remittance per worker per year is likely to be on the low side. The estimate 350 to 400 thousand Keralite workers in the Middle East is most certainly an underestimate since, for Saudi Arabia and six other Gulf states, the Ministry of External affairs places 54 per cent to be from the state of Kerala. Since there are many Malayalees from states like Maharashtra going to the Gulf, the proportion of Malayalees to all India workers is likely to be even higher. Further, other estimates would place the total number of Indian workers in the Gulf at above one million⁷ and Keralite workers at about half a million.⁸ Even accepting that the remittance per worker is about Rs 25,000 in 1986, the remittance figures ought to be adjusted upwards by about 42 per cent. This corroborates the earlier statement that what the RBI captures are only underestimates of the total, including 'hawala' transactions. Very recently as the RBI made the Rupee convertible on current account, the preliminary figures for 1993 show that as much as \$2.2 billion were received on accounts of remittances. During this period the average SDP of Kerala was in the range of Rs 2,600 which implies that at half these remittances going to Kerala the income of Kerala is about 40 per cent above its SDP figure, which provides support to our method and estimation.

This analysis clearly brings out the fact that incomes in Kerala are much higher than what the SDP would imply and not low as what is generally thought to be. The so called puzzle of Kerala's high quality of life with low incomes that many scholars have called attention to would not remain.⁹

We find data on Gross Domestic Capital Formation (GDCF) in construction in the household sector to be very useful. GDCF in construction in the household sector between 1960-61 to 1970-71 shows that Kerala ranked sixth in 1960-61, but in 1970-71 it was fourth. However per capita GDCF in construction which is the true indicator of the level of construction in the household sector shows that Kerala ranked third in 1960-61 below Punjab, Haryana and Jammu and Kashmir. But in 1970-71 Kerala had the highest per capita GDCF in construction in the household sector (see Table 10). This was more than twice the average amount for all India. We already know that in Kerala the household sector of manufacturing has shown a great decline, so much so that in 1961 it had the smallest household sector among the southern states and India as a whole [Albin, 1988]. Thus if anything the data on GDCF in the household sector would cover more of the residential construction than elsewhere. Thus they would more truly reflect real household incomes in this region.

The GDCF in construction in the household sector has grown the fastest in Kerala. The gap between Kerala and other states has only widened over time. This is another altogether independent fact that supports the thesis of high incomes in Kerala.

Section IV: Labour Militancy

Subramanian has treated both high wage rates and labour unrest as one factor [Subrahmanian, 1990]. He sees the former as a manifestation of the latter. We would argue that this need not be so; regions with lower levels of labour militancy can also have high wage rates. Wage rates, as revealed by data in a region, would depend on the industrial composition as well as the performance of industries in that region. Labour militancy can be disruptive or destructive, whereas demand for higher wages, as long as these can be afforded, can only reduce profit rates. Most entrepreneurs considered Kerala to be a region with high levels of labour militancy during the post-Independence period right to the mid-eighties; data on the same do corroborate their experience, as we shall show below.

In order to make the comparison between regions meaningful we construct two indices.¹⁰ (1) Ratio of man-days lost to (factory employment times number of days scheduled to work). This would measure the impact of dispute on a region. This measure can be used to make a true comparison across regions since it measures the impact of labour strife relative to the size of the economy. (2) Man-days lost per worker involved. This gives the duration of disputes and in some sense reflects the quickness with which disputes are resolved. Lower rates implies faster resolution. Table 11 gives five year average of these measures.

It can be clearly seen from the Table that the impact of disputes and duration of disputes have been high in Kerala as compared to the other secondary regions. The value of the index in Kerala is comparable to that in the metropolitan centres of West Bengal and Maharashtra! In the fastest growing states we see that impact of disputes and duration of disputes have been very low. In West Bengal, a virtually stagnant region, it has been the highest. In Andhra Pradesh, Gujarat and Karnataka the fastest growing regions it has been the lowest. In other states that have grown sluggishly - Maharashtra, Tamil Nadu and Kerala it has been somewhere in between.

Thus we have shown that not only are wage rates high in Kerala, but the effect of labour militancy over a long period from 1958 to 1984 has been quite large and significantly high when compared with other secondary regions of the south with which it competes. So when the question is why has the industrial sector in Kerala stagnated or grown slowly?, the answer can hardly be based on structural factors alone which as we had shown earlier should if anything have favoured Kerala.¹¹ In arguing that high wage rates and labour militancy both of organised and 'unorganised' labour, have been adverse in Kerala from the point of view of the capitalist, we do not exclude the working of other regional factors which need to be studied: The political orientation of the state government, the encouragement/or its lack it can provide to entrepreneurs, land prices and the quantum and type of public investment. Land prices on the average are extremely high in Kerala

and there is little or no 'waste' land in Kerala. The state government would hardly be in the position of other states like Gujarat, Tamil Nadu, Andhra Pradesh and Maharashtra to attract investment through provision of large amounts of land cheaply or at no cost. Our thesis is that we cannot simply set aside the fact of high wage rates and labour militancy in Kerala when we seek to understand its poor industrial performance. The large number of industries which came about in India in the post-Independence period under import-substitution missed Kerala almost entirely. While structural factors do determine the pace of growth, there are periods during which opportunities to broaden the industrial base exist. Kerala seems to have missed all these opportunities, which on the other hand were realised in states like Andhra Pradesh and Karnataka. These states starting with structures perhaps more primitive than that of Kerala were able to broaden the same and grow much faster due to the favourable regional factors [Albin, 1990].

Conclusions

We have argued that industrial wage rates in Kerala are higher than in India and other southern states in all organisation categories except ASIC sector. Differences in wage rates at the micro level activity would reflect true differences in level of wages. There is homogeneity of labour in the DME, NDME+OAE categories and therefore we argue that wage rates in these categories are comparable across regions. We find that it is precisely in these categories that wage rates are highest in Kerala. Further we have shown through a multivariate regression model, which covered 18 industry groups at the 2-digit level of disaggregation, four organisation categories and five geographical entities, that wage rates in Kerala are higher than in India and other southern states. This we have shown by obtaining a large positive significant coefficient for Kerala. We further went on to study how these high wage rates are sustained in Kerala. We argued that high wage rates are sustained by high productivity per man in the agricultural sector and through high incomes. Higher productivity in agriculture lead to higher wages, since agricultural wages form a

base for industrial wages, industrial wages are also high. High incomes arise out of remittances from migrants from the Middle East and other countries. The per capita SDP of Kerala underestimates its income and if we adjust the per capita SDP for the remittances income in Kerala is much higher than most states except perhaps Punjab and Haryana.¹² The high incomes are also reflected in the figures for per capita construction in the household sector between 1960-61 and 1970-71. In 1970-71 it was the highest, and nearly twice the all India figure.

We have shown that the levels of labour militancy in Kerala is higher than in other secondary regions and is as high as in metropolitan regions like West Bengal and Maharashtra. We would also say that labour in Kerala is much more organised as compared to other regions. The trade union movement has found deep roots in Kerala and it has led to organisation of a large proportion of the labour in Kerala. Labour which would be largely unorganised in other regions, is very much organised in Kerala¹³ and unorganised labour would form a very small proportion of labour market in Kerala. Thus we have shown that the regional factors, wage rates and labour militancy have to be in the forefront of any explanation of Kerala's slow industrial growth relative to other states and to its potential.

NOTES

1. There are many aspects to this: Not only the political orientation of the state government, but policies for attracting industries, supply of critically short inputs such as electricity are important.

2. *The Survey on the Directory Manufacturing Establishments 1978-79*, Summary Results published by the CSO and the Table with Notes on the *Survey of Unorganised Manufacture, Non-Directory Establishment and Own Account Enterprises 33rd Round*, July 1978-June 1979 published by the National Sample Survey.

3. The measure of tfp used is $V/(\alpha L + (1 - \alpha)K)$, where V is value added in Rs lakh L is total employment in members, K is gross fixed capital in Rs lakh & α is the share of labour.

4. After removing a few points of data which showed negative value added.

5. High growth in the organised sector is often accompanied by sub-contracting relations with the small units that draw upon unorganised labour. The very reason for sub-contracting and hence for the realisation of agglomeration economics through relationship with small firms is denied to census factories in Kerala because of high labour costs in what elsewhere would have been subcontracting firms, (particularly the small factories and DME units). It is not at all

accidental that Keltron's subcontracting has taken the form of putting out to households rather than sub-contracting relations with firms.

6. Remittances are private transfers in the balance of payment account. To arrive at figures for remittance from Middle East and non Middle East countries we have used the figures for total remittance for the period 1970-71 to 1984-85. For the period 1970-71 to 1975-76 we have taken 83 per cent of the remittance as that coming from Middle East and after that an increase of 8.4 per cent in the subsequent years up to 1980-81. We have used the same ratio of Middle East to total remittance (0.8395) for the period 1981-82 to 1984-85. Of the Middle East remittances 50 per cent has been allocated to Kerala and of the other remittance 5 per cent has been allocated to Kerala. We have followed Gulati and A. Mody [1984] entirely.

7. Indian Express, 27 May 1983, mentioned in P.R. Gopinathan Nair [1983].

8. Indian Express, 10 April 1983, mentioned in PR Gopinathan Nair [1983].

9. We have in a note by Alice Albin [1992] stated that the SDP figures for Kerala does not give the true incomes of the region given the level of remittances and therefore adjustments have to be made. Studies on levels of income in Kerala have not made these adjustments. By making these adjustments we have shown that incomes in Kerala are high. Land reforms, higher levels of productivity in agriculture, higher share of wages in the smaller industry categories and remittances have led to a better distribution of income. We have argued that allowance be first made for these adjustments before the so called thesis of 'social development with low incomes' is drummed up.

10. Thampy [1990], has also studied labour unrest using factory statistics comparatively, but there is little conceptual clarity on why he chooses to compare Kerala's experience with the chosen states. We had done the same exercise more systematically earlier, and the paragraphs that follow are a brief summary of the same. [See Alice Albin, 1988]. Besides the two indices used here, therein we had also used mandays lost per dispute, and the mandays lost per worker involved.

11. Subrahmanian, Pillai and others studying the growth of the industrial sector in Kerala have attempted to show that the primitive industrial structure of Kerala have stood in the way of growth of this region. We (Alice Albin [1990]) on the other hand found that the differences in the growth of industrial sector between Kerala and other regions is best explained in terms of regional factors. Through a decomposition exercise which included both the industry-wise composition and organisation size dimension we showed that the structural factors were quite favorable to industrial growth in the region.

12. To be consistent, we must adjust all the states for net remittances including that from other states. For Uttar Pradesh and Bihar there are significant flows from metropolitan cities like Bombay and Calcutta, where there are large numbers of 'migrant' workers and others who sent back money. But the amounts per person are too small in relation to the per worker remittance from the Middle East to Kerala. Moreover this would hardly affect the per capita income since the base population is large in these states.

13. Cf. Alexander [1973] for agricultural workers, Raghavan [1986] for beedi workers, Issac [1984] for the coir industry, and Kannan [1983] for cashew workers.

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TABLE 1: AVERAGE RANKS OF OBTAINED WAGE RATES AND (PARTIAL) LABOUR PRODUCTIVITY ACROSS INDUSTRY GROUPS AND CERTAIN ORGANISATION CATEGORIES*

Organisation Category		Andhra Pradesh	India	Karnataka	Kerala	Tamil Nadu
NDME+OAE	W/L	1.500	3.747	2.833	4.222	2.789
	L/V	2.158	3.632	3.211	3.684	2.316
	L/V-W/L	0.658	0.158	0.378	-0.538	-0.473
DME	W/L	2.316	3.842	2.474	3.647	2.579
	L/V	2.211	4.000	2.632	2.941	3.000
	L/V-W/L	-0.105	0.158	0.158	-0.706	0.421
ASIS	W/L	1.737	3.158	2.833	4.588	2.579
	L/V	1.684	3.421	3.556	3.294	2.737
	L/V-W/L	-0.053	0.263	0.723	-1.294	-0.158
ASIC	W/L	1.944	3.211	3.000	3.938	2.474
	L/V	1.833	3.105	3.056	3.750	2.842
	L/V-W/L	-0.110	-0.106	0.056	-0.188	0.368

W/L Average rank of wage rates.

L/V Average rank of ratio of value added to employees.

L/V-W/L Divergence of Rank of L/V to rank of W/L.

* For the year 1978-79, the only year for which data was available for all organisation categories.

TABLE 2: RESULTS OF REGRESSION OF LOG W/L ON INDUSTRY CHARACTERISTICS, ORGANISATION CATEGORIES AND STATES

Independent variables	Coefficient		
	Model 1	Model 2	Model 3
Constant	-2.300023 (-32.8698)	-2.372962 (-31.6743)	-2.554468 (20.6922)
ln(K/L)	0.290736 (5.6609)	0.305864 (5.9565)	0.325167 (6.1263)
ln(L/V)	-0.492862 (-6.8824)	-0.459323 (-6.3432)	-0.435684 (-5.9365)
ln(I/O)	-	-	-0.144161(\$) (-1.5106)
tfp	0.186775 (5.0733)	0.18896 (5.1658)	0.195847 (5.3186)
S1 (India)	-	0.154113 (2.1767)	0.213103(\$) (2.5893)
S2 (Karnataka)	-	-	0.082305(\$) (1.0037)
S3 (Kerala)	0.299195 (4.4180)	0.382064 (5.1377)	0.431250 (5.0601)
S4 (Tamil Nadu)	-	-	0.202925(\$) (2.5127)
O1 (DME)	1.582311 (19.2769)	1.596783 (19.5143)	1.662961 (18.2834)
O2 (ASIS)	1.600429 (14.5805)	1.627081 (14.8057)	1.721286 (14.0383)
O3 (ASIC)	1.674326 (12.4118)	1.710322 (12.6426)	1.788869 (12.6205)
Adjusted R ²	0.9010	0.9023	0.9028
R ²	0.9029	0.9047	0.9057
Std. error	0.492823	0.48952	0.488399
No of observations	365	365	365

Notes (1) t-values are in parentheses. (2) (\$) indicates not significant, at 5 per cent level.

TABLE 3: RESULT OF REGRESSION OF LOG W/L ON INDUSTRY CHARACTERISTIC AND STATES FOR EACH ORGANISATION CATEGORY

Independent Variable	NDME (O1)	DME(O2)	ASIS(O3)	ASIC(O4)
Constant	-3.910414** (-8.8365)	-0.676743** (-5.0591)	-0.216593** (-1.8407)	-0.685958** (-5.3843)
ln (K/L)	1.259256* (3.2897)	0.277708** (5.3311)	0.350004** (6.5747)	0.286382** (5.7927)
ln (L/V)	0.078417 (0.1622)	-0.302494** (-3.5682)	-0.166368* (-2.1204)	-0.495038** (-8.1716)
ln (I/O)	-0.28255 (-1.2085)	-0.139798 (-1.6038)	-0.495357* (-2.2059)	-0.155848 (-1.0839)
tfp	0.714491* (2.5422)	0.293065** (4.7200)	0.173833** (5.0997)	0.18959** (6.8209)
India	0.893413** (3.8388)	-0.024211 (-0.2373)	0.026328 (0.3518)	0.1178 (1.6371)
Karnataka	0.48214* (2.0348)	-0.153764* (-1.5410)	-0.091283 (-1.2223)	0.023208 (0.3230)
Kerala	1.489014** (6.2453)	0.157979* (1.5555)	0.900093 (1.1126)	0.065981 (0.8548)
Tamil Nadu	0.8945031** (3.8572)	-0.067066 (-0.6781)	0.000443 (0.0062)	0.094339 (1.3130)
R ² Adjusted	0.6112	0.6538	0.7199	0.8577
R ²	0.6775	0.7247	0.7989	0.9530
Std. error	0.694132	0.29728	0.214374	0.21062
No. of observations	92	92	91	90

** Significant at 1 per cent level. * Significant at 5 per cent level.

TABLE 4: VALUE ADDED PER EMPLOYEE IN PRIMARY SECTOR (1970-71 PRICES)

States	1961 (Rs)	1981 (Rs)
India	1,022	1,201
Andhra Pradesh	962	1,078
Gujarat	1,266	1,688
Karnataka	941	1,182
Kerala	1,880	1,514
Maharashtra	830	965
Punjab & Haryana	1,875	3,283
Tamil Nadu	907	717
West Bengal	1,780	1,738

Note: 1. Value added figures are from state domestic product. The figures include value added in agriculture, fishing, forestry and mining.

2. Employment figures are from Censuses of India 1961 and 1981, employment figures include that of categories as agricultural labourers and cultivators, and other agricultures activities, and mining and quarrying.

TABLE 5: MONEY WAGE RATES OF AGRICULTURAL LABOURERS IN VARIOUS STATES (IN PAISE PER DAY) 1950-51 TO 1970-71

States	1950-51	1956-57	1961-62	1966-67	1968-69	1970-71
Andhra Pradesh	97	114	157	215	247	297
Assam	110	220	225	303	357	392
Bihar	126	119	124	-	233	-
Gujarat	101	144	175	228	260	306
Karnataka	90	124	159	180	190	233
Kerala	126	145	193	333	436	489
Madhya Pradesh	79	107	130	174	192	208
Maharashtra	101	131	150	229	255	278
Orissa	72	100	127	211	-	212
Punjab	184	227	287	408	626	689
Tamil Nadu	97	132	143	210	241	256
Uttar Pradesh	118	80	113	200	232	252
West Bengal	166	163	186	288	286	298

Notes: 1. Figures for 1950-51 are from Krishnaji (1971). The figures were taken from *Agricultural labour in India*, Report on the Second Enquiry.

2. The figures for 1956-57 to 1970-71 are from A.V. Jose [1974]. He estimated the wage rate figures from *Agricultural Wages in India* and data collected from Directorate of Economics and Statistics, Ministry of Agriculture, New Delhi.

3. The states of Punjab and Haryana are clubbed together.

TABLE 6: GROWTH RATE PER ANNUM OF AVERAGE PRODUCT OF LABOUR IN PRIMARY SECTOR (1961- 1981) AT 1970-71 PRICES

(per cent)	
State	Growth/decline rate
India	0.81
Andhra Pradesh	0.57
Gujarat	1.45
Karnataka	1.15
Kerala	-1.08
Maharashtra	0.76
Punjab & Haryana	2.84
Tamil Nadu	-1.17
West Bengal	-0.12

Note: Growth rates are point to point compound growth rates.

TABLE 7: MONEY WAGES OF MALE AGRICULTURAL LABOURERS

State	Average wage rate of male agricultural labourers (Rs. per day)	
	1956-57	1970-71
Kerala	1.10 (100)	4.25 (386)
Punjab	1.82 (100)	4.97 (273)
Haryana	-	4.46 (246)

Note: Figures in brackets are indices 1956-57=100.
Source: Taken from Pranab Bardhan [1973].

TABLE 8: ESTIMATED REMITTANCES FROM ABROAD TO KERALA, AS PERCENTAGE OF PER CAPITA SDP*

Year	3 year average	
1970-71	2.21	
1971-72	2.71	2.39
1972-73	2.25	
1973-74	2.21	
1974-75	2.69	3.24
1975-76	4.89	
1966-77	6.79	
1977-78	9.68	9.50
1978-79	12.04	
1979-80	14.29	
1980-81	27.67	22.62
1981-82	25.89	
1982-83	25.55	
1983-84	23.73	24.20
1984-85	23.33	

* Based on I.S. Gulati and A. Mody [1983].

TABLE 9: INDEX OF PER CAPITA SDP 1970-71 TO 1984-85

States	1970-71 to 1972-73	1973-74 to 1975-76	1975-76 to 1978-79	1979-80 to 1981-82	1982-83 to 1984-85
Andhra Pradesh	101.1	102.8	93.4	102.5	102.7
Bihar	70.1	71.4	85.5	67.6	71.4
Gujarat	130.8	126.5	141.4	148.4	147.8
Haryana	154.3	147.5	166.8	167.6	163.0
Karnataka	105.5	106.8	102.2	108.8	104.4
Kerala	100.0	100.0	100.0	100.0	100.0
Madhya Pradesh	86.2	88.1	81.9	81.7	86.9
Maharashtra	131.5	143.3	156.9	163.9	156.1
Orissa	82.6	80.0	75.9	82.0	84.8
Punjab	185.9	182.9	207.9	202.2	198.1
Rajasthan	100.5	98.9	102.4	89.8	101.8
Tamil Nadu	102.8	91.6	95.5	103.5	71.8
Uttar Pradesh	85.9	80.0	84.5	86.3	88.1
West Bengal	124.0	115.8	120.8	117.1	118.9
Kerala Per capita SDP + per capita remittance from abroad*	102.39	103.39	109.50	122.6	124.2

* As conservatively estimated following I.S. Gulati and A. Mody [1983]. See text for details.

TABLE 10: GROSS DOMESTIC CAPITAL FORMATION (GDCF) PRICES IN CONSTRUCTION IN THE HOUSEHOLD SECTOR

States	1960-61	1970-71
Andhra Pradesh	14.15	42.57
Assam	9.79	30.35
Bihar	8.09	19.54
Gujarat	13.72	37.64
Haryana	-	62.75
Jammu & Kashmir	32.86	79.87
Kerala	26.45	98.73
Madhya Pradesh	15.11	45.62
Maharashtra	15.07	45.05
Mysore	22.64	65.25
Orissa	7.52	18.87
Punjab	32.94	61.18
Rajasthan	19.05	54.33
Tamil Nadu	16.41	51.50
Uttar Pradesh	11.92	31.37
West Bengal	8.79	29.36
All India	14.00	41.70

Note: 1. Figures for GDCF in construction in household sector were taken from R.N. Lall and B.B. Mathur [1973].

2. Figures for population were taken from Census of India 1961 & 1971.

3. Per capita GDCF in construction in household sector was obtained by dividing GDCF in construction in the household sector in the region by the population of the region.

TABLE 11: IMPACT OF INDUSTRIAL DISPUTES AND THEIR DURATION IN CERTAIN STATES 1958-1984

Year	Andhra Pradesh	Gujarat	Karnataka	Kerala	Maharashtra	Tamil Nadu	West Bengal
1958-62	(1) 0.33	0.05*	0.45	2.07	0.42	0.62	1.00
	(2) 7.32	8.54*	4.48	14.74	5.14	7.40	17.35
1963-67	(1) 0.63	0.13	0.49	2.31	0.72	0.54	1.16
	(2) 10.47	10.14	7.07	14.63	6.99	9.83	20.03
1968-72	(1) 0.58	0.16	0.74	3.68	0.77	1.75	3.09
	(2) 10.67	7.02	13.67	15.57	7.84	15.78	22.56
1973-77	(1) 0.36	0.30	0.56	2.04	1.18	1.59	4.13
	(2) 8.06	17.56	14.93	19.15	11.95	14.72	31.96
1978-84	(1) 1.29	0.41	0.89	2.62	3.60	1.95	5.96
	(2) 10.49	16.92	23.77	36.10	66.67	23.83	48.99
1958-84	(1) 0.69	0.24**	0.65	2.55	1.49	1.34	3.28
	(2) 9.48	12.70**	13.60	21.23	23.19	15.02	29.72

Note: 1. Impact of disputes is measured as a ratio of mandays lost to mandays scheduled to work on account of industrial dispute (percentage).

2. Duration of dispute is measured as mandays lost per worker involved on account of disputes (number of days).

*. Average is for 1960-1962.

**. Average is for 1960-1984.

Source: Computed from *Indian Labour Year Book*, Ministry of Labour, various issues.

EMPLOYMENT OF WOMEN IN INDIA

Sarita Agrawal

Reduction in unemployment has been one of the principal objectives of economic planning in India. Based on Population Census data, this paper examines the trends in employment and more specifically trends in the employment of women in India. The analysis of the data shows that for the past few decades, employment has been gradually declining. In the case of women it has not only been declining, but has also been extremely low. This is also substantiated by the NSS data. The paper also examines the causes for this low and declining trend in women's labour force participation.

General Background

Progressive reduction of unemployment has been one of the principal objectives of economic planning in India. It has been envisaged that growth of the economy would not only increase production but also provide the capacity for absorbing the backlog of unemployment and underemployment and a substantial proportion of the additions in the labour force [GOI, 1985]. However, the available data from the Population Censuses reveal that the actual picture is different from the set goals. The ratio of the working force

to total population has been declining for the past few decades. The percentage of the work force to total population which was 46.44 per cent in 1901 declined to 39.09 per cent in 1951 and further to 33.45 per cent in 1981 (Table 1). However, there has been a marginal increase during 1991 to 37.64 per cent (provisional figures). Over the period 1901-1981, changes in the work force show a declining rate of 0.048 showing a decline of nearly 5 per cent per annum and during the period between 1911 and 1981, it shows a decline of 6 per cent per annum (Table 2).

TABLE 1. TRENDS IN WORKER-POPULATION RATIO (AS PERCENTAGE OF TOTAL POPULATION) 1901-1981

Year	Persons	MALES	Females
1901	46.44	60.81	31.74
1911	48.12	61.96	33.75
1921	46.86	60.44	32.63
1931	43.79	58.14	28.77
1951	39.09	53.93	23.43
1961	43.07	57.29	27.96
1971	33.06	52.61	12.06
1981	33.45	51.62	13.99

Sources: 1. *The Indian Working Force, Census of India, 1961, Vol. 1 of 1972, Monograph No 11*, J.N. Sinha, Government of India, New Delhi.

2. *Women in India, A Statistical Profile*, 1988, Department of Women and Child Welfare, Ministry of Human Resource Development, Government of India, New Delhi.

TABLE 2. ANNUAL GROWTH RATES: WORKING FORCE 1911-1981

Year	Persons	Males	Females
1911	-	-	-
1921	-0.003	-0.002	-0.004
1931	0.003	0.006	0.004
1951	0.015	0.020	0.004
1961	0.030	0.026	0.039
1971	-0.004	0.015	-0.062
1981	0.023	0.018	0.037

Basic Source: Various Census Reports, (Reproduced from *Women, Work and Industry: A Case Study of Surat Art Silk Industry*), Unpublished Ph.D thesis submitted to South Gujarat University, Surat, April 1992, by Sarita Agrawal.

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The work participation rate also shows a declining trend over the decades. During 1961 and 1971 the work participation rate declined from 42.97 per cent to 34.17 per cent. The decline in work participation rate during 1971 was due to a narrowly defined concept of work in the Census which has been discussed at length in the later part of the paper. However, it had increased to 37.55 per cent in 1981 and further to 37.68 per cent in 1991 (Table 3). Though it showed an

improvement over the previous decade, it is still lower compared to its previous level of 1961. Moreover, a sharp decline has been observed in the case of female workers. The Eighth Plan document had also noted that the trend of increase in the incidence of open unemployment was stronger in the case of women. According to the Census data, women's work participation rate declined to 19.67 per cent in 1981 compared to 27.93 per cent in 1961.

TABLE 3. WORK PARTICIPATION RATES AS PERCENTAGE OF POPULATION

Year	Persons	Males	Females
1961	42.97	57.16	27.93
1971	34.17	52.75	14.22
1981	37.55	52.62	19.67
1991*	37.68	51.56	22.73

* Provisional Figures

Sources: 1. *Census of India*, Government of India, 1961. 2. *Census of India* Provisional Population Tables, Paper 3 of 1991, Government of India, New Delhi.

However it increased to 22.73 per cent in 1991, while the same figures for the males were 52.62 per cent and 57.16 per cent, respectively and 51.56 per cent for 1991. The annual returns under the Factories Act, 1948 received by the Labour Bureau also show that the percentage share of women to total employment declined from 11.43 in 1951 to 10.65 in 1961. In 1981 it had further decreased to 9.34 [GOI, 1990]. As per the NSS data, the unemployment rate for females according to the criterion of usual principal status was 8.77 in urban areas in 1987-88 as compared to 6.90 per cent in 1983 (Table 4). The difference between the usual status and the daily status unemployment rates is much larger in the case of women than of men, implying that under-employment constitutes a much higher proportion of the overall unemployment in the case of women [GOI, 1992, Vol. II, p. 387]. The sex ratio per 1,000 male workers also shows a decline in the case of women (Table 5). The worker sex ratio of women per 1,000 men increased in 1911. Then it started declining and reached the lowest figure of 408 in 1951. In 1971 it had reached the lowest ever figure of 215 showing a declining rate of 3.12 per cent per annum. Also, women workers constitute a very low percentage of the total female population. As per the 1991 Census provisional figures of the total population, 34.12 per cent of

the workers are main workers and 3.52 per cent marginal workers. The sex-wise distribution of these figures shows that 50.54 per cent males are main workers and only 0.98 per cent are marginal workers while the same figures for females are 16.43 per cent and 6.26 per cent, respectively. In 1981, of 66.3 million working women, only 46 million were classified as main workers. Thus, of the total female work force, marginal workers were nearly 30 per cent while the corresponding figure for males was 3 per cent showing that women are being pushed out of the production process gradually. 'Historically, the process of industrialisation has transformed the structure of western economies through (a) changes in structure of GNP in favour of industrial output and (b) changes in structure of labour force in favour of industrial employment' [Mehta, 1979]. As for the changes in the structure of work force, the situation is contradictory in India. The total non-agricultural work force declined from 13.50 per cent in 1901 to 10.25 per cent in 1981 thereby showing a declining rate of 0.34 per cent per annum over the whole period between 1901 and 1981. The non-agricultural sector includes both the industry as well as the service sector. Though the share of non-agricultural labour force in the total labour force has been declining, it is more significant in the case of women. The percentage

of non-agricultural female workers with regard to total population declined from 8.26 per cent in 1901 to 1.26 per cent in 1981 thereby showing a decline of 20.95 per cent per decade and 2.32 per cent per annum during the same period (Table 6). The share of women's employment as percentage of female workers in the agricultural and allied activities increased from 67.01 per cent in 1901 to 82.13 per cent in 1961 and further to 84.08 per cent in 1981. On the contrary the non-agricultural employment declined from 22.89 per cent to

15.92 per cent during the period 1901 to 1981 (Table 7). This shows that employment in the non-agricultural sector has declined over the long term period. Not only has it been declining but also women's share in the non-agricultural activities has been extremely low. In 1901, for instance, women workers (as percentage of total population) in the total non-agricultural activities constituted 8.26 per cent of the total population which declined to 4.27 per cent in 1961 and further to 1.26 per cent in 1981.

TABLE 4. UNEMPLOYMENT RATES AS PER CENT OF LABOUR FORCE

	Urban					
	Males	Females	Persons	Males	Females	Persons
<i>Usual Principal Status</i>						
1972-73	-	-	-	-	-	-
1977-78	6.48	17.76	8.77	3.07	7.01	4.23
1983	5.86	6.90	6.04	3.02	2.14	2.77
1987-88	6.07	8.77	6.56	3.60	4.19	3.77
<i>Usual principal and subsidiary status</i>						
1972-73	4.79	6.05	5.03	1.90	1.02	1.61
1977-78	5.40	12.40	7.01	2.09	3.19	2.47
1983	5.08	4.85	5.02	2.28	1.16	1.90
1987-88	5.16	5.93	5.32	2.56	2.72	2.62
<i>Current Daily Status</i>						
1972-73	8.02	13.67	8.99	7.07	11.46	8.35
1977-78	9.40	14.55	10.34	7.59	9.86	8.18
1983	9.23	10.99	9.52	7.93	9.26	8.28
1987-88	8.79	12.00	9.36	5.54	7.61	6.09

Source: *Basic Statistics Relating to the Indian Economy*, Centre For Monitoring Indian Economy, Bombay, August 1993.

TABLE 5. WORKER SEX-RATIO OF WOMEN
(SEX-RATIO PER 1,000 MEN. 1901-1981)

Year	Women Workers
1901	501
1911	525
1921	516
1931	450
1951	408
1961	460
1971	215
1981	367

Source: *Facts About Indian Women: Employment*, 1987, Research Centre for Women's Studies, Documentation Centre, SNDT, Bombay.

TABLE 6. SECTORAL EMPLOYMENT OF FEMALES (TO FEMALE WORKERS) 1901-1981

Year	Agricultural and Allied Activities	Total Non-agricultural Workers	Mining and Manufacturing	Services	(per cent)
					Unspecified Workers
1901	67.01	22.89	11.27	11.62	10.10
1911	73.70	21.75	10.23	11.52	4.55
1921	74.63	20.01	8.93	11.08	5.41
1931	72.14	20.14	7.60	12.55	7.71
1951	78.45	16.80	7.87	8.92	4.75
1961	82.13	13.65	8.45	5.26	4.05
1971*	82.60	17.40	7.41	9.99	+
1981*	84.08	15.92	7.85	8.07	+

Notes: * Figures computed from *Census Reports* 1971 and 1981; + Categories not included.

Source: *The Indian Working Force, Census of India, 1961, Vol. 1 of 1972, Monograph No 11*, J.N. Sinha, Government of India, New Delhi.

TABLE 7. NON-AGRICULTURAL WORK FORCE AS PERCENTAGE OF TOTAL POPULATION (SEX-WISE) 1901-1981

Year	Persons	Males	Females
1901	13.50	18.61	8.26
1911	12.17	16.43	7.74
1921	11.37	15.50	7.04
1931	11.05	15.14	6.77
1951	9.93	15.41	4.15
1961	10.57	16.50	4.27
1971*	9.20	15.83	2.06
1981*	10.25	17.42	1.26

Note: * Figures computed from *Census reports* 1971 and 1981.

Source: *The Indian Working Force, Census of India, 1961, Vol. 1 of 1972, Monograph No 11*, J.N. Sinha, Government of India, New Delhi.

Within the industrial sector, the manufacturing sector accounts for a significant number of enterprises. (The definitions of the occupational categories in this paper are adopted from the Census.) It employed nearly 40 per cent of the total industrial labour force in 1961. But there has been very little increase in employment, despite the steady rise in industrial production. According to the NSS data the rate of growth of employment in the manufacturing sector during 1977-78 and 1983 was 2.1 per cent per annum, and only 1.77 per cent per annum during 1983 and 1987-88. During the whole period between 1977-78 and 1987-88 it was only 1.95 per cent (Table 8). It demonstrates that the 'displacement of human labour has been occurring with the rise in production along with a possible distortion in the production of wage goods' [Mitra, 1979]. Thus, 'a growing disenchantment is being witnessed

with the industrial sector for its failure to reenact for the developing countries, the historical role it performed for the developed countries' [Mehta, 1979].

The sex-wise distribution of labour force in the manufacturing sector shows that the percentage of women workers was only about 14.65 per cent while for the males it was 85.35 per cent in 1981 compared to the earlier periods. But this too has been steeping throughout the period.

As for the organised sector, it has been growing at a declining rate over the last few decades. (The organised sector includes all those units that employ 10 or more workers with power and 25 or more without power.) For instance, during 1977-78 and 1983 the rate of growth of employment was 2.10 per cent but it declined to 1.77 per cent during 1983 and 1987-88 (Table 9). The organised manufacturing sector witnessed a

decline in the employment during 1983-88 by 0.09 per cent per annum. In the private sector it was more prominent being 0.43 per cent and whatever employment generation took place was mainly in the public sector. The proportion of women employed in the organised sector formed only 6 per cent of the total women workers

according to 1971 Census data of which 2.7 per cent were in the industry and 3.3 per cent in the tertiary sector. This too has been declining over the decades. Only 4.59 per cent of the women workers were in the organised sector and the rest in unorganised sector as of 1981.

TABLE 8. GROWTH RATE IN THE ORGANISED MANUFACTURING SECTOR

(per cent per annum)

Years	Total	Public Sector	Private Sector
1978-83	2.07	2.99	1.41
1983-88	-0.09	2.17	-0.43
1978-88	0.99	2.58	0.48

GROWTH RATE OF EMPLOYMENT BY USUAL PRINCIPAL STATUS

(compound annual growth rate in per cent)

1977-78 to 1983	2.10
1983 to 1987-88	1.77
1977-78 to 1987-88	1.95

Source: *Eighth Five Year Plan*, Planning Commission, Vol. I, 1992, Government of India, New Delhi.

TABLE 9. GROWTH OF EMPLOYMENT IN THE ORGANISED SECTOR
ANNUAL RATES OF GROWTH

(per cent per annum)

Years	Urban			Total		
	Males	Females	Persons	Males	Females	Persons
1977-78 to 1983	4.23	4.18	4.22	2.11	2.06	2.10
1983 to 1987-88	2.97	2.95	2.96	1.80	1.71	1.77
1977-78 to 1987-88	3.66	3.62	3.66	1.97	1.90	1.95

Source: *Eighth Five Year Plan*, Planning Commission, Vol. 1, 1992, Government of India, New Delhi.

Women and Industrialisation

The causes for this grave situation, though widespread, are not difficult to locate. An explanation put forth for this is the pattern of industrialisation in the country. In the post-Independence period, with rapid increase in modern and organised sector of industry, the share of household industries declined rapidly. Since they constituted the biggest source of women's employment outside agriculture, women were the main victims of this process of economic transformation [GOI, 1974, Pp. 148-233].

The decline in women's employment was also a part of the general process of loss of industrial employment that affected the entire Indian population. The once flourishing cottage industries in India suffered a severe setback through the loss of both foreign and domestic markets because of

stiff competition from British manufactured goods during the nineteenth and early twentieth centuries. The process was further accelerated by the competition from goods manufactured in Indian factories. The traditional textile industry where women worked, was almost entirely wiped out by competition from imported and mill made yarn [Banerjee, 1985] (Consequent upon the dynamics of economic transition as it may be called). Even after Independence, government's approach for women's development has been insignificant. Government programmes designed for women have not been proportionate either to their needs or their numbers. 'Though the Fifth Plan supported economic development, employment and training as the principal focus for women's socio-economic development, the main approach in these plans was generally to view women as the beneficiaries of social security

rather than as contributors to development' [GOI, 1992]. As far as women workers (emphasis added) are concerned, there has been no thrust to improve their lot by concerted effort [GOI, 1988].

Besides, women are concentrated only in a few industries, the so called 'female industries'. In almost all sections of the economy, only particular jobs are accessible to women. By and large, women and men are employed in varied occupations and therefore are not in competition with each other in the labour market. The division or segmentation of the labour force into a number of non-competing groups based on skill and experience is a stubborn phenomenon [OECD, 1980]. For instance, women tend to concentrate in cotton textiles, food processing and tobacco industries in India. The manufacture of *bidis* and matches is the most important example of traditional industries in which a large number of women are employed. In tea plantations, females constituted 47 per cent of the labour force in 1971 [GOI, 1974]. This has brought a concentration of women in low skilled jobs keeping their wages low. It hinders their mobility and makes them prone to long periods of unemployment in times of economic and technological restructuring.

Technological Progress

While technological progress over the years has widened women's employment opportunities in the modern sector, it has displaced them into low skilled and low status occupations [OECD, 1980]. This situation combined with high rates of unemployment may cause serious setback to the emancipation of women through work [ILO, 1978].

Though conventional Western technological change (or the modern technology as is usually referred to) in the production process can have positive as well as negative consequences for women, 'industries which have adopted a high capital intensive technology resulting in displacement of labour have found it easier to displace women rather than men' [GOI, 1974]. This

has been justified on the ground that women lack the required skills and training and are illiterate and unwilling to learn new processes.

Organised vs. Unorganised Sector

The opportunities of employment for women in the organised sector have been very low and also constantly decreasing. It was found by the National Committee setup by Government to study the status of women in India in 1974 that 94 per cent of the total women workers were engaged in the unorganised sector and only 6 per cent were working in the organised sector in 1971. According to the 1981 Census, only 4.59 per cent of women workers were in the organised sector.

This overwhelming proportion of working population engaged in the unorganised sector is characterised by a high incidence of casual labour mostly doing intermittent jobs at extremely low wages. There is a total lack of job security and social security benefits. The areas of exploitation are high, resulting from long hours, unsatisfactory work conditions and occupational health hazards [Banerjee, 1985]. Usually jobs in the unorganised sector are said to be unskilled jobs. A common explanation for the enormous increase in the number of women in this sector is the so called deskilling argument. (The term deskilling refers to the declining skill level of all jobs on an average which flows from the rising share of unskilled jobs. The argument was originally formulated by Braverman. [Braverman H, 1974]. It is alleged that technical change in industrial production tends to generate more and more narrowly specified, repetitive dead-end-jobs on the one hand, and a diminishing number of supervisory and marginal jobs on the other [Afshar, 1985]. The composition of jobs is thus affected, which has a double advantage for the employers. The relative increase in the number of unskilled, low paid jobs can reduce the total wage bill; it can also allow employers to have greater control over the production process [Afshar, 1985].

This has two serious problems of social justice. Firstly, an increasingly large proportion of the population is being forced to live at the margin of survival and secondly, given the availability of such cheap labour in the unorganised sector,

employers are likely to divert more and more activities to this sector. 'This would mean that the working class as a whole will in future receive an ever declining share in the products of development' [Banerjee, 1985].

National Statistics and Women's Work

For the framing of development policies, national level statistics is the principal data input, but this is severely impaired by the undercounting of women both as workers and as those available for work [Krishna Raj, 1990]. Activities typically performed by women are systematically excluded from labour force and national income statistics. This under-enumeration of women in society is a reflection of the subordination and under-evaluation of women and their work in society.

Social perceptions in many economies tend to disregard the work of women and such a bias tends to influence the ways in which statistical information on women's activities is collected. The conceptual framework of the existing data systems even in India is not value-neutral. It reflects the biases of the existing patriarchal society. Neither the Census nor the NSS estimates women's work thoroughly. It is a fact that the Census basically measures the level of employment of men and tends to ignore the roles of women as housewives and as gainful workers [GOI, 1974, Pp. 148-233]. 'The economic question in the Indian Census adopts definition of work more suitable to advanced industrial economies where work for wages (i.e. market-oriented work) is typically the norm. This is inappropriate for economies like India, and the third world in general, where there is a large non-monetised, non-market production of a subsistence nature' [Krishna Raj, 1990, Pp. 2,663-2,672]. As many of the women are unpaid family workers engaged in unpaid work on family farms and family enterprises, exclusion of the secondary activity from the definition of worker affects the recording of female employment adversely [GOI, 1989]. Moreover, the definition of work has been changing over the decades. Prior to 1961, the dependency approach had been adopted while in 1961 and onwards, work approach has been adopted. Since non-earning

dependents, a category in the Census between 1911 and 1951 was included, women and children who take part in the cultivation of land as unpaid family helpers were ignored and thus, women were undercounted to the extent of 24.5 per cent as in 1951. Though there was some degree of under counting even in the case of males, it was 11.2 per cent for the same year.

In addition to various types of subsistence work, women also participate in all kinds of family enterprises, be they farms, family household industry, fishing, shops or any other commercial establishments; they are unpaid family workers. 'They often get excluded or undercounted by definition or conceptual biases on the part of enumerators' [Krishna Raj, 1990, Pp. 2,663-2,672]. The Committee of Experts on Unemployment estimated that the unpaid family workers were undercounted. For females, the estimates were 98.83 million including unpaid family labour while excluding the unpaid family labour, the figure was 57.96 million i.e., the undercount was to the extent of 40.87 million. [GOI, 1970] The Committee had also estimated sexwise labour force participation rate including and excluding unpaid family work for the 1961 Census year. Accordingly, it was found that there were significant variations in women's labour force participation rate if unpaid family workers were included. Excluding unpaid family workers this rate was 16.39 per cent while it was 27.77 per cent if unpaid family were included. While in the case of male workers these variations were not very high being 49.22 per cent and 57.32 per cent respectively.

Because of the difference in the definition of work in the Census of 1961 and 1971, those who are marginally employed were included as workers in 1961 while in the 1971 Census they were not. The main workers and the marginal workers having a secondary economic activity under the residual category 'other' of the 1971 Census conceptually equate to the workers of the 1961 Census. The 1971 Census registered a sharp decline in the number of female workers as well as in the work participation rate as compared to the 1961 Census. 'The coverage of the secondary activity of the population in the 1971 Census was perhaps partial and incomplete. A substantial

portion of the marginal workers particularly the housewives in rural areas perhaps failed to register themselves as marginal workers in the 1971 Census and were treated as non-workers' [GOI, 1974, Pp. 148-233].

Thus to overcome this problem in the 1971 Census, the office of the Registrar General undertook a sample based re-survey with a view to find out an adjustment factor by which the 1961 and 1971 Census could be made comparable. The results of this re-survey revealed that by adjusting 1971 figures, the work force would increase by 8.32 million only. But these figures are found to be intriguing in regard to direction and magnitude [GOI, 1978]. This concept of work used in the 1971 Census had substantially reduced the work participation rate of women. However in the 1991 Census women's unpaid work on family farm and family enterprise has been added to the schedule and being considered as work. But this is just one drop in the ocean.

The investigation done by the National Committee on the Status of Women shows that Census categories are not really useful for any proper assessment of the nature and extent of women's participation in our economy [GOI, 1974, Pp. 148-233]. The NSS is not free from the bias either. The sample selection itself predetermines the scope. There is a serious problem of perception [GOI, 1989].

Under-enumeration of women is also attributed to the prejudices of the respondents and enumerators. Sociological and cultural biases of the heads of households, both when they are males or females, prompt them to under report economic activities of the females. Such an attitude is attributed to the existence of a patriarchal society [Shah, 1990].

The manner in which women's productivity is interpreted is also responsible for under-enumeration of the female work force participation. In quantifying labour days of employment, female and child labour is often converted into equivalent adult mandays, though the convert factors vary from source to source and region to region [GOI, 1989].

The Socio-Cultural Milieu and Women's Work

'In every society, the mass of women have

always made a significant contribution to the social product which enables the society to life and growth..... Their labour contributes a substantial part of the wealth that is produced in every society' [Asaf Ali, 1975]. Although women have been contributing fully to the economic life of the community in every sphere, the full significance of their contribution has hardly ever been recognised or rewarded adequately. Women's place and work has generally been considered to be in the home, their sphere of activity - domestic work and bringing up the family. Even when they have worked outside the home in most cases, their role has been considered as that of helpers. Even where they participate in economic activity and contribute to the family's earning, they are expected to be home makers, too [Asaf Ali, 1975]. 'Domestic ideology, rooted in anxieties about a perceived threat to family life and to the whole social order, influenced the definition of women's work, so that it got associated with low paid, low status activities in certain restricted categories of labour acceptable only as long as it was secondary to domestic duties' [Lown, 1990].

Moreover, domestic work is almost universally considered to be the domain of women; and household incomes, largely a function of male earnings. In a society where a woman's confinement to the home is a status symbol, a higher female labour force is associated with poverty and the need to supplement male income. Women do not seek work as a matter of right or individuality. 'The internalization of these cultural values is so strong that both the genders do not see any discrimination in it and work as if they are naturally carved out for such type of differentiation in work and thereby wages' [Shah, 1990]. But this gives rise to imperfections in the labour market, so that the supply of female labour and the demand for it are regulated by society's view and not by a free play of market forces [Nayyar and Sen, 1987].

Besides, perceptions regarding women's household work is equally important. These activities have been viewed in many contradictory ways in assessing production and technology. It is not denied that the sustenance, survival and reproduction of workers are essential for the workers being available for work in the labour

market. On the one hand, the activities that produce or support this are not regarded as contributing to production and are often viewed as unproductive work; on the other, it is equally true that the real income of the household depends on the totality of various activities - getting money incomes, purchasing or directly producing consumable food out of food materials and so on [Sen, 1990].

There has been a good deal of interest in the problem of valuation of this work (the so called unproductive work) and reflecting it in the estimates of National Income and National Consumption. There is also the related issue of properly valuing the women's work, [Jain and Banerjee, 1985]. The economic nature of the household or non productive work becomes more evident when it is or it can be replaced by goods and services that have an economic value. Indeed, part of the post war growth of the service sector particularly in the industrialised nations can be explained by the fact that some activities traditionally carried out exclusively within the household are now also performed by the market sector.

The thirteenth International Conference of Labour Statisticians held by the ILO in 1982 adopted a new definition of the economically active population, based on the UN System of National Accounts in which the production of economic goods and services included the production of processing of all the primary products whether for the market or for self consumption. Subsistence workers and unpaid family workers are considered to be in self-employment but household duties are not considered to be an economic activity. The new definition of economic activity should in future substantially improve the recording of women's work [ILO, 1982].

Government Laws and Women's Employment

The declining trend of women's employment in industries is generally attributed to the adverse effects of protective labour laws for women and the policy of equalising wages.

When the legislative attempts to regulate relations between employers and labour in private

industries began in India, women constituted a sizable proportion of workers in the industry. Jute, textiles, mines and plantations were the predominant industries in which substantial number of women were employed. The conditions of women workers therefore, called for a special attention. Though several legislations were enacted in this direction, two important legislations which directly affected the wages and employment of women were the Minimum Wages Act, 1948 and the Equal Remuneration Act, 1976.

In 1948, Government of India issued an Industrial Policy Resolution which, among other matters, emphasised the need to fix statutory minimum wages in sweated industries and promote fair wages in the organised sector. The Minimum Wages Act was enacted to fix a minimum limit on wages and some control on working conditions of labour in these occupations. The objects of fixing minimum wages were: 1. to eliminate the sweating of labour through very low wages and bad conditions of employment prevailing generally; 2. to eliminate an unfair competition. There is a strong support for this view that while producers should be free to compete in matters of price, quality and product, etc., such a competition should not involve unfair labour standards whether in absolute sense or in a relative sense; and 3. while serving as an instrument to improve the condition for low paid workers, minimum wages should also be used as an instrument of the general policy of rapid economic growth and equitable income distribution.

During 1948, the Fair Wages Committee was set up by Government of India to determine the principle on which fair wages be based and suggest the lines on which these principles should be applied. Besides laying down the criteria for it, the Committee recommended three wage concepts, viz, living wage, minimum wage, and the fair wage. The living wage provided for a bare physical sustenance and maintenance of health and decency - a measure of frugal comfort and some insurance against the more important misfortunes. Besides bare sustenance, the minimum wage provided for the preservation of the efficiency of worker by providing some measure

of education, medical requirements and amenities. The fair wage had the minimum wage as its lower limit, the upper limit was set by the capacity to pay of the industry concerned.

Considerable debate has centred around the necessity to define 'needs of the workers', whether it be to fix the living wage, fair wage or minimum wage and it is this aspect which has an important implication for working women.

The first issue pertaining to this is the number of earners per family and the other is the question of supplementary earnings. The Textile Labour Enquiry Committee set up in 1941 by Government of Bombay arrived at the notion of the 'standard of responsibilities' for the calculation of a woman's wage. A woman's wage was defined in a different manner from that of an adult male. The Committee was of the opinion that an independent standard should be fixed for the wages of a woman worker.

The Committee on Fair Wages, 1954 relying heavily on the arguments put forward by the Textile Labour Enquiry Committee stated that if minimum wages and consequently fair wages, are to be calculated on the basis of the requirements of the workers and his/her family then in the case of a woman worker there is every justification for rating the standard family at a lower number of consumption units than in the case of a man. She would not be expected to support at any rate her husband, even though she may have other dependents. Accordingly, the wages of a woman worker would be based on one consumption unit if those of a male worker are calculated on the basis of two. It is not only assumed here that a woman has lesser requirements and responsibilities but also that a woman's efficiency can at the most equal a man's but never surpass it [Swaminathan, 1987, Pp. WS 34-WS 39].

In 1976 the Government passed the Equal Remuneration Act, to give equality to women workers. Indeed, it is impossible for most women to acquire equal pay even within the limited terms of the Act. In a majority of cases, women's work is in a small range of jobs at the lower end of the job market where there is no male counterpart with whom they can claim equality of work

[Swaminathan, 1987, Pp. WS 34-WS 39].

Thus, Government legislations have not helped to improve women's employment situation.

Concluding Remarks

The full benefits of development can only be realised with people's participation and effective use of its human resources. Development analysis cannot be divorced from gender categories and the economic role of women cannot be isolated from the total framework of development. The ultimate goal of social justice can only be achieved with equal opportunities to all irrespective of the gender since discrimination against women is incompatible with human dignity and the welfare of the family and of the society; prevents their participation on equal terms with men..... and is an obstacle to the full development of the potentialities of women in the service of their countries and humanity [UN, 1967, p. 148].

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IMPACT OF DIVERSIFICATION OF COMPOSITION OF EXPORTS: AN ANALYSIS OF THE LINKAGES OF INDIAN EXPORTS

Dhanmanjiri Sathe

Most of the developing countries have followed a path of diversification of the composition of exports in the post-war period. The purpose of this paper is to examine the impact of diversification of the composition of exports on the Indian economy for the period 1951-52 to 1983-84. To this end, the import, income and input effects of exports have been measured in an input-output framework. The results show that the import intensity of exports has doubled, the income intensity almost halved and the input intensity has not shown any marked increase, for the period considered. The reason for this can be traced to a shift in favour of non-traditional exports. Certain sectors of exports have been identified which would benefit the domestic economy the most.

1. Introduction

One of the important features distinguishing the developed from a developing economy is supposed to be that the former's exports are of manufactured goods, while the latter relies heavily on the exports of traditional, agriculture-based exports. However, in the post-war period, most of the developing countries have faced a marked change in their composition of exports. Thus, it is a well-known trend that the developing countries have diversified in favour of non-traditional exports.

The theoretical underpinning for 'export-pessimism' (where exports were traditional in nature) and the consequent need for diversification was provided by Prebisch [1959, Pp. 435-453] in the context of the deteriorating terms of trade and by Nurske [1953] by arguing that the traditional exports of the developing countries face inelastic demand. Besides the structuralist arguments, Keynesian argument in favour of diversification was given by Schydowsky [1963, Pp. 247-285], when he argued that the higher manufactured goods exports could solve Argentina's unemployment and excess capacity problems. With this background, the policies in most of the developing countries were formulated in such a manner that there was a bias in favour of the non-traditional exports. More specifically, with respect to the Indian economy, the diversification of exports has been one of the major policy parameters since the early sixties.

The impact of diversification of the composition of exports on the various aspects of the Indian economy is examined here. To this end, a static,

input-output framework has been used for the period from 1951-52 to 1983-84.

Exports affect the economy in the following manner: (a) Exports generate direct and indirect input demands in the economy, i.e., the input effect of exports; (b) Exports generate income, i.e., the income effect of exports; (c) Exports generate direct and indirect demands for imported inputs, i.e., the import effect of exports; and (d) Exports make imports possible and consequently affect the consumption and output in the economy.

The first three effects are examined from the point of view of the diversification of exports achieved in the Indian economy. Section 2 explains the data base of the study and section 3 discusses the rationale and the extent of diversification in the Indian economy. In section 4 we explain the methodology applied and section 5 presents the results for the Indian economy. Section 6 gives the summary of the results.

2. Data

In this study we have used six input-output tables for the years 1951-52 [Indian Statistical Institute, 1960], 1959 [Planning Commission, 1967], 1968-69, 1973-74, 1978-79 and 1983-84 [Central Statistical Organization, 1981, 1989 and 1990, respectively]. The tables have been used at current prices, with eighteen sector classification scheme. Since the tables were generated by different agencies using different sector schemes, certain adjustments had to be made to make them as comparable as possible.

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3. *The Rationale and the Extent of Diversification of Exports*

The rationale behind the diversification of exports can be explained as follows. In India, the foreign trade policy was largely determined by the overall developmental priorities. As is well-known, attainment of 'self-reliance' was the avowed objective of the planning process. Thus, the Second Five Year Plan, 1956-61, which gave central place to industrialisation, focused on setting up of capital goods industries. Growth via investment in capital goods sector was promoted, while 'trade' as a source of growth was ignored. A projection of balance of trade was attempted in the Second Five Year Plan but it was concluded that no significant increase in export earnings could be expected in the short run [Planning Commission, 1956, Pp. 97-99]. Moreover, it was mentioned that 'it is only after industrialisation has proceeded some way that increased production will be reflected in larger export earnings' [Planning Commission, 1956, p. 99]. It was believed that as industrialisation progressed, there would be a change in the pattern and increase in the volume of production, and that would lead to an expansion of exports. Thus, diversification in the industrial structure was to lead to diversification of exports. At the same time, as far as exports of traditional goods were concerned, it was believed that demand for the traditional exports of India would remain stagnant. Moreover, the prices of traditional exports were expected to be fluctuating in nature, and they were showing a declining trend in the fifties. Then, certain traditional exports like jute products started facing competition from substitutes. 'Thus it was believed that significant increase in the Indian export earnings could be achieved only through the diversification of the composition and direction of exports' [Planning Commission, 1956, Pp. 98-99]. It was stated that 'There was more than "elasticity pessimism" that was at issue as the basic argument ran in terms of "ability to transform", although "elasticity pessimism" doubtless helped to buttress the argument' [Chakravarty, 1987, p. 69]. As a consequence of this perception, although the diversification of composition of exports was sought in the mid-fifties, the process got a substantial thrust only in

the early sixties. Since then, encouraging non-traditional exports has been high on the policy agenda. 'Export promotion efforts were almost exclusively concentrated on non-traditional exports of manufactures, while most traditional exports were neglected. Very little was done to prevent or slow-down the decline in India's relative share of the world market for its major traditional exports. In fact, the combination of trade policies actually employed added up to a positive discrimination against them' [Nayyar, 1976, p. 344].

As expected in a developing country, the composition of Indian exports was skewed in favour of certain traditional goods like tea, jute manufactures and cotton textiles in the early fifties. It can be observed from Table 1, that 'Agriculture' (Sector 1), 'Food, Drinks and Beverages' (Sector 4) and 'Textiles' (Sector 5) accounted for around 86 per cent of the total exports in 1951-52. The aim of diversification of composition of exports, was achieved to a certain extent over the decades. In 1983-84, the share of the above-mentioned three traditional commodities came down to around 35 per cent. The Table also depicts the rising importance of certain non-traditional items. They are 'Metallic products and Machinery' (Sector 13), 'Non-metallic minerals'¹ (Sector 8), along with 'Other Transport' (Sector 17) and 'Other Industries' (Sector 18). Their combined share in total output was 1.2 per cent in 1951-52, which rose to around 37 per cent in 1983-84. -It needs to be pointed out that the year 1983-84 is peculiar because for this year the exports of 'Other Mining' (Sector 3) are quite substantial. This sector includes 'Crude Petroleum' and exports in this sector were being made only around this time because India was developing its capacity in refining. By 1986-87, these exports were discontinued. - Thus, the composition of exports has indeed changed for the period under consideration.

4. *Methodology*

For the sake of convenience of exposition, the order of effects of exports mentioned above is reversed and the import effects of exports are treated first..

TABLE 1. INDIA'S EXPORTS

(Rs lakh)

Sector	Year					
	1951-52	1959	1968-69	1973-74	1978-79	1983-84
1. Agriculture	10,414 (16.14)	20,770 (38.99)	21,887 (17.22)	29,773 (13.12)	55,234 (9.60)	128,469 (11.66)
2. Coke and Coal	508 (0.78)	240 (0.45)	145 (0.11)	154 (0.06)	284 (0.04)	116 (0.01)
3. Other Mining	3,228 (5.00)	2,180 (4.00)	2,454 (1.93)	5,306 (2.33)	11,750 (2.04)	137,087 (12.44)
4. Food, Drink, and Beverages	10,873 (16.86)	1,770 (3.3)	17,336 (13.64)	48,530 (21.38)	86,565 (15.04)	100,686 (9.13)
5. Textiles	34,066 (52.8)	16,830 (31.69)	31,015 (24.4)	54,599 (24.05)	105,466 (18.33)	156,301 (14.18)
6. Paper and Printing	92 (0.14)	60 (0.11)	515 (0.44)	744 (0.32)	5,532 (0.96)	9,633 (0.87)
7. Leather and Rubber	1,790 (2.7)	2,780 (5.21)	7,031 (5.55)	15,566 (6.85)	33,962 (5.90)	47,128 (4.27)
8. Non-metallic Minerals	68 (0.11)	390 (0.73)	602 (0.47)	2,616 (1.15)	69,921 (12.15)	118,226 (10.72)
9. Chemicals and Petroleum	870 (1.34)	540 (1.00)	4,047 (3.18)	8,796 (3.87)	20,882 (3.63)	79,135 (7.18)
10. Cement	50 (0)	0 (0)	178 (0.14)	194 (0.08)	140 (0.02)	76 (0.006)
11. Iron and Steel	79 (0.12)	450 (0.84)	7,102 (5.58)	5,362 (2.36)	25,597 (4.27)	8,916 (0.80)
12. Non-ferrous Metals	97 (0.15)	10 (0)	1,028 (0.80)	1,357 (0.59)	9,974 (1.73)	2,100 (0.19)
13. Metallic Products and Machinery	248 (0.38)	290 (0.54)	5,278 (4.15)	12,847 (5.66)	60,943 (10.59)	96,595 (8.76)
14. Construction	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
15. Electricity	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	289 (0.02)
16. Railway Transport	986 (1.52)	3,580 (6.7)	3,680 (2.89)	5,500 (2.42)	10,501 (1.82)	16,784 (1.52)
17. Other Transport	797 (1.2)	2,410 (4.25)	14,323 (11.27)	21,315 (9.39)	44,447 (7.72)	88,508 (8.03)
18. Other Industries	324 (0.50)	970 (1.82)	10,443 (8.21)	14,297 (6.29)	35,018 (6.08)	111,706 (10.13)
Total	64,487 (100)	53,270 (100)	127,064 (100)	226,961 (100)	575,225 (100)	1,101,755 (100)

Figures in brackets indicate the share in total exports.

Source: Based on corresponding Input-Output Tables.

Import Effect of Exports

Exports lead to import demands because they require certain inputs which are not available domestically.

The basic input-output equation is given by

$$X = (I-A)^{-1} (F+E-M)$$

where X is the total output, F is the final demand,

E is the export and M is the import. $(I-A)^{-1}$ is the Leontief inverse.

The total (direct plus indirect) import linkages are captured by

$$[(I-A)^{-1} - (I-A_d)^{-1}] = [TIL_{ij}], \text{ where}$$

the first term on the LHS (i.e. the potential link-

ages) captures the direct and indirect input requirement of any exogenous change in the final demand or exports. The second term on the LHS (i.e. the actual linkages) captures the direct and indirect input requirement which is domestically supplied, of any exogenous change in the final demand or exports, $(I-A_d)$ being the domestic Leontief inverse. Riedel argues that Total BL given by $(I-A)^{-1}$ is mis-specified because 'This index is in this sense an indicator of potential (backward) linkage of a given sector' [Riedel, 1976, p. 319]. These would be actual linkages if all the inputs are produced domestically. The difference between the two is the total import linkages matrix given by $[TIL_{ij}]$. The i, j^{th} element of the RHS matrix shows the total (direct plus indirect) imported input demand made on i^{th} sector by the j^{th} sector, if unit one currency worth of final demand or exports is to be satisfied in sector j . [Bulmer-Thomas, 1978, p. 79].

The total import linkages are then weighted by exports, i.e., $[IE_j] = [TIL_{ij}] [\hat{E}_j]$, where $[\hat{E}_j]$ stands for the diagonal matrix of exports. $[IE_j]$ gives the direct and indirect imported input requirement of output of sector i 's exports (i.e. the import content of i^{th} sector's exports). The import intensity of exports can be defined as

$$\frac{\sum_i [IE_j]}{\sum_i [\hat{E}_j]} \times 100$$

for a particular year. The import intensity shows the imports that would be required directly and indirectly to make the production possible, if Rs 100 worth of exports, with a composition identical to that of the original vector for that particular year, were to be made.

Input Effect of Exports

When a bill of final demand or exports is to be produced, certain direct and indirect input demands are made in the economy. The domestic direct and indirect inputs requirements are captured by $(I-A_d)^{-1}$. When this matrix is weighted by the export vector, we arrive at the direct and indirect input demands generated by the exports,

i.e., the output generated due to the total backward linkages of exports. This as percentage share of total output gives us the input effect of the export vector on the total output. That is, it tells us the direct and indirect input demands made by exports, per Rs. 100 of total output.

Income Effect of Exports

When a country exports certain commodities, it not only needs material inputs for the production process it also requires labour inputs which are paid and hence income is generated. The income linkages of the Indian economy have been estimated by semi-closing the Leontief system. This entails extending the 'A' matrix by endogenizing the value-added row and the private consumption column. The extended 'A' matrix has been inverted giving us the income linkages at sectoral level [Miyazawa, 1976, Ghosh and Sen Gupta, 1984 and Kundu *et al.*, 1976]. This has been weighted by the export vector as above to arrive at the income linkages of exports.

In the following we are concerned with the linkage magnitudes of the traditional exports as against the non-traditional exports. To assess whether a particular linkage coefficient is high or low the following method has been used. We have found the average of the linkage coefficients over the sectors. If a sectoral coefficient falls above this average then it is called 'high' and vice versa.

5. Results

Import Effect of Exports

In Table 2 we have presented the total import linkages at sectoral level. The table shows that if the economy wants to export (or consume) unit worth of agricultural goods, then it needed to import around 0.02 unit currency worth of inputs, directly and indirectly in 1951-52.

It can be noted from the table that the potential linkages of the Indian economy have been rising for the period under consideration. Similarly the actual linkages have also been rising. However, the sum of the Total Import Linkages seems to have undergone a downward cycle. While in 1951-52 the same was 2.11, it decreased to 1.65 in 1968-69 and has been rising in the later years. A higher Sum of the Total Import Linkages

signifies an increased dependence on imports.

Examining the sectoral total import linkages from the point of view of policy pursued with respect to the diversification we get certain important results. As is expected, the import linkages of the traditional exports² have been

quite low. Though, between 1951-52 and 1983-84 the import linkages of each one of them have increased, still they continue to be low. Thus, these sectors do not create high import demands per unit currency of exports.

TABLE 2. TOTAL IMPORT LINKAGES

Sector	1951-52	1959	1968-69	1973-74	1978-79	1983-84
1. Agriculture	0.0280	0.0218	0.0120	0.0189	0.0202	0.0380
2. Coke and Coal	0.0343	0.0611	0.0052	0.0319	0.0711	0.0756
3. Other Mining	0.1073	0.1823	0.0435	0.0309	0.0273	0.0283
4. Food, Drinks, and Beverages	0.0706	0.0477	0.0561	0.0457	0.0814	0.0849
5. Textiles	0.0647	0.0908	0.0478	0.0558	0.0937	0.0808
6. Paper and Printing	0.1846	0.1457	0.0760	0.0799	0.1425	0.1768
7. Leather and Rubber	0.1027	0.0945	0.1037	0.0958	0.1192	0.1249
8. Non-metallic Minerals	0.0214	0.0457	0.0282	0.0505	0.0603	0.1176
9. Chemicals and Petroleum	0.1759	0.2108	0.1503	0.2634	0.3015	0.3148
10. Cement	0.1381	0.0294	0.1311	0.1274	0.1355	0.1175
11. Iron and Steel	0.1824	0.1015	0.1386	0.2048	0.223	0.2663
12. Non-ferrous Metals	0.2803	0.521	0.2516	0.2770	0.2395	0.2918
13. Metallic Products and Machinery	0.1230	0.1776	0.2173	0.1771	0.1815	0.2074
14. Construction	0.1053	0.0769	0.0534	0.0905	0.1402	0.1792
15. Electricity	0.0820	0.0273	0.0275	0.0463	0.0416	0.0798
16. Railway Transport	0.0504	0.0525	0.0788	0.0741	0.1503	0.1814
17. Other Transport	0.2102	0.1568	0.0904	0.0746	0.001	0.1418
18. Other Industries	0.1528	0.1824	0.1375	0.1241	0.2513	0.1952
Sum of the Total Import Linkages	2.11	2.23	1.65	1.87	2.40	2.71
(I-A) ⁻¹ Potential Linkages	28.30	28.31	29.77	30.40	31.75	33.24
(I-A _d) ⁻¹ Actual Linkages	26.19	25.98	28.18	28.54	29.35	30.53

As against this, the non-traditional exports³, which have enjoyed a significant expansion over the period, show the following picture. In case of 'Non-metallic Minerals' (Sector 8), we find that the import linkages have increased over the period, but the magnitude continues to be low all through the period. Similarly the import linkages of 'Other Transport' (Sector 17) have also been low since 1959. As against this, the import linkages of 'Metallic Products and Machinery' (Sector 13) and 'Other Industries' (Sector 18) have been very high for the entire period.

Import Intensity of Exports

An inevitable consequence of increase in the exports of non-traditional goods with high import linkages can be perceived from the import intensity of exports presented in Table 3. The import intensity shows that if Rs 100 worth of

exports, with a composition identical to that of the original export vector for that particular year were to be made, then how much imports would be required directly and indirectly. It can be seen from Table 3 that the import intensity of exports has been rising continuously for the period considered and it has doubled between 1951-52 to 1983-84 from Rs. 6.71 to Rs. 12.45 for Rs. 100 worth of exports.

TABLE 3. IMPORT INTENSITY OF EXPORTS

Year	Import Intensity of Exports
1951-52	6.71
1959	7.00
1968-69	7.72
1973-74	7.75
1978-79	11.90
1983-84	12.45

As the basic structure of exports changes, as it has done in the case of the Indian economy, it is

expected that the inter-industry use of exports would also change. But to the extent the inter-industry use of imports also rises, it acts as a limitation. Under the conditions of export-stagnation if import intensity rises, then it needs to be viewed with concern.

Input Effect of Exports

The direct and indirect input demands generated towards the domestic economy by the sectors have been shown in Table 4. It can be observed that, over the period, most of the total backward linkages have got strengthened.

TABLE 4. SECTOR TOTAL (DIRECT PLUS INDIRECT) BACKWARD LINKAGES
(BASED ON DOMESTIC MATRIX)

Sector	1951-52	1959	1968-69	1973-74	1978-79	1983-84
1. Agriculture	1.288	1.395	1.220	1.295	1.343	1.383
2. Coke and Coal	1.175	1.882	1.084	1.215	1.375	1.369
3. Other Mining	1.239	1.350	1.172	1.161	1.124	1.130
4. Food, Drinks, and Beverages	1.779	1.637	1.949	1.977	2.010	2.066
5. Textiles	1.601	1.772	1.679	1.775	1.785	1.871
6. Paper and Printing	1.572	1.604	1.594	1.635	1.657	1.810
7. Leather and Rubber	1.707	1.595	1.849	1.822	1.757	1.763
8. Non-metallic Minerals	1.030	1.151	1.254	1.344	1.344	1.694
9. Chemicals and Petroleum	1.493	1.484	1.609	1.640	1.655	1.705
10. Cement	1.557	1.274	2.030	1.747	1.855	1.708
11. Iron and Steel	1.470	1.239	1.723	1.649	1.849	2.003
12. Non-ferrous Metals	1.337	1.377	1.659	1.559	1.540	1.783
13. Metallic Products and Machinery	1.286	1.371	1.751	1.675	1.678	1.718
14. Construction	1.640	1.492	1.572	1.619	1.597	1.679
15. Electricity	1.458	1.458	1.501	1.697	1.654	1.858
16. Railway Transport	1.253	1.218	1.466	1.614	1.773	1.810
17. Other Transport	1.724	1.625	1.439	1.498	1.485	1.578
18. Other Industries	1.500	1.680	1.620	1.602	1.869	1.607

Out of the traditional exports, 'Food Drink and Beverages' (Sector 4) and 'Textiles' (Sector 5) have high backward linkages, while 'Agriculture' (Sector 1) has low backward linkages. Amongst the non-traditional exports, 'Non-metallic minerals' (Sector 8), has always had low backward linkages. Since 1968-69, 'Other Transport' (Sector 17) also shows low backward linkages, while 'Metallic Products and Machinery' (Sector 13) has been enjoying high backward linkages since that year. The sector 'Other Industries' (Sector 18) was enjoying high backward linkages till 1978-79 and only in 1983-84 it fell below the average.

Input Intensity of Exports

To measure the input intensity of exports, we have found the total backward linkages of exports as a percentage of the total output. As can be seen from Table 5, the share of the output generated

TABLE 5. INPUT INTENSITY OF EXPORTS

Year	Input Intensity of Exports
1951-52	8.72
1959	4.89
1968-69	4.93
1973-74	5.25
1978-79	7.57
1983-84	6.74

due to the total backward linkages of exports in the total output was around Rs 9 for Rs 100 of total output in 1951-52. Since then it fell to Rs 5 approximately in 1968-69. Subsequently, the input intensity of exports seem to have increased till 1978-79 and then fallen to Rs 6.74 in 1983-84. Thus, it needs to be noted that the input intensity of exports has decreased, in spite of the diversification of the export pattern.

5.3 Income Effect of Exports

It can be noted from Table 6 that the income linkages of almost all the sectors have fallen by more than half for the period considered. This is partly to be expected because the technological

coefficients and the value-added coefficients move in an opposite direction. Since, over the period the economy has become more developed and therefore production process has become more evolved, the value-added coefficients are expected to fall.

TABLE 6. INCOME LINKAGES

Sector	1951-52	1959	1968-69	1973-74	1978-79	1983-84
1. Agriculture	5.1690	4.0363	3.7466	3.0148	2.6870	2.6454
2. Coke and Coal	4.9279	4.1651	3.5169	2.7843	2.4694	2.3817
3. Other Mining	2.6942	9.4557	3.7049	2.9078	2.6794	2.5812
4. Food, Drinks, and Beverages	4.2990	3.4791	3.2650	2.4508	2.2077	2.2639
5. Textiles	4.2317	3.7686	2.7167	2.4578	1.9858	2.3351
6. Paper and Printing	3.8668	4.0464	2.5343	2.1916	1.9172	1.8286
7. Leather and Rubber	4.0134	3.6451	3.1074	2.2254	1.8484	1.7751
8. Non-metallic Minerals	5.1117	1.4671	1.9269	2.6165	2.3977	2.2389
9. Chemicals and Petroleum	2.5609	3.2726	2.3378	2.4274	1.9894	1.8460
10. Cement	4.1303	1.5705	4.3453	2.0266	2.0989	1.9857
11. Iron and Steel	4.0916	1.7195	2.7616	2.0141	1.8463	1.8895
12. Non-ferrous Metals	2.2113	N.A.	2.5903	1.5951	1.4797	1.6461
13. Metallic Products and Machinery	2.2353	2.8397	3.1996	1.9685	1.7875	1.7869
14. Construction	4.4065	2.4828	1.5392	2.4134	2.0568	1.9687
15. Electricity	4.6560	4.0468	3.4075	2.6547	2.2385	2.1812
16. Railway Transport	4.8032	4.0911	3.4501	2.5344	2.6211	2.4744
17. Other Transport	4.2356	3.9509	2.7641	2.3152	2.0016	1.9204
18. Other Industries	4.4356	3.8567	3.9985	2.0322	1.5816	2.1537

Looking at the coefficient from the point of view of the diversification of exports, we find that the traditional exports (viz. Sector 1, 4 and 5) have high income linkages. Amongst the non-traditional exports, 'Non metallic Minerals' (Sector 8) and 'Other Industries' (Sector 18) have high income linkages for most of the period considered. As against this, 'Metallic Products and Machinery' (Sector 13) and 'Other Transport' (Sector 17) have low income linkages.

Income Intensity of Exports

The income generated by Rs 100 worth of exports has been indicated in Table 7. It shows that over the period, the income intensity of exports has gradually fallen from Rs 429 in 1951-52 to Rs 222 in 1983-84, per Rs 100 of exports.

TABLE 7. INCOME INTENSITY OF EXPORTS

Year	Income Intensity of Exports
1951-52	429
1959	407
1968-69	315
1973-74	256
1978-79	251
1983-84	222

Overlap Between the Linkages Coefficients: Linkages Criteria for Exports

The import, input and income effects of exports have been examined above. In Table 8, a chart is presented, which gives the sectors which have (i) High backward linkages, (ii) High income linkages and (iii) Low import linkages, for all the years under consideration. The last column gives the sectors which have all these features i.e., the overlapping sectors. The overlapping sectors are those sectors, the output of which 'should' be exported, because they benefit the economy the

most by generating high backward and income linkages but low income linkages, which in turn can be called the 'linkages criteria for exports'. Thus, there is a distinct benefit to the domestic economy if the output of these sectors is exported, i.e., they can be termed 'exportable' sectors.

TABLE 8. OVERLAP BETWEEN THE THREE LINKAGES COEFFICIENTS

	High Backward Linkages	High Income Linkages	Low Import Linkages	Overlap
1951-52 Sectors	4, 5, 6, 7, 9, 10, 11, 14, 15, 17, 18	1, 2, 4, 5, 7, 8, 10, 11, 14, 15, 16, 17, 18	1, 2, 3, 4, 5, 7, 8, 14, 15, 16	4, 5, 7, 14, 15
1959 Sectors	2, 4, 5, 6, 7, 9, 14, 17, 18	1, 2, 3, 4, 5, 6, 7, 15, 16, 17, 18	1, 2, 4, 5, 7, 8, 10, 11, 14, 15, 16	2, 4, 5, 7
1968-69 Sectors	4, 5, 6, 7, 9, 10, 11, 12, 13, 14, 18	1, 2, 3, 4, 7, 10, 13, 15, 16, 18	1, 2, 3, 4, 5, 6, 8, 14, 15, 16, 17	4
1973-74 Sectors	4, 5, 6, 7, 9, 10, 11, 13, 14, 15, 16, 18	1, 2, 3, 4, 5, 8, 14, 15, 16	1, 2, 3, 4, 5, 6, 7, 8, 14, 15, 16, 17	4, 5, 14, 15, 16
1978-79 Sectors	4, 5, 6, 7, 9, 10, 11, 13, 15, 16, 18	1, 2, 3, 4, 8, 15, 16	1, 2, 3, 4, 5, 7, 8, 15, 17	4, 15
1983-84 Sectors	4, 5, 6, 7, 9, 10, 11, 12, 13, 15, 16	1, 2, 3, 4, 5, 8, 15, 16, 18	1, 2, 3, 4, 5, 7, 8, 10, 15, 17	4, 5, 15

From the table it can be noticed that the number of exportable sectors has behaved in an erratic fashion for the period considered. Thus for 1951-52 and for 1973-74, there are five sectors which turn out to be exportable, while for 1968-69 the number is only one. However, it can be seen that two traditional exports, viz., 'Food, Drinks and Beverages' (Sector 4) and 'Textiles' (Sector 5) have been 'exportable' sectors for all the years under consideration (except 1968-69). Thus, it is beneficial for the domestic economy to export the output of these sectors. As against this, none of the non-traditional sectors has ever been an 'exportable' sector. Another sector which turns out to be an exportable sector quite often is 'Electricity' (Sector 15). However, 'Electricity' is generally taken as a 'non-tradeable' good, though a few economies have been exporting it.

TABLE 9. OVERLAP BETWEEN ANY TWO LINKAGES COEFFICIENTS FOR 1983-84

Criterion	Sectors
1. High Backward and Income Linkages	4, 5, 15, 16
2. High Income and Low Import Linkage	1, 2, 3, 4, 5, 8, 15
3. High Backward and Low Import Linkages	4, 5, 7, 10, 15

In Table 9, we have presented the overlap between any two linkages coefficients only for 1983-84.⁴ They can be termed as 'second-best' exportables. Out of the non-traditional exports only 'Non-metallic minerals' (Sector 8) has the advantage of having high income and low import linkages. 'Gems and Jewellery' is an important part of this sector. It is well-known that in this sub-sector (i.e., Gems and Jewellery) substantial amount of imported raw materials are required. However, we get low import linkages for this sector because of the following reasons: The measure of import linkages takes into account the direct and indirect import requirements. The indirect import requirement of the imported raw material being nil, we get this result. - Thus, after the above mentioned exportables, this sector benefits the economy the most. Moreover, this sector has shown a high rate of growth in the later period under consideration and in that sense has a potential for export. The other sectors falling in this category are 'Agriculture' (Sector 1); 'Coke and Coal' (Sector 2), and 'Other Mining' (Sector 3). With respect to Agricultural sector, high domestic demand poses problems for exports. However, the recent trend has been to concentrate on exports of 'non-traditional' agricultural goods, like fruits, vegetables, flowers, etc. We may call

them 'new-traditional' goods. Any expansion in exports of these goods would require technological upgradation and improvement in infrastructural facilities, which are the focus of current policy shifts. As our study shows, expansion in the exports of such agricultural goods would also have positive impact on the domestic economy.

With respect to 'Coke and Coal', India has had to import a larger quantity of high-grade coal over the period. The quality of coal produced in India has high ash content and is not acceptable in the international market as such. For Indian coal to be acceptable in the international market, 'washing' facilities will have to be set up.

'Other Mining' includes crude petroleum and iron ore. India has been exporting iron ore for quite some time, and it can continue to do so in the future. With respect to crude petroleum, India exported it only for a few years in the early eighties, because domestic refining facilities were not adequate.

When the criterion of high backward and income linkages is considered, the overlapping sector turns out to be 'Railway Transport' (Sector 16). This sector also belongs to the category of 'non-tradeables'. The nature of the product is such that India cannot easily export it.

When high backward and low import linkages are considered, the overlapping sectors are 'Leather and Rubber' (Sector 7) and 'Cement' (Sector 10). As can be seen from Table 1, the exports of 'Leather and Rubber', mainly Leather in this case, have been quite steady since 1968-69 and this sector has contributed around 5-6 per cent of the total exports. Hence, the potential to export exists and it would also be beneficial for the domestic economy.

Although cement is a bulk commodity, it is being exported by a few countries around the world. Besides, the fact that the domestic demand is high for cement, the industry also suffers from backward technology which makes it internationally uncompetitive.

It needs to be pointed out that the other three non-traditional exports viz. 'Metallic Products and Machinery' (Sector 13), 'Other Transport' (Sector 17) and 'Other Industries' (Sector 18), do not satisfy even the two criterion mentioned above, for 1983-84.

6. Summary of Results

From the above study it is clear that over the period 1951-52 to 1983-84, the income intensity of exports has almost halved, the import intensity has doubled and the input intensity behaved in a more or less erratic manner and did not show any marked increase. Thus the contribution of exports has been decreasing over the period considered.

The reason for this seems to be a shift in favour of non-traditional exports. The non-traditional exports, by and large, have high import linkages; low backward and income linkages. All the three linkages criteria specified by us, have not been satisfied by any of the non-traditional exporting sectors for most of the period under consideration.

When overlap between the two criteria is considered for 1983-84, the only non-traditional sector to turn out as the 'second-best' exportable sector is 'Non-metallic minerals' (Sector 8). 'Agriculture' sector also belongs to the category of 'second-best' exportable sector.

As against this, the two traditional exports, viz., 'Food, Drinks and Beverages' (Sector 4) and 'Textiles' (Sector 5) have had consistently high backward and income linkages and low import linkages. Thus the economy stands to benefit the most if the exports of these sectors are made.

Thus it can be claimed that the export promotion efforts which were almost exclusively focused on the non-traditional exports, have neither expanded the overall exports at a high rate (as many other studies show) nor have they benefited the domestic economy (rather the movement has been in the reverse).

Exports have two effects on the economy. First, they make foreign exchange available, which enables the economy to import goods for consumption, investment and intermediate use. Second, the level and pattern of exports have certain domestic implications. We have focused above on the domestic implications of the export promotion policies followed in India.

From the above analysis, it is clear that the sectors which need to be encouraged from the point of view of domestic benefit only, are 'Food, Drinks and Beverages' (Sector 4), 'Textiles'

(Sector 1) which are traditional exports, and 'Non-metallic Minerals' (Sector 8) which is a non-traditional export and 'Leather and Rubber' (Sector 7). 'Agriculture' (Sector 1) also has positive implications for the domestic economy.

When exports are classified on a temporal basis, we get two categories, i.e., the traditional (i.e., old) exports and non-traditional (i.e., new) exports. However, another way of classifying exports is on the basis of the nature of the commodity being exported. Thus we have primary goods, light manufactures and heavy manufactures. The exportable sectors identified above, fall in the category of light manufactures except the Agricultural sector which is a primary product.

NOTES

1. This sector consists of (1) wood products excluding furniture, (2) furniture and fixtures, (3) non-metallic minerals. The third term includes 'pearls, precious and semi-precious stones'.

2. Traditional exports are Agriculture (Sector 1); Food, Drinks and Beverages (Sector 4) and Textiles (Sector 5).

3. Non-traditional exports are Non-metallic Minerals (Sector 8), Metallic Products and Machinery (Sector 13), Other transport (Sector 17), and Other Industries (Sector 18).

4. Since 4, 5, 15 have already been considered, they will not be discussed now.

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DOCUMENTATION

The purpose of this section is to make available to the readers official documents such as reports of committees, commissions, working groups, task forces, etc., appointed by various ministries, departments, and agencies of central and state governments which are not readily accessible either because they are old, or because of the usual problems of acquiring governmental publications, or because they were printed but not published, or because they were not printed and remained in mimeographed form. It will be difficult and probably not worthwhile to publish the documents entirely. We shall publish only such parts of them as we think will interest our readers. The readers are requested to send their suggestions regarding official documents or parts thereof for inclusion in this section.

In the present section we publish:

- (1) Report of the Hindu Law Committee (1947)
- (2) Justice Mahadeo Govind Ranade (1842-1901) delivered two lectures (in Marathi) on Trade, one, on 8th December, 1872 and another, on 22nd February, 1873, in Pune. In this section, we publish these two lectures translated into English by N.V. Sovani with a critical Foreword. Incidentally, M. G. Ranade's birth and death anniversaries fall on 18th and 16th January, respectively.

REPORT OF THE HINDU LAW COMMITTEE (1947)

I - PRELIMINARY

This Committee was appointed by a Resolution of the Government of India dated January 20, 1944, for the purpose of formulating a Code of Hindu Law which should be complete as far as possible. As set out in the Resolution, the action taken by the Government was in accordance with the opinion expressed in the Report of the Joint Select Committee on the Hindu Intestate Succession Bill and a specific recommendation to the same effect made by the Council of State. The text of the Resolution will be found in Appendix I.

2. The Chairman of the Committee took charge of his office on the 24th November, 1943, and the Secretary on the 31st of the same year. The three Members assumed charge of their offices on the 12th February, 1944.

3. Our first meeting was held at New Delhi on the 26th February, 1944, and lasted for three days. At this meeting, it was decided that, in the first instance, a rough draft Code, dealing with all the topics of Hindu Law on which the Centre could legislate, should be circulated to a few leading lawyers in the different Provinces, and that, after obtaining their general reactions to this draft as a whole and taking into account their opinions on the various provisions contained in it, we should revise the draft and then publish it, with suitable explanations, for the information of the public and for eliciting their views.

4. A rough draft Code was accordingly prepared and circulated early in May 1944 to a few lawyers, of whom the following were good enough to send their opinions to us: ...

5. Our next meeting was held on the 12th June at Srinagar in Kashmir and lasted for eight days. At this meeting, we carefully considered the draft Code in the light of the opinions received by us and made extensive alterations in it. The draft, as revised, was published with an Explanatory Statement and suitable marginal notes on the 5th August, 1944. We made it clear that the draft was only a tentative one intended to focus the attention of the public on the main issues, and that we intended to revise it in the light of public opinion as elicited by us in writing and orally. We thought in the first instance that it would be sufficient to allow a period of two months for the public to express their views, and the 5th October, 1944,

was accordingly fixed as the latest date for the purpose. The Explanatory Statement prefixed to the draft Code will be found in Appendix II.

6. The public interest aroused by the Code surpassed our most sanguine expectations. ...

7. In view of the great public interest aroused, we considered it necessary to have the Code translated into the various Indian languages. ...

15. We met at Bombay on the 27th September, 1945, and the two following days and arrived at certain conclusions. We record with much regret that one of our colleagues, Dr. Dwarkanath Mitter, has not found it possible to agree in these conclusions. We are very conscious that our recommendations would have gained in weight, if we had been able to carry him with us. He had prepared a separate minute embodying his views in advance of the meeting and he made it available to us at the meeting. The minute opposes the codification of the Hindu Law as well as the changes proposed in the draft Code. The arguments advanced by him have been examined in the body of this report. All that we need say here is that since he wrote his minute in September, 1945, much has happened to confirm us in our own conclusions. Thus, a number of witnesses who appeared before us bitterly opposed any recognition or validation of *sagotra* marriages and Dr. Mitter was accordingly led to express his views in the following terms:

"With regard to *sagotra* marriage, it is void under the Hindu law. It is no marriage at all. In such circumstances, there will be no hardship, as the parties can marry under the Civil Marriage Act".

It is, however, noteworthy that in November last the Central Legislature passed an Act validating, with retrospective effect, marriages of this kind. Not only has there been no popular upheaval against this measure, but, so far as we are aware, the Hindu community appears to have accepted it without any adverse comment. Similarly, Dr. Mitter has said in his minute that he is definitely of opinion that there is no necessity for making monogamy a rule of law among Hindus. But legislation has been recently passed in Bombay prohibiting polygamy and a member of the Madras Legislative Assembly has just introduced a similar Bill for that Province, which has every chance of being passed into law at an early date.

These instances suffice to show either that the opposition voiced before us did not accurately reflect public opinion or that public opinion is rapidly changing in these matters.

16. But more important than any happenings in India are the repercussions of events in the international sphere. In recent months, India has been participating in international conferences and pleading for human rights and for equal treatment of Indians in foreign countries with an eloquence which has commanded universal admiration. The eyes of the world are upon her now and it would be more than a misfortune if at this juncture she were to fail to enact within her own borders a Hindu Code in which there was equality before the law and in which disabilities based on caste or sex were no longer recognised. We are now almost bound in honour to remove these disabilities at the earliest possible moment. This should be a sufficient answer to the question, who demands these changes in the law?

17. Three of us met at Bombay on the 17th November, 1946, and the following two days at which we deliberated over the various issues; we met again at Delhi on the 11th and 12th January, 1947, and finally settled the lines on which the draft Code and our report should be drawn up.

18. We regret the delay in submitting our report which was due to various reasons not necessary to detail here. The delay has, however, not been without its advantages; as we have already explained, time has enabled us to view the subject in better perspective and confirmed us in our original conclusions.

II - PUBLIC ATTITUDE TOWARDS CODIFICATION

19. Before proceeding to deal in detail with the objections which have been raised, it is necessary to consider the question of the extent to which the idea of codifying the Hindu law has commended itself to Hindu public opinion in general.

20. The proposal for codification has naturally been received in different ways by different sections of the public. At one extreme are the rigidly orthodox who are vehemently opposed to the whole idea while at the other stand the ultra-progressives who want that one uniform territorial law should govern not only Hindus but also Muslims, Christians and all others in the land.

The bulk of the Hindu community occupies a middle position, some of it leaning to the right and some to the left. That there are cleavages of opinion on the subject of codifying the Hindu law cannot be denied. There is however no doubt in our minds that, taking quality into account, the opinion which favours codification decidedly outweighs that which is opposed to it.

21. In Bombay and Madras, particularly in Madras, the Code had a very favourable reception, and a considerable majority appeared to support the main proposals contained in it. In Bengal, the Central Provinces and the Punjab, the reception was of a mixed character, and there was both staunch support and vehement opposition. In the United Provinces and Bihar, although certain proposals contained in the Code were not liked by many, there was much enlightened, including orthodox, support for the endeavour to enact a uniform code of Hindu Law. We could not visit the smaller Provinces, namely, Assam, Sind and the North-West Frontier Province, but so far as we can judge from the written memoranda and the few witnesses from some of these Provinces who appeared before us at other centres, there were not noticeably marked reactions, either for or against the proposals in the draft Code.

22. *Women's views* - The primary aim of most of the alterations in the existing Hindu Law proposed in the draft Code being to effect an improvement in the status of women, it will be useful to state the reception which it has met with from them. Almost all Women's Associations of standing came out strongly in favour of the Code. Women who confidently claimed to represent the views of the vast majority of their educated sisters heartily welcomed the proposals and only wished that they had gone much further. Opposition came from two sections of women, namely, those who are deeply attached to the orthodox or *sanatani* way of life and those who belong to the aristocratic classes of society. The former were on principle opposed to all change while the latter seemed specially to dislike the provisions relating to succession. Both these sections said that they were quite happy with things as they were. Friends of the Code complained that there was much untrue propaganda against it and that it was

bruited about, for instance, that it permitted brothers and sisters to marry, husbands to divorce their wives at will, and so on. It is difficult to say how far this complaint was justified. Mrs. Ambujammal of Madras, in the course of her evidence, said: "Of course, orthodox ladies were at first shocked by the mention of divorce, but when I explained that it was a permissive provision and that it was circumscribed by various conditions, they not only supported it but even suggested that the conditions should be relaxed; for example, they said that 7 years (as the period of desertion to be proved) was too long". Similar evidence was also given by witnesses from the Punjab. It is therefore rather unfortunate that in Bengal, women who favoured the Code were excluded from meetings organized by those who were against it. Most of the women who opposed the Code seemed to us to be merely reflecting the views of their men-folk. These ladies appeared to feel that what their men opposed so much could not possibly be beneficial to them. On the whole, we must say that the impression left on us is that the bulk of educated women, especially of the middle classes, favour the changes made by the Code, although some do feel genuine misgivings regarding divorce.

23. Having regard to our appreciation of the public feeling in this matter as set forth in the preceding paragraphs, we have thought it our duty to proceed on the assumption that codification is desirable.

24. It is not necessary that the whole of the Code should be passed into law at one stroke. It will be open to the Legislature, if it prefers that course, to take the Code, Chapter by Chapter, and proceed with each Chapter separately. Such a course will not be exposed to the disadvantages of piecemeal legislation, as the Legislature will have in the draft Code prepared by us an entire picture of the relevant aspects of the proposed law as a whole. It was the lack of such a picture which prevented the Joint Select Committee of the Indian Legislature from giving its final opinion on the Intestate Succession Bill. On the other hand, the Legislature may consider it more advantageous to take the whole Code into consideration at once and pass it into law as a single measure, and there is nothing to prevent its doing so either.

III - GENERAL OBJECTIONS

25. We now proceed to deal with some general objections which have been raised.

26. *Code ultra vires* - The first of these is that the Code is *ultra vires* the Central Legislature. It is argued that the Hindu personal law is religious law which was laid down by the Hindu sages and that the Hindu State or Sovereign Power had no power to alter this law, that the British Government and Parliament only inherited the legislative power exercised by the ancient sovereigns of the country, and consequently that power to legislate in regard to these matters was not possessed by the British Parliament and could not be delegated by it to the Indian Legislature. As a legal argument this hardly deserves serious notice, but we shall deal with it all the same. The subjects dealt with in the Code, viz., succession to property other than agricultural land, marriage and divorce, infants and minors, and adoption are all specifically included in the Concurrent Legislative List. Several laws affecting the Hindu Law of succession and marriage have been passed by the Legislature, and their validity has not been impeached by any one so far. On the other hand, the Federal Court has expressly upheld the validity of the Hindu Women's Rights to Property Act, 1937, except in so far as it relates to agricultural land. This objection cannot, therefore, be regarded as a valid one and it is much to be doubted whether it was urged with any expectation that it might find acceptance. About the advisability of codifying the Hindu Law with or without modifications, there may be room for differences of opinion, but there can be none as to the legal competency of the Indian Legislature to codify the Hindu Law on the lines proposed.

27. *Religion in danger* - The argument of 'Religion in danger' has inspired much of the propaganda against the Code and it was also freely voiced by many witnesses who appeared before us as well as in numerous written memoranda submitted to us. It is, therefore, necessary to examine it closely. A typical answer to the question how the giving of a share to the daughter will affect *dharma*, either in this world or the next, was furnished by Rao Saheb N. Natesa Iyer of Madura:

"It is contrary to our philosophy of life. Suppose

a person who has property worth Rs. 5,000 dies leaving two sons and two daughters, each daughter will then get only one-sixth of the Rs. 5,000, i.e. Rs. 833. If the sons are left undisturbed, they may feel it to be their duty to expend the whole Rs. 5,000 on the marriage expenses and in the shape of subsequent gifts to the daughters. If the daughters take a share, the love of their brothers will be lost to them. It is, therefore, better to leave the law as it is. So much for the worldly point of view. From the spiritual point of view, property exists for the advancement of the spiritual life which can be done only by the son who offers *pindas* to his father and other ancestors. The daughter cannot contribute to the spiritual benefit and hence she is not entitled to any share of the inheritance". Quite apart from the depressing statement that brotherly love would cease if daughters took a share of the father's property, this is a curious answer; its first half is inconsistent with the view expressed in the second, for, if property should devolve on the sons to the exclusion of the daughters, in order to enable the sons offer *pindas* to their father and other ancestors, it is improper that they should spend all their patrimony on the performance of their sisters' marriage, and thereby deprive themselves of the wherewithal to offer *pindas* to their ancestors. The answer given in the second portion also overlooks the fact that under the proposed Code the sons are not shut out from the inheritance, but get double the share of the daughters, and, after all, performance of the *shraddhas* does not constitute a major item of expenditure.

28. It may be said that religion is in danger, because some alterations are proposed to be made in the law as laid down in the *smritis*. But again and again, in the course of the examination of witnesses, when they were confronted with *smriti* texts or other original authorities entitled to the highest credit, which supported a suggested alteration, they said that they preferred the existing law, even though it might be based only on a custom in derogation of the texts or on a decision of the Privy Council. A striking instance of this occurred in Lahore. Pandit Raj Bulaqi Ram Vidya

Sagar, President of the Anti-Hindu Code Committee, Amritsar said "There should be no deviation from the law as laid down in the *Mitakshara*", but almost immediately afterwards, on the question of the daughter's share, he said: 'Even if the *Mitakshara* says that a daughter must be given a share, I will not agree to it'.

29. The representatives of the Hindu Mahasabha of Bihar said: "Our belief is that the Hindu Law is of divine origin. It is not a king-made law. If there is any codification, we shall be governed by king-made law and cease to be governed by divine law". Yet, in reply to Dr. Mitter, who asked: "The clause giving absolute right to women is in accordance with the *Mitakshara*. Do you agree to it?", they said: "No; we prefer the Hindu Law as interpreted by Privy Council to the *Mitakshara*".

30. When it was pointed out to orthodox witnesses that *Vasishta* could have intended only a single one of the four interpretations which have been put on his well-known text relating to adoption, the witnesses were, generally speaking, unwilling to have the law so altered as to make one interpretation prevail throughout India. In other words, they wanted to stereotype the existing diversities and differences in interpretation, however inconsistent they might be with the spirit of the original text.

31. Attempts were, of course, made in some cases by those learned in Sanskrit to explain away the original *smriti* texts, but not generally with pronounced success. In a few cases, the witnesses frankly admitted at the end that the texts were too strong for them.

32. As forcibly pointed out by Mr. V. V. Srinivasa Iyengar, an ex-Judge of the Madras High Court, those who deprecate legislation on religious grounds appear to be labouring under the misconception that the Hindu Law has remained static and unchanged since the time of *Manu* and *Yajnavalkya* and that that law has been preserved in its pristine purity during all these centuries. This, of course, is an erroneous view. Mr. V. V. Srinivasa Iyengar's oral evidence is extracted below:

"I venture to think that all this opposition is based on sentiment and not on reason. I also think that the strength of the opposition is due to a

misconception on the part of the public that what they call Hindu Law has remained the same from remote antiquity up-to-date. Changes have been made in the Hindu Law by the authors of the *dharmashastras* from time to time, in consonance with changing ideas and requirements. But the people have not appreciated this. Nor have they adequately realised the fact that when the British came to administer the law in this country they failed to recognise customs and changes in customs which came into existence after the last of the *dharmashastras* had been written. The British went back to *Manu* and the Pandits were no better. They did not declare the law according to the consciousness of the community at the time, as to what the law then was".

33. It should also be pointed out that the *smritis* deal with several branches of the law and not merely with inheritance and marriage. Among the titles of the Civil Law dealt with by *Manu* are: Judicial procedure, Recovery of debts, Deposits, Sale without ownership, Concerns among partners, Non-payment of wages, Non-performance of agreements, and so on; while among his titles of Criminal Law are: Defamation, Assault and hurt, Theft, Adultery, and Gambling and Betting. Every one of the above titles of law has been dealt with by the Indian Legislature, and the *smritis* have been effectively superseded in regard to them. It is difficult to contend that some portions of the *smritis*, namely, those relating to inheritance and partition, have a special sanctity superior to that of the other portions, the supersession of which has hardly evoked any protests or expressions of regret.

34. Perhaps, the most effective reply to the argument of religion in danger was that given by the spokeswoman of the Punjab Women's Delegation, who said:

"As regards the argument that the Code interferes with religion, I see no force in it at all. I do not concede that the Hindu law should be regarded as sacrosanct by virtue of its alleged Divine origin. It was made by man and many changes have been made in it by the great commentators from time to time. The right to make changes has been recognised in the *dharmashastras* themselves and forms part of them. Nobody, therefore, has a right to cavil at

the changes proposed in the Code".

35. We also desire to draw attention to the following moving statement made by Mrs. Saralabala Sarkar of Calcutta in the course of her evidence:

"I am an old, orthodox lady observing fasts and living an austere life; I could not possibly support the Code if it were against the Hindu religion".

36. *Voting to be confined to Hindus* - Anxiety was expressed that the Code should be voted on only by the Hindu Members of the Legislature. We can well understand and sympathise with this point of view, and indeed it is quite clear that persons of other religious denominations will be very loath to interfere in matters which are the exclusive concern of the Hindu community. Many witnesses have said that if the voting on the Code is confined to Hindu members and wins the support of a majority among them, they would themselves accept it. For example, the representatives of the Maheshwari Sabha said at Calcutta:

"If the voting on the Code is confined to the Hindu members of the Legislature and a majority of such members approve of the Code, my community will support it".

The above indeed represents a general feeling to which we think it necessary to draw attention here.

37. *Uniformity* - It has been argued that in view of the vast area of the country and the variety of the laws and customs prevailing in its different parts, it would be quite impossible to produce a uniform Code and that the attempt to do so is foredoomed to failure. The aim of the ancient law-givers, the writers or compilers of the *smritis*, was always to produce a Code of law which would be applicable to all Hindus in the land. All the *smritis* texts are of universal validity, and although certain commentaries and digests have been accorded greater authority in some local areas than in others, yet, no commentary or digest can be said to be without some measure of authority in every part of India, especially when it deals with matters which have not been dealt with by the primary local authority. We also wish to point out that even now there is a considerable measure of uniformity in the Hindu Law applicable to the different Provinces. The differences

in that law, where they exist, do not seem to us to be intractable in character. Parts V and VI of the Draft Code which deal with "Minority and Guardianship" and "Adoption" respectively have received a wide measure of commendation and have provoked little opposition or adverse comment. Indeed, even many of those who were severely critical of the Intestate Succession and Marriage portions excepted Parts V and VI from their censure. Four Judges of the Calcutta High Court who have expressed their disapproval of the Code as a whole have yet been good enough to say: "The Chapter on maintenance, we must say, has been admirably worked out and removes certain long-felt grievances". This fortifies our view that the unification of the Hindu Law may be a difficult task, but that it is certainly not impossible of achievement. The work will however require time, much consultation, and a good deal of patience, for ancient and long cherished prejudices die hard.

38. *Elasticity Argument* - We are not much impressed by the argument which has been advanced in some quarters that codification will deprive Hindu Law of its present elasticity. In the first place there should be little room for "elasticity" in the rules of inheritance, marriage, or adoption. What is required in these matters is certainty, and not elasticity which is only another name for uncertainty. There are, of course, other matters where room has to be left for judicial discretion, e.g., in the appointment of guardians, the determination of the amount of maintenance to be awarded in a given case, etc; in such matters, the Code preserves the elasticity of the existing law. Wherever elasticity is not desirable, the Code aims at certainty.

39. *Law settled* - No need to codify. - Yet another argument has been advanced which runs counter to the one noticed in paragraph 37, viz., that all the principles of Hindu Law have become settled now for all practical purposes and that an attempt at codification at the present day will involve an unsettling of the existing law. The Calcutta Judges, for example, say: "Most of the rules of Hindu Law are now well settled and well understood, and a Code is not, therefore, called for at all". But this would appear to be just the

reason for codifying the Hindu Law, for it indicates that the development of Hindu law has now reached a stage when an attempt to set down its principles in the form of a simple and easily understood Code can and should be made.

40. *Exclusion of agricultural land* - The exclusion of agricultural land from the scope of the Code has naturally led to the contention that a Hindu Law of Intestate Succession which omits to deal with the bulk of property in India cannot be regarded as having attained the fundamental objective of uniformity. We would however point out that what we have aimed at is a uniform law for all Hindus and not necessarily a uniform law for all forms of property. It may well be that in the interest of agriculture, special laws will in due course be enacted to secure the consolidation and prevent the fragmentation of agricultural holdings; and these may include a special law of succession, differing from the law applying to other forms of property.

41. *Different laws for British India and Indian States* - Many critics have pointed out that the Code will make a new Hindu Law applicable to British India, while the old Hindu Law continues to be applicable to Indian States, but this criticism overlooks the fact that some Indian States including the important Hindu States of Mysore and Baroda, have already passed legislation affecting the Hindu Law in fundamental respects. There is nothing to prevent other Indian States from dealing similarly with the Hindu Law applicable to persons subject to the legislative authority of those States. If, as a result of the extensive and deep examination of the question which has taken place in British India, a uniform Code of Hindu Law is enacted by the Central Legislature, the inevitable tendency of Indian States will be to copy this legislation and make it applicable within their territories also, in the same way as the great Indian Codes of the last century have been made so applicable. This was pointed out to us by Mr. D. H. Chandrasekharaya, then President of the Mysore Legislative Council:

"As soon as the Draft Hindu Code becomes law in British India, progressive States like Mysore and Baroda will, I am sure, adopt it with necessary modifications".

We agree that the above represents a true

estimate of the situation.

42. *Codification of existing law favoured* - Many persons have expressed opinions, both in writing and when appearing in person before us, in favour of the codification of the existing law without any modification whatever. According to this view, the existing schools of law should be left as they are. Some have gone to the extent of saying that both codification and reform cannot possibly be undertaken simultaneously. This in our opinion is not a correct view. Codification necessarily involves minor amendments and adjustments here and there. When the problem is viewed as a whole and in proper perspective, the necessity for many adjustments and changes which cannot properly be described as of a minor character, reveals itself, and we are satisfied that the only conditions for making these changes is that they should be generally acceptable.

43. *Piecemeal amendment* - The view has also been advanced that the proper course is not to attempt to codify the Hindu Law in its entirety, but only to make such amendments in that law as are found to be absolutely necessary. When, however, an attempt was actually made at amendment, critics urged that what was required was a comprehensive code and that tinkering at the law here and there was quite unsatisfactory. The two criticisms are, of course, mutually destructive. The main object of both kinds of criticism seems rather to postpone "the evil day" on which amendments to the existing law will come into force. We consider that although objections to piecemeal amendment have often been advanced which cannot be sustained, yet, for the reasons set out in the Report of the Hindu Law Committee of 1941, codification of the entire Hindu Law, so far as it may be practicable, is the most desirable course. At same time, as we have already pointed out, if it is considered that the course of piecemeal amendment is preferable for any reason, for instance, for the sake of obtaining quick results, there can be no serious objection to the adoption of that course. The Calcutta Judges say:

"We are definitely of opinion that any attempt to break down the various schools of law and merge them all in one uniform system is a move in the wrong direction. But this is not saying that

there may not be elements in any existing school of law that do not call for a change. Nor would it be right to decry any proposal to introduce such specific changes by legislative action as 'piecemeal legislation', and to insist on comprehensive legislation as the only alternative. We think there is a certain amount of unfounded prejudice against what is usually called 'piecemeal legislation'. Unlike other countries in Europe, legislation in England has always been piecemeal, and has led to no untoward results. It is piecemeal, compared with the totality of the laws, but may be quite exhaustive so far as that particular topic or branch of law is concerned. In such partial legislation, however, care must be taken to see that it is not a misfit with the rest of the law as was undoubtedly the case with Act 18 of 1937 (Hindu Women's Rights to Property Act)".

44. *Amendments suggested by conservatives also* - In this connection, it may be pointed out that many of those who opposed the idea of codifying the Hindu Law were yet in favour of various amendments. For instance, Diwan Bahadur R. V. Krishna Iyer of Madras, who said that he was opposed to fundamental changes, yet supported (i) the absolute estate for women, (ii) divorce, (iii) *sagotra* marriages, and (iv) the extension of the Bombay rule of adoption to the rest of India. The first two of these can hardly be described as minor or unimportant changes. Another witness claiming to represent the orthodox view, who considered that the Code was unnecessary and uncalled for, (i) agreed that the unmarried daughter should have half the share of a son, (ii) favoured inter-caste marriages, and (iii) expressed the view that divorce should be allowed where humanitarian grounds require it.

45. It may also be pointed out here that many representatives of orthodox opinion wanted alterations of a substantial character to be made. For instance, Pandit Ganga Shankar Misra of the United Provinces, representing the All-India Dharam Sangh said:

"I do not accept as correct the decisions of the High Courts or of the Privy Council. They were, for the most part, rendered by Judges who were ignorant of Sanskrit and had to rely on translations. Their decisions have not expressed the Hindu Law correctly. I am no lawyer and cannot

glibly quote judicial decisions, but I am clear that *the present state of the Hindu law is highly unsatisfactory and that it should be changed*. We must go back to the original texts dealing with the Hindu Law, and for their proper interpretation, we must have recourse to learned Pandits. I feel strongly that life which is not led according to the sacred *smritis* is on a low plane and unsatisfactory. A change is, therefore, required".

In many directions, the draft Code as finally revised by us may be said to reflect the spirit of the ancient law much better than the law as now administered.

46. *Code in Sanskrit* - Another sentimental objection which has been expressed in some quarters is that a Hindu Code should be in Sanskrit and not in the English language. Dr. Prabhu Datt Shastri of Lahore said:

"Apart from our political subjection, we are being conquered culturally. If we agree to have a Hindu Code in the English language, we would be admitting our cultural defeat at the hands of the British Government. If there is necessity for a Code, let it be in the Sanskrit language".

There are, however, obvious difficulties. The number of people who are literate even in their mother tongue is not very large. To enact a code for them in Sanskrit, a classical language which is not spoken now by any section of the people, will make the law totally unintelligible to the vast majority of the Hindus in this country. We, therefore, recommend that, as usual, the Code should be in the English language, and translated into the various Indian languages and, if necessary, into Sanskrit also.

47. *No demand* - Lastly, we wish to deal with the argument that there is no demand for the Code. Again and again and in different forms was this argument pressed upon us. We were repeatedly told that no large body of persons in the country wanted any reform of the Hindu Law. We have already given a general answer to this objection (see paragraph (16)); but we shall deal with it more specifically, taking for this purpose the most controversial of the changes that we have proposed, namely, those relating to monogamy and divorce. Dr. Mitter has, in his minute, tabulated

the evidence given before us for and against the proposed changes and the result is briefly as follows:

	Individuals and groups for	Individuals and groups against
Monogamy	75	99
Divorce	78	103

We much doubt whether the above figures accurately reflect public opinion for many who agreed with the provisions contained in the Code in the relevant respects told us that they did not think it necessary to lead evidence before us, as they were under the impression that only opponents of the Code should appear before us. Even on the assumption that the figures are a reliable guide to public opinion, we may point out that the minority in either case is far from 'microscopic', amounting as it does - roughly speaking to three-sevenths of the whole number. But it is a minority; why then do we propose a change? The answer is that there is in the existing law a harshness which its authors never intended; it comes only to the notice of a small number of men and women engaged in social work, so that only a few lift their voice against it. To mention a typical instance: a man marries a young girl and then, after a short while, either because he has not got the dowry he expected or for some other equally unworthy reason, deserts her and marries another girl. Under the existing law, he can do this with impunity, while his first wife is tied to him for life and drifts to one of the rescue homes in some city. The fact that such cases are few is a poor argument for leaving them without a remedy. Road accidents in a city may be few, but humanity requires that provision should be made for them when they do occur. And so the real question to be considered is not how many or how few demand the changes proposed, but whether the proposals themselves are on the right lines and worthy of acceptance.

48. No thoughtful observer of the present conditions and trends in Hindu society can fail to be impressed by the great need there is to alter the law so as to make it fit the new pattern to which Hindu society seems to be rapidly adjusting itself. The Code is an attempt to fulfil this need.

49. Some advocates of the orthodox point of view have said that there is nothing to prevent reformers from having their own laws but it is not practicable to make a law for an undefined, undefinable, and continuously growing, portion of the community. Such a law will only lead to confusion.

50. Most of the provisions in the Code are of a permissive or enabling nature, and impose no sort of compulsion or obligation whatever on the orthodox. Their only effect is to give a growing body of Hindus, men and women, the liberty to live the lives which they wish to lead, without in any way affecting or infringing the similar liberty of those who prefer to adhere to the old ways.

IV - MAIN ALTERATIONS

51. Turning now to the contents of the Draft Code, the main proposals on which differences of opinion have manifested themselves in varying degree are the following:-

- (i) The abolition of the right by birth and the principle of survivorship and the substitution of the Dayabhaga for the Mitakshara, in the Mitakshara Provinces.
- (ii) The giving of half a share to the daughter.
- (iii) The conversion of the Hindu women's limited estate into an absolute estate.
- (iv) The introduction of monogamy as a rule of law.
- (v) The introduction of certain provisions for divorce.

1 - The Mitakshara versus the Dayabhaga

52. We have given our most anxious consideration to the first, and perhaps the most important of the above points, viz. the Mitakshara versus the Dayabhaga. Many witnesses, particularly in the United Provinces and Bihar and, to some extent, in the Punjab, were in favour of retaining the Mitakshara. Some evidence was given before us at Lahore that businesses, particularly banking businesses, would be hampered, if not ruined, if the Dayabhaga replaced the Mitakshara. This apprehension seems to us to be without justification. It is certainly not the case that businesses conducted by Muslims, Parsis, or Englishmen have suffered from the fact that they do not have the Mitakshara joint family system. One of the

most progressive commercial communities in the southern districts of the Madras Presidency is the Nattukottai Chettiar community and their commercial enterprise was attributed by the late Mr. S. Srinivasa Iyengar "to their ideas of the legal relations of the members of their family which approximate more to a partnership than to those of a Brahmin joint family" - (See "Law Reform and Law", an address delivered in Madras before the annual gathering of Lawyers on April 17, 1909).

53. In this place, it will be appropriate to deal with another argument which was advanced before us by many of those who wanted the Mitakshara to be retained. These witnesses were afraid that when estate duty came to be levied, the Dayabhaga family would be in a worse position, as the devolution in such a family would be entirely by succession, whereas, in the Mitakshara joint family, the devolution would be by survivorship in respect of joint family property, and by succession in respect of only separate or self-acquired property. We do not, however, think that there is the least likelihood of devolution by survivorship in a Mitakshara family escaping the attention of the tax-gatherer, if such a duty is imposed in this country. In other countries also, where the duty is levied, property passing by survivorship is not exempt.

54. The case of the improvident father who will squander away his ancestral estate for illegitimate or immoral purposes was frequently pressed upon us. But the critics forget that the doctrine of the pious obligation of the son to pay his father's debts has been so shaped by judicial decisions as virtually to deprive the wife or the sons of any real protection against improvidence on the part of the husband or the father. Besides, cases where sons take advantage of their right by birth to incur heavy debts, or to claim their share and live separate from the family so that they may lead their own lives, unfettered by parental control, are equally, if not more, frequent. The argument thus cuts both ways and seems to us to be totally inconclusive.

55. A valid objection to the present law is that the Mitakshara father is now unable to obtain the money he may need for any urgent family purpose by what, in the long run, is the most economical

way of raising it, *viz.*, selling at once a small portion of the ancestral estate. The father thus shares the disability of the Hindu widow in this respect. Like her, even when he is able to find a willing purchaser, it is seldom possible for him to obtain the full market value for the property sold.

56. Much of the sentiment which supports the Mitakshara is due to a natural instinct of conservatism, and to the respect felt for an ancient institution which has come down to us from remote antiquity. This, within limits, is a commendable feeling. But the supporters of the institution seem to forget that it has been shorn by judicial decision or legislative enactment of most of its characteristic features. For instance, under the Hindu Law as authoritatively interpreted by the Privy Council, the unity of the Mitakshara family may be broken by any member, at any time, by a mere unilateral expression of his intention to separate from it. Again it is open to the creditor of an individual coparcener to attach his interest in the joint family property and bring it to sale. Yet again, the father has the right to alienate the joint family property for an antecedent debt. Furthermore, when the father becomes an insolvent, his right to dispose of his sons' interest in the joint family property passes to the Official Assignee under Section 52(2)(b) of the Presidency-towns Insolvency Act, 1909. Although the position is now different under the Provincial Insolvency Act of 1920, proposals have been made for bringing that Act also into line with the Presidency-towns Insolvency Act in this respect. Finally, the Hindu Women's Rights to Property Act, 1937, has made the widow the heir of her husband's interest in the joint family property and, although she takes only a Hindu woman's limited estate in the property, yet she can enforce her right by asking for a partition of the joint family property. It is therefore clear, however much some of us may deplore the fact, that the Mitakshara joint family is fast disintegrating and the process can hardly be arrested if injustice or inconsistency is to be avoided.

For example, we put to some of the witnesses, the case of a Mitakshara father dying leaving a

daughter and a brother; his interest in the coparcenary property goes to the brother by survivorship and if the brother subsequently dies leaving a daughter, the interest goes to the brother's daughter, the original owner's own daughter being thus ousted. No one desired such a result, but it could only be prevented by a further inroad upon the existing Mitakshara Law; *e.g.*, by giving the daughter a right by birth similar to that of a son or by giving the father a right to dispose of his coparcenary interest by will or by some such device. Again if the daughter is to have an absolute estate in the property which she gets from her father, how can we consistently refuse a similar estate to the son by insisting on the Mitakshara rule that his son, grandson and great-grand-son shall have a right by birth in such property? And so we are driven from point to point; we can find no logical halting-place until we abandon the right by birth as well as survivorship and completely assimilate the Mitakshara to the Dayabhaga in these respects.

57. In this place, we may refer to the evidence given by the Rt. Hon. V. S. Srinivasa Sastri on the point, which runs as follows:

"I confess, having grown up under the old ideas of the joint family, I was a little shocked at first at the right by birth being abrogated. There is some point in the objection that the joint family system is being disrupted. But the joint family is already crumbling; many inroads have been made into it; the modern spirit does not favour its continuance any longer. The choice is between maintenance of big estates and recognition of the independence of individual members of the joint family. The latter, in my opinion, is a more important aim as it affords greater scope for individual initiative and prosperity".

It will be noticed that Mr. Sastri began with a strong bias in favour of the Mitakshara but was driven to the view that the Dayabhaga is preferable. Among other prominent supporters of the Dayabhaga are Sir Harshadbhai Divatia, who recently retired from the Bench of the Bombay High Court, Mr. M. C. Setalvad of Bombay, Mr. Atul Chandra Gupta of Calcutta and Sir Vepa Ramesam of Madras.

58. A reasoned view in support of the abolition of the right by birth under the Mitakshara

coparcenary was given by Principal C. L. Anand of Lahore, whose evidence is extracted below:

"I support the abolition of the right by birth and of the coparcenary. I cannot see how the abolition of the right by birth can be said to be against the *smritis*, because in the Dayabhaga system which is equally founded on them, there is no coparcenary. As a result of the legislation of 1937 and 1938, the Mitakshara Coparcenary has already lost one of its chief characteristics. With the admission of the widow, it will no longer consist of male members only. The power of free disposition is recognised in every other system of law and it is time for the Hindu Law to fall into line. The theory of coparcenary rests on conceptions of primitive law and is a relic of the patriarchal theory. Even under the Code, there is nothing whatever to prevent brothers from continuing to live together as members of a joint family as in the Dayabhaga, and there need, therefore, be no real interruption to family life".

59. The highest authorities on Hindu Law are also of the same view. In the address referred to in paragraph 52 above, Mr. S. Srinivasa Ayyangar also said:

"Broadly speaking, amongst Hindus, those individuals or communities have been most successful and enterprising that have practically controlled their acquisitions and have departed most from the normal type of the joint family. Ability to realize easily one's own wealth; willingness of third persons to give ready credit to, and to deal with each adult member of the family; freedom for a member to invest his ancestral or acquired wealth so that he may make the most of it for himself without the fears of others coming to claim a share- these things are indispensable for commercial enterprise and economic progress. Under altered conditions, we should avoid the demoralizing tendency towards *benami*, which is now so persistent, and be able to eliminate the existing reluctance to put one's all in an industrial concern which is the more easily traceable by an adverse claimant, the more it is prosperous. Under existing conditions, the qualities of economy and thrift will not be learnt by every one, nor can a high standard of comfort be reached or maintained. Were the present

system abolished, hypocrisy and ill-feeling would not receive daily nourishment and there would be scope for self-reliance and the development of all that was best in one. The desire to innovate which is the life of all progress would have full play. No rule of religion requires the continuance of the existing system which, after all, is but a relic of the primitive family. First in importance (therefore) is the need for the reform of the Mitakshara system of holding property. We should substitute for it a property law, similar to, but not identical with, the Dayabhaga system. The least that ought to be done is to abolish coparcenary property with its incident of survivorship, and to completely obliterate the son's right by birth. The father should be at liberty to dispose of his properties, and during his lifetime, the son should not be entitled to claim a partition. The brothers should inherit the paternal estate in equal shares which should, on their deaths, go to their respective heirs".

60. Writing about 32 years later in the Golden Jubilee Number of the "Madras Law Journal", Mr. S. Srinivasa Ayyangar, fresh from his task of editing the 10th Edition of Mayne's Hindu Law, which is acknowledged on all hands to be a classic contribution to Hindu jurisprudence, said:

"Reforms are also required in the Mitakshara law of coparcenary. Serious inroads have been made into the coparcenary by the rules regarding the son's liability for his father's debts, by the doctrine of severance in status by unilateral declaration of intention, and by the recent enactment that a widow of an undivided member takes her husband's interest in the coparcenary property. It is time to declare that every member of a joint family is entitled to his specific share and to abrogate the rule of survivorship so as to make the members of the joint family hold the family property in quasi-severalty, as tenants in common. The Legislature should lay down only one mode of succession and the rules of inheritance should be the same, whether the family is divided or undivided and whether the property is joint or separate. In other words, the Dayabhaga joint family system should be made universal in India and the glittering doctrine of the son's right

by birth and the anomalous, antiquated and unjust doctrine of survivorship discarded. The present attenuated rules governing a Mitakshara coparcenary do not protect the joint family in the enjoyment of its property but operate only as hindrance to its economic efficiency. Right by birth and survivorship, and the restrictions imposed by them on the power of alienation and the deprivation of the right of succession of those who are nearer and dearer to a deceased male member than a coparcener are all outworn indicia of the ancient type of family which has become almost extinct. The large urban life of these days, the consequent separation of the members of the family and their employment or avocations in distant parts of the country and above all, the new ideas of individuality and the consequent conflicts in the aims and aspirations of the various members of the family have resulted in the emergence of the modern Hindu family life which is both in actuality and in sentiment far removed from the spirit and purpose, the area and the ideals of the ancient joint family system. The new spirit has penetrated even to remote villages and there is no need any longer for the retention of the ancient legal formulae which only vex our hearts and entangle our feet and hinder economic planning and improvement as well as affect adversely the smooth co-operation and sweetness between coparceners which should characterise family life".

61. Sir Srinivasa Varadachariar, retired Judge of the Federal Court, whose knowledge and mastery of the Hindu Law are beyond question and who freely placed his invaluable learning at the disposal of this Committee, has counselled us that the best solution, as in fact is the simplest, is to substitute the Dayabhaga for the Mitakshara system.

62. It is true that there is in several quarters a strong sentiment in favour of preserving the Mitakshara and that some eminent lawyers share the feeling. Even we ourselves are divided in opinion on the general question and one of us has been able to agree in the particular provisions of the proposed Code only because they do not affect agricultural land. It must be some comfort to

those who differ from us to feel that in any case a step has now been taken towards a uniform territorial law for all Hindus, for, as Mr. S. Srinivasa Ayyangar observed in the Golden Jubilee Number of the "Madras Law Journal" (1941) already cited, "The unification, however, of Hindu peoples at least throughout India in the matter of their laws of family and of property and succession has become increasingly feasible and should therefore be regarded as of immediate and paramount importance".

II - The Daughter's share

63. The cases of the married and of the unmarried daughter may be considered separately. As regards the married daughter, the arguments advanced against giving her a share are that she always gets a very substantial portion of the family property in the shape of dowry and jewels and other presents, that the giving of a share over and above this will be unfair, that it will introduce a stranger, namely the son-in-law, into the family, and that this is very undesirable, particularly where the family is carrying on a joint family business as it may, in many cases, mean an end of the business. It was also said that the giving of a share to the daughter would lead to friction between brother and sister, diminish the affection between the two, and deprive her of the help which her brother was now rendering her in all times of need. Many witnesses before us strongly urged that numerous families now almost ruined themselves in providing dowries and meeting the marriage expenses of daughters or sisters in the family. Much was also made of what may be called the fragmentation argument, and it was said that the introduction of the daughter as an additional sharer must necessarily result in the breaking up of estates to a much greater extent than was now the case. It was also said that after the marriage the daughter's affections were all likely to be centered on her husband's family and that the property would be lost to the family of her birth even where she had died without issue.

64. As regards the unmarried daughter, it is argued that there is no need to give her a share and that all that is necessary is to provide for her

maintenance and marriage expenses, that she is bound, sooner or later, to be married at the family expense, and that after marriage, all the above argument against giving a share to the married daughter will apply to her also.

65. It was contended that, among Muslims, the results of the working of the Islamic Law which gives half a share to the daughter, would have led to disastrous results, but for the fact that that law allow agnatic cousins to marry and that Muslims are also able to tie up property in the family by making wakfs, a process which has been much facilitated by the Wakf Validation Act of 1913. Neither of these palliatives would be available to the Hindus.

66. All the above arguments have been effectively met. Mr. A. C. Gupta of Calcutta asked "What sort of affection is it that will be affected by putting this little strain on self-interest?" and Sir P. S. Sivaswami Iyer of Madras said: "I do not think that when no share is given, there will be greater affection. No, that is not possible".

67. As regards the fragmentation argument, several witnesses pointed out that the evil should be met by other means, for example, the adoption of the rule primogeniture or collectivisation. Mr. A. C. Gupta's evidence on this point was as follows:

"Fragmentation can be stopped only by adopting the principle of primogeniture. Even when property is divided amongst sons, there is no guarantee that it will remain 'in the family'. Brothers may partition, they may sell. The economic arguments would be all right if there were a ban on partition and alienation, but there is no question of imposing such a ban. It is a most impracticable proposal".

68. When one witness (Mrs. Indrani Balasubramanian of Madras) was asked: "Do you think that the brother-in-law will bring discord into the family?", she said, "It depends upon the individual. If he is a bad fellow he might give trouble even when there is no property. After all, he can ask for his wife's share only after the father's death, and where is the harm in such a demand being made? If the demand is made, it should be adjusted".

69. Many witnesses also pointed out with much force that daughters got a share all the world over

and that *Yajnavalkya* and *Manu* themselves clearly provided a one-fourth share for the unmarried daughter. They contested the view that the *smritis* provide a share only in lieu of the marriage expenses of the daughter.

70. Some witnesses (for example, Pandit Subodh Chandra Lahiri of Benares) argued that if daughters were given a share, there would be strong inducement to loafers to entice away Hindu women who have no sufficient protection. It was pointed out by one of us that the logical result of this argument would be the passing of a law that women should have no property. Few witnesses, of course, ventured to go to that length. In the main, they expressed a desire for the maintenance of the existing position.

71. Another argument against giving shares to daughters was advanced by Rai Bahadur Chandra of Delhi who said that no father spent so much, (as would amount even to a one-fourth share) on the marriage of his daughter and that consequently there was no reason to give her a share in the property. We should ourselves have thought that this argument would justify the allotment of a share to the daughter rather than the reverse. It is in evidence that among some communities in Gujarat more is spent on the son's marriage than on the daughter's. Bengal, on the other hand, appears to stand at the other extreme and far more is spent there on the daughter's marriage than on the son's. These are all local peculiarities which, in our opinion, may reasonably be disregarded. If no distinction is to be made between a married and an unmarried son in Gujarat where a son's marriage expenses bulk so large, we see no reason why a distinction should be drawn between a married and an unmarried daughter in Bengal or elsewhere where much money is spent on daughters' marriages. We are therefore of opinion that the daughter, whether married or unmarried, should participate in the inheritance to her father along with his sons and widow.

72. The question of the quantum of the share which should be allowed to the daughter has engaged our anxious attention. The one-fourth share provided in the *smritis* seems to be too small, even as a first step; in many cases, it will not amount to much. We note that Sir Vepa Ramesam (Retired Judge of the Madras High

Court) would prefer to begin with the one-fourth share and raise it later, if experience proves that the dowry evil has been effectively reduced as a result of giving the daughter the one-fourth share. Most of the women witnesses consider it inequitable to deny to the daughter the same share as the son, but practically all them accept the provision of half-a-share as a compromise. Some witnesses have suggested the giving of a full share in movable property and the giving of no share or a reduced share in immovable property. After full consideration, we consider that the half-share provided for the daughter in the Bill of the Hindu Law Committee of 1941, which has been endorsed by the Joint Select Committee of the Legislature, will be the best solution for the present, especially as we have retained the provision giving the daughter double the share of the son in the mother's property. We are aware that the Madras Nambudri Act of 1933 provides for a full share being given to the unmarried daughter. We feel that for the daughter who remains unmarried either from deliberate choice or out of necessity, half-a-share might be insufficient as a provision for life. It is, however, difficult to make a special provision for rare or exceptional cases and it is clearly not desirable to complicate the law by introducing too many distinctions.

73. We may here confess that we have found great difficulty in deciding who should be admitted as "simultaneous heirs" of a male Hindu dying intestate. Before 1937, they comprised only the son, the son of a predeceased son, and the son of a predeceased son of a predeceased son of the intestate. The Deshmukh Act of 1937 (as subsequently amended) added to these the widows of the first two as well as the intestate's own widow. In the draft Code as published for criticism, we added the intestate's daughter, retained his widow, but left out the other widows. In favour of excluding the widowed daughter-in-law (and *a fortiori* the widowed grand-daughter-in-law) the following arguments have been adduced: (i) She is not an heir in most systems of inheritance. (ii) It is unnatural to postpone one's own daughter's son or other descendant or one's own father or mother, to a daughter-in-law who, after her husband's death very often goes and lives with her parents in

preference to her husband's parents. (iii) The daughter-in-law, even if a widow, will inherit to her father (assuming that the daughter is made a "simultaneous heir"), and it is unnecessary to make her an heir to her husband's father as well. On the contrary, it has been strongly urged (i) that if her husband had survived his father, he would have taken his share in the father's property which would then have devolved on her as his widow, that it is a mere accident that her husband did not survive his father and that her position should not be worsened on this account; (ii) that *Viswarupa* gives her an equal place with the intestate's own widow, and that as regards other legal systems, the Parsis now recognize her as an heir; (iii) that the extension of the provisions of the 1937 legislation to agricultural land in many of the Provinces shows that provincial opinion is also now in her favour; and (iv) that what the Central and many Provincial Legislatures have deliberately chosen to give her should not be taken away by us.

74. We have considered and reconsidered the matter several times and we feel that on the whole, the best course is to add the daughter to the existing list of simultaneous heirs and make no other change in the list. The onus of excluding the widowed daughter-in-law should not, in our opinion, be assumed by us, especially when the Joint Select Committee, after a full consideration of the subject, has deliberately included her. We however consider that a widowed daughter-in-law should not be placed on a footing superior to the daughter's and we have accordingly proposed rules of distribution which secure this.

75. We claim no finality for our views, especially as one of us still feels strongly that the provision we have made is unfair, because it leads to a widowed daughter-in-law taking her father-in-law's property absolutely, in preference to his own daughter's son. The problem is undoubtedly a difficult and intricate one and the only way of avoiding injustice - which seems to be inevitable in particular cases, whatever the solution propounded - seems to be by making a free use of the testamentary power. The Legislature will no doubt ultimately decide this issue, with due regard to all the relevant considerations.

76. The addition of the daughter to the existing

list of simultaneous heirs (that is to say, the list as extended by the *Deshmukh*) has necessitated a revision of the rules of distribution. The revised rules together with a number of illustrations will be found in clause 7 of Part II of the Code; we shall mention here only a few typical cases. Suppose a Hindu dies intestate leaving a widow, a son, and a daughter. Under the existing law, the widow and the son each take a half-share and the daughter nothing; under the Code the widow and the son would each take two-fifths and the daughter one-fifth. If the surviving relatives are a widow and a daughter, or a son and a daughter, then, under the existing law, the widow or the son takes the entire property to the exclusion of the daughter; under the Code, the widow or the son would take two-thirds and the daughter one-third. If the survivors are a son, a daughter, and a son's widow, the distribution under the existing law is that the son and the son's widow each take one-half and the daughter nothing, while under the Code, the son would take one-half and the son's widow and the daughter would each take one-fourth. If the survivors are only daughter and a son's widow, the latter takes the whole property under the existing law; under the Code they each take one-half. We consider that the distribution we have proposed is fairer to the daughter, and if it gives less to the daughter-in-law than the existing law under the head of inheritance, we have redressed the balance by giving her more under the head of maintenance, for we have converted into a legal obligation the existing moral obligation of the father-in-law to maintain his son's widow. Moreover, the daughter-in-law will, under the Code, get a share of her father's property as well.

III - Absolute estate for women

77. The main argument advanced in favour of limiting the estate of women is that they are incapable of managing property and that they are likely to be duped by designing male relatives. We are unable to accept this argument, particularly as it was not supported by concrete instances. The daughter has an absolute estate in Bombay even now, and we have no reason to believe that she is exposed to any risk on this account, or that

there is any difference in the quality of the management of properties by men and by women. On the other hand evidence was given before us that, in the case of some large estates, women have proved to be better managers than men.

78. It is true that at present women are more illiterate than men, but three men out of every four are even now illiterate and the relative advantage enjoyed by men in this respect is confined to a fraction of one-fourth of the population and does not appear to be large. It should also be remembered in this connection that the percentage of literate women is rising at a much faster rate than that of literate men. Besides, illiteracy is not in itself a proof of incompetence.

79. There was no great opposition to the daughter or the sister getting an absolute estate. The brunt of the opposition was to the widow getting an absolute estate. The case for the widow was put with great force by Principal Anand of Lahore.

"Her claims are always superior to those of a son. From the time of their marriage, she has been connected with the husband and has shared in his joys and sorrows, and would have rendered a far greater measure of service to the husband". We agree with the above view and are not convinced that a case for limiting the estate of the widow has been made out. The reasons given in the Statement of Objects and Reasons to the Intestate Succession Bill prepared by the Hindu Law Committee of 1941 in favour of enlarging the estate of the widow to an absolute estate seem to us to be strong and sufficient. In deference to some of the evidence tendered before us and the wishes expressed by certain witnesses, we have carefully considered whether the widow's estate should be limited in any case, for example, where the husband has left a descendant. There seemed to us to be no need to make any such differentiation. It is open to the husband to restrict his wife's right, if he wishes to do so. And where he has not chosen to do so, we do not see why the law should interpose any limitation. A widow with children or grand-children is hardly likely to give her property away to a stranger. The balance of advantage clearly lies in making the law as simple as possible.

IV - Monogamy

80. The weight of the evidence, written and oral, adduced before us was preponderantly in favour of monogamy, although certain eminent witnesses like Sir P. S. Sivaswami Iyer of Madras and Sir Bhavanishankar Niyogi of Nagpur doubted its necessity. The arguments advanced against making monogamy a rule of law were as follows:

- (i) Monogamy is even now the rule in practice and consequently no law is necessary.
- (ii) If monogamy were enforced by the law for Hindus, it may drive many of them to Islam which allows four wives.
- (iii) Among persons carrying on certain occupations, for example, weavers and cultivators, necessity is often felt for taking a second wife in order that the occupations may be carried on efficiently.
- (iv) Monogamy will not work without divorce, and divorce is deeply opposed to Hindu sentiment.
- (v) The ancient authorities permit a man to take a second wife in stated circumstances, for example, when the first wife is barren, diseased or vicious, and there is no reason to deprive men of a liberty which is now enjoyed by them. As one witness put it "Why should men be deprived of a vested right which has been enjoyed by them for 3000 years?"
- (vi) Insistence on monogamy will only lead to increased concubinage.

81. We consider that there is not much force in the above arguments and that the time has now come to remove a long-standing grievance and do justice to the mothers of the race by prescribing monogamy as a rule of law. Certainly, we cannot agree with the view rather lightheartedly expressed by one witness "If a man is healthy and wealthy, he should be allowed to marry again". Orthodox opinion is clear that a man who marries a second wife when his first wife fulfils all the conditions required of a *dharmapatni* commits a sin and should be punished. Pandit Thethiyur Subrahmanya Sastri of Madras pointed out: "There can be only one *dharmapatni*. If a man marries a second wife, when his first wife has all

the qualifications mentioned in *Yajnavalkya*, he should be punished".

82. If monogamy is already the rule in practice, there can be no hardship in translating it into a rule of law now. The Rt. Hon. Srinivasa Sastri dealt with this point eloquently in his evidence:

"I thought that the pride of Hinduism was that although polygamy was permitted in theory, it was monogamy which was actually practised. It is therefore surprising that when monogamy is sought to be enacted as a rule of law, hands should be raised in horror".

83. The apprehension that Hindus will become Muslims to enjoy the doubtful benefits of polygamy is fantastic in the extreme. When this point was put to a Madras witness (Mrs. Ambujammal), she neatly countered it by answering as follows: "I would answer that if monogamy were not enforced, Hindu women might turn Christians to secure the benefit of monogamy! But I do not think that either view is justified". There is absolutely no evidence, that men in communities which are now monogamous, for instance, Christians, change their faith to secure the benefits of polygamy, although one witness in his argumentative zeal said that Christians might not become converts to Islam, but that Hindus might, and another went to the extent of contending that Hinduism would die out if monogamy were to be enforced among the Hindus alone. To those who feel genuine apprehensions on this ground, we may point to the case of Malabar where monogamy was enforced for certain communities about fourteen years ago by an Act of the Madras Legislature, the Madras Marumakkattayam Act. The Government Pleader, and the Crown Prosecutor, of the Madras Government, both of whom belong to a community governed by that legislation, were emphatic that the legislation has not led to any conversions to Islam and that it has worked very well.

84. There is no substantial evidence that weavers or cultivators or any other class practise polygamy systematically for the more efficient carrying on of their occupations. On the contrary, social surveys, where they have actually taken place, seem to show that monogamy prevails very

largely among all communities.

85. The question of divorce should not be mixed up with that of monogamy. The two questions should be kept distinct. It is possible to have monogamy without divorce (as in Catholic countries), and there were many witnesses, both among men and among women, who did not favour divorce, but yet wanted monogamy to be made a rule of law. In fact, this corresponds to the position now occupied by Hindu women, and these witnesses therefore only wanted Hindu men to be put in the same position as Hindu women.

86. The conditions on which a second wife was permitted to be taken in the ancient *smritis* are few, and there seems to be no necessity for keeping these somewhat archaic rules alive at the present day. If a wife is childless, the husband may avail himself of the right of adopting a son and from the religion point of view a *dattaka* son is as efficacious as an *aurasa* son. Besides, without an actual medical examination, it will be impossible to say whether the failure of a marriage to result in children is due to the fault or defect of the man or of the women, and most witnesses felt that it would be unseemly to provide for such an examination. Some witnesses who at first wanted exceptions to be made, ultimately agreed that it was simpler and more acceptable to provide for monogamy absolutely and without exceptions, as they were satisfied that it would be very difficult to ensure the satisfactory fulfilment of the conditions subject to which alone they wanted the exceptions to operate.

87. The problem of illicit relationship by way of concubinage is an entirely separate one. We do not think that concubinage will increase by reason of the provision for monogamy. The type of woman who will agree to become a concubine is not the type to whom marriage, albeit a second marriage, is likely to be offered.

88. We do not think that this matter should be left to Hindu society to take care of as suggested by certain witnesses. There is evidence that the control of society is becoming looser, rather than tighter. Rao Bahadur V. V. Ramaswamy of

Madras pointed out that in his community (the Nadars), at one time, breach of monogamy was punished by excommunication but that the practice has now fallen into disuse and consequently that second marriages are contracted for flimsy reasons.

89. We have thus examined the main arguments urged against monogamy and shown why, in our opinion, they are not acceptable to us. We are not convinced that either a provision permitting a second marriage with the consent of the first wife or one enabling the first wife to obtain a divorce when the husband takes a second wife will work satisfactorily. As to the first suggestion, it was frankly conceded before us that the wife's consent would not be a sufficient safeguard, and once witness rather naively said that that was why he suggested it! We were more attracted by the second suggestion but in practice it would amount to divorce by mere mutual consent: the husband has only to find another wife.

90. We have accordingly retained the provision for monogamy in the draft Code. It will prevent the husband from deserting the wife at will and contracting a second marriage. There is a substantial body of evidence before us that cases of desertion and remarriage are increasing, and this problem is best solved by enacting monogamy as a rule of law.

91. We should like to add that a strong practical argument in favour of monogamy is the force of world opinion. The point is brought out clearly in the evidence of the Rt. Hon. Srinivasa Sastri: "As one who has travelled outside India, I can say that many Christian people have denied to our *vivaha* the sanctity which we have always attached to it. In South Africa, for instance, they thought that our women were not legally married as our system permitted polygamy which their law would not recognise".

92. As we have already pointed out, our view that monogamy should be enforced by law has been accepted in Bombay where legislation for preventing polygamy among Hindus was recently placed on the statute book.

V - Divorce

93. Opposition to the provision for divorce was expressed in very vigorous terms in many quarters and there is no doubt that Hindu sentiment is much exercised over the matter. Sir N. N. Sircar told us that the vast majority of Hindus have a deep-rooted sentiment against it. Orthodox witnesses contended before us that marriage is an *adhyatmic sambandha* which is not only for this world but also for the next, and consequently that a woman should not be permitted to remarry after divorcing her husband. But this view will prevent even a Hindu widow from remarrying, and few witnesses wished to carry matters to this extreme, though logical, conclusion. Remarriage of Hindu widows was legalised ninety years ago.

94. It is clear that the texts of Narada, Parasara and Devala permit divorce in certain circumstances. We are unable to accept the view that these texts refer only to cases of betrothal (*vagdana*) and not to cases of a completed legal marriage of *kanyadana*. Nor can we endorse the view that the texts apply only to unapproved marriages or to *niyoga* connections. Orthodox opinion considers that the texts are *nishiddha achara* in the present age (*kaliyuga*) but this seems to us only another way of saying that divorce is not now prevalent, among the higher castes.

95. There are however many Hindu communities, particularly in the lower social strata, in which divorce does prevail even now as a custom. A witness from Orissa said that in his Province, divorce prevails by way of custom except among the highest castes. Another witness, from Bihar, said that of a total Hindu population of 32.2 millions in that Province, only 4 million belonged to the highest castes and that the marriage tie sat rather loosely on the remaining 28.2 millions and that there was a valid custom of divorce among the lower strata. Although, therefore, a Hindu marriage is in theory a sacrament, in practice, it is even now regarded among large sections of the community as dissoluble. The statement that divorce is an idea which is absolutely foreign to

the Hindu Law cannot therefore be accepted as correct. Even among the higher castes, where at present Hindu Law does not permit divorce, the practice of circumventing the law is becoming increasingly frequent: one of the parties becomes a convert to Christianity or Islam and by a procedure well-known to lawyers obtains a divorce, after which he or she gets reconverted to Hinduism. But this technique is not available to those who are too honest to change their faith even temporarily, however deserving their case may be, while it is available to others, however undeserving.

96. The hardship arising from the existing law is undeniably great and several attempts have been made in the past to alleviate it. Mr. Bhogilal D. Lala, M.L.A., of Bombay, introduced a Bill in the Bombay Legislative Assembly, Bill No. 41/1938, for this purpose; and Mrs. Radhabai Subbarayan also gave notice of a similar measure for introduction in the last Indian Legislative Assembly.

97. In Bombay, when the Bill for enforcing monogamy was being passed through the Legislature of the Province recently, the Minister concerned recognised that a Divorce Bill was a necessary corollary. Such a Bill has already been published in the Bombay Government Gazette.

98. From the evidence adduced before us, we are satisfied that there are thousands of women in British India who have been deserted by their husbands. The visits which some of us made to certain Rescue and Destitute Women's Homes both in Calcutta and Madras and advertisements frequently appearing in newspapers, especially in the Bombay Presidency, fortify this conclusion. Sir M. Bhavanishankar Niyogi of Nagpur in his evidence referred to many cases in which the need for relief was a very pressing one. Desertion cases do not appear to be less common amongst Hindus than amongst other communities. A Calcutta Women's deputation representing the All-India Women's Conference and other Women's Associations, after mentioning several actual cases of desertion and remarriage, went on to say: "These cases are not so rare as is sometimes

imagined; they occur among orthodox middle-class families. We can give names and details, if necessary. If the cases are rare, so will divorce be. Unless there is great hardship, why should women, particularly Hindu women, seek divorce?"

Many hard cases were also brought to our notice by other witnesses in which remarriage was both desired and possible but could not be effected by reason of the existing law. The number of these cases may not be relatively large and, reckoned in terms of percentages, the problem may not appear to be a formidable one. But, as we have already stated, there are thousands of such cases in India and if even a small proportion of these women desire a divorce with a view to getting themselves remarried, the question is whether the law should say them 'Nay'. Evidence was let in before us that in many cases remarriage is quietly celebrated and that society tolerates and recognizes such remarriages, Sri V. Venkatarama Sastry of Bezwada in the course of his evidence said:

"I am personally aware of three cases in which parents have had their daughters 'remarried' after obtaining a letter of release from the former husband who had deserted her. Divorce being impossible in such cases, this is what is done. To the second marriage, friends are invited. These cases are among the Kamma or cultivator class, claiming to be Kshatriyas but often regarded as Vaishyas. They are the highest non-Brahman caste, and divorce does not prevail among them".

99. We may note here that Judge Parry has mentioned that even so late as 1875, there obtained among the lower classes in England a similar practice of obtaining written releases from the husbands and regarding the marriage tie as thereafter dissolved. Apparently the persons concerned were not aware of the illegality of the practice. It is obvious that the validity of the marriages referred to by the Bezwada witness must be regarded as open to question; and we see no reason, why the law should not be suitably altered so as to provide for divorce and remarriage in such cases. Where a marriage has in fact ceased

to exist by the husband having deserted his wife for a number of years and the husband has thus ignored his sacramental obligation, we consider that the wife should not be prevented from starting life afresh, if she wishes to do so. It seems to us that it will be cruel in the extreme to deny this measure of relief to the deserted wife. We must not any longer shut our eyes to inconvenient facts. On the other hand, it is the duty of the community to devise some remedy for a social evil.

100. Some witnesses have said that the suffering involved should be borne patiently by the deserted wives as inevitable in the larger interests of the community. But, curiously enough, these witnesses refuse to apply their prescription of patient suffering to men, for they wish men to be at liberty to remarry in such cases.

101. It was urged by some that these unfortunate women should betake themselves to social work and maintain themselves by nursing, teaching, and so on. But not all the deserted wives may have a gift or call in any such direction and some may prefer to marry again and we see no reason why they should be prohibited from doing so. We are satisfied that far from injuring Hindu society, the provision for divorce which we are now including will be found to be socially healthy and beneficial. We would draw attention in this connection to the evidence of Sir N. N. Sircar that a provision for divorce will lead to the better treatment of wives.

102. Cases of desertion are the most frequent and we have therefore dealt with it at some length above. As regards the other grounds, we have no hesitation in making ground (d) (either party ceasing to be a Hindu by conversion to another religion) and ground (f) (keeping a concubine or becoming the concubine of another person or a prostitute) applicable to the case of sacramental marriages also. As regards the former, we wish to emphasize that under our proposals, the party abandoning the Hindu religion will not be entitled to ask for a divorce on that ground, and that it is left to the party who remains a Hindu to choose to ask for a divorce or not. A change of religion

is not inconsistent with the continuance of conjugal love and we consider that it should not be permissible for a party to a marriage to get a divorce by the simple expedient of changing his or her religion. As already pointed out, cases where the wife resorts to conversion to Islam or Christianity merely in order to secure release from her marriage tie are increasing in number. We agree with the witness who said that the sooner the practice is stopped, of having to change one's religion merely in order to get a divorce, the better it will be for all concerned.

103. Where a wife becomes a concubine of another man or leads a prostitute's life-ground (f) - it is clear that the sacramental tie has ceased to exist and that it will be a mockery to provide for its obligatory continuance as a matter of law. We, therefore, consider that this should be a valid ground for divorce.

104. As regards a man's keeping a concubine, there was some difference of opinion among witnesses and many seem to consider it an inadequate ground unless it is aggravated by other facts, for example where the concubine is actually brought into the house. We do not, however, agree with this view. As far as possible the law should operate equally between man and woman, and public opinion will not, in our opinion, tolerate differential standards in this respect at the present day. But we are satisfied that very few Hindu wives will seek a divorce where there is nothing else against the husband, except that he keeps a concubine. Even in countries where divorce is now allowed merely on the ground of adultery, women care a good deal for outward appearances and do not advertise their husband's infidelity by seeking a divorce, especially when there are children of the marriage.

105. As regards the remaining grounds for divorce, viz. insanity, leprosy and venereal disease-grounds (a), (b) and (e) - we have carefully considered whether they should be made inapplicable to sacramental marriages in view of the evidence given by some witnesses that the union between a Hindu husband and his wife is not for pleasure alone and consequently that in cases like these, the balance of advantage lies in

maintaining, rather than in providing for the dissolution of, the marriage. We however disagree with this view and feel that there is no need to maintain any distinction between civil and sacramental marriages in regard to this matter, as the same human considerations apply to both.

106. After giving our most careful consideration to the whole matter, we are clearly of the opinion that the provisions for divorce contained in the draft Code as published should be retained and that they should apply not only to civil, but also to sacramental marriages.

107. We have next to consider whether any alterations or additions in these provisions are required. The period of 7 years referred to in grounds (a), (c) and (d) (leprosy, desertion and venereal disease) has been objected to as being too long. Many witnesses have suggested a reduction of the period to 3 years, while others were for reducing it to 5 years. We think, on the whole, that a reduction of the period to 5 years cannot be regarded as unreasonable, especially as the proceedings themselves will take some time.

108. The following additional grounds for divorce were suggested:-

- (i) cruelty, or at least such cruelty as endangers life,
- (ii) disappearance of either husband or wife for seven years without anything having been heard from him or her,
- (iii) the husband having become an ascetic,
- (iv) adultery by husband or wife,
- (v) incompatibility of temperament between husband and wife.

Cases (ii) and (iii) above are really forms of desertion and need not in our opinion, be separately provided for. We consider that there should be no divorce merely on the ground of the husband or wife having committed adultery or on the ground of incompatibility of temperament between the two. As regards cruelty, when it is of a flagrant character, that is, when it is such as to endanger personal safety, we consider it desirable to add it to the grounds for divorce. The addition has been suggested to us by many witnesses, especially women, and seems to us to be

reasonable and necessary.

109. The fact that provisions have been included in the Code for divorce in the case of sacramental marriages in certain circumstances does not, of course, mean that the provisions will be resorted to or that there will be spate of applications for divorce immediately the Code is passed. As well pointed out by a witness, Hindus, and more especially Hindu women, are very conservative by temperament and they are not likely to resort to divorce, except when there are the strongest grounds. Divorce is very rare even now among Indian Christians. Divorce was allowed to certain Hindus of Malabar by Madras Act XXI of 1903: Either party to a Malabar or Marumakkattayam marriage may get rid of the tie by simply filing before a Court an application for the dissolution of the marriage. But witnesses belonging to the communities governed by that Act, of unimpeachable credit and authority, have pointed out to us that the number of cases in which this provision for divorce was utilised was negligible. Mr. Kutti Krishna Menon, Government Pleader, Madras said:

"Although under the Act, divorce can be secured by an instrument of dissolution executed by the parties or on a mere application to the Court by one of the parties, yet, there are very few divorces in practice. If the freedom allowed is genuine, the parties feel their responsibility all the more".

Mr. Govinda Menon, Crown Prosecutor,

Madras, gave evidence to the same effect:

"I can speak with intimate knowledge of Malabar. Monogamy has worked very well in that district. Similar legislation has been in force in Travancore and Cochin for a much longer period and even there, divorce among Hindus is very unusual. Travancore and Cochin, both, had monogamy and divorce earlier than British Malabar. Even among Christians in Malabar, there have been comparatively few divorces".

110. The experience of Baroda where a law of divorce has been in operation for many years is practically the same, as the following extract from the Baroda Administration Report for 1941-42 will show:-

"Hindu Divorce Law: Hindu Law does not allow divorce except in certain communities where it is permitted by custom. To remove the disability in this respect of the remaining castes, the Hindu Divorce Act was passed in 1931. Provision has been made in the law for

- (i) divorce,
- (ii) judicial separation,
- (iii) separate residence,
- (iv) nullity of marriage, and
- (v) restitution of conjugal rights.

The grounds on which relief can be sought are cruelty, desertion, adultery, drunkenness, impotency and incompatibility of temperament. Relief on these grounds is available to all Hindus.

The following figures show the extent to which advantage was taken of this law:

Year	Suit for					
	Divorce	Judicial separation	Separate residence	Nullity of Marriage	Restitution of conjugal rights	Suits by persons in whose case divorce is not allowed by custom
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1942-43	40	2	1			
1941-42	37	2	2	1		3
1940-41	32	1	1	3		6
1939-40	44	3		1	2	6
1938-39	38	3	1			6
1937-38	45	1	2		3	5
1936-37	44	4			3	4
1935-36	30	5			4	3
1934-35	45				6	1
1933-34	58	1	1		4	1
1932-33	29	3			8	1
1931-32	35	4			8	1

The number of suits by persons belonging to castes in which custom does not allow divorce was three this year which is the same as last year.

Nature of suits filed: The following table shows relief sought in suits filed under the law during the grounds on which relief was claimed and the year under report:-

Relief sought	No. of suits	Grounds
Divorce	5	Cruelty by husband
	19	Cruelty and desertion by husband
	0	Cruelty, desertion and habitual drunkenness of husband
	1	Cruelty, desertion and husband taking another wife
	0	Cruelty and false charge of unchastity
	7	Desertion by husband
	1	Impotency of husband
	2	Cruelty and desertion by wife
	1	Misbehaviour and desertion by wife
	0	Loose character and unnecessary harassment by wife
	4	Desertion by wife
	40	
	0	Cruelty and desertion by husband
Judicial separation	2	Desertion and the husband taking another wife
Separate residence	2	
	0	Cruelty and desertion by husband
	1	Cruelty, desertion and the husband taking another wife
Nullity of marriage	1	
	0	Concealing the fact of having a former wife at the time of marriage
Grand Total	43	

Note - The main grounds on which divorce is sought are cruelty and desertion.

Details of suits by higher castes - Of the suits filed under the law during the year, in three, the parties belonged to castes in which custom does not allow divorce. In one of them, a Bania woman sued her husband for divorce on the ground of desertion. In the second, a Brahmin woman sued her husband for separate residence on the ground of cruelty and desertion. The third suit was by one Anavil Brahmin who sued his wife for divorce on the ground of desertion. Of these three suits, two were compromised and the third is pending.

111. In view of the what we have said above, we are confident that the provisions we have suggested will only give relief in hard cases and will not be abused. They steer a middle course. They do not make divorce too easy. Nor do they make divorce impossible.

112. We wish to emphasize once more that the provisions are purely enabling ones and that there is absolutely nothing to compel a woman to sue for divorce if she does not want to do so. We are satisfied that, in practice, it will be resorted to very seldom.

113. We should like to say here that our intention is that our recommendation in favour of enacting monogamy as a rule of law should stand, even though no divorce is provided. One witness said that monogamy without divorce would be like a still-born child. We do not share this view. Many Catholic countries have monogamy without divorce. Again, Hindu women are now bound by the rule of monogamy, although they are not entitled to divorce, except where their communities allow it. It is not after all unreasonable to require that men should be subjected to the same rules and restrictions as women are at present.

114. The proviso to Clause 29(1) of Part IV of the Draft Code as published for criticism in 1944, provided that the Court shall dismiss a petition for nullity in all the cases referred to in that clause, if the petition is presented more than three years after the celebration of the marriage. This will, in effect, make the marriage voidable in all such cases. But where the marriage is a bigamous one or where the parties are within the prohibited degrees of relationship, it is clear that the failure

of the parties to present the petition within three years should not have the effect of converting the marriage into a valid one. We have therefore drawn a distinction between marriages which are "null and void" and those which are merely "invalid", and have applied the provision for a time limit only to the latter class of marriages.

V - MINOR POINTS

115. We now proceed to deal with some of the other points which have been raised before us.

116. *Part I, Clause 5(i), Definition of 'related'* - It was pointed out to us that to confine relationship to legitimate kinship might prevent a *naikin's* property from passing to her son or daughter and also that there was no reason why her children should not have mutual rights of inheritance. We consider that this criticism is justified and have expanded the definition of 'related' suitably to cover the cases in question.

117. *Part II, Clause 5(1), Son's daughter and daughter's daughter* - We have improved the position of these heirs. They will take, immediately after the last of the heirs in the compact series, instead of after the father's father as under the existing law (Act II of 1929).

118. *Part II, Clause 5(1), Clauses IV, V and VI* - On the analogy of Class III as amended by the Joint Select Committee, which has made the brother's daughter and the sister's daughter heirs next after the sister and the sister's son, we have, in Class IV, made the father's brother's daughter and the father's sister's daughter heirs next after the father's sister and the father's sister's son. We have made similar additions in Clauses V and VI also.

119. *Part II, Clause 5(2), Widows of Gotraja Sapindas* - Many Witnesses in Bombay wished us to retain the provision in the Bombay law which gives a place to the widows of *gotraja sapindas* in the line of heirs. They regard the removal of these widows from the list of heirs as a retrograde step. We have now included the widowed daughter-in-law and grand-daughter-in-law as heirs for all Provinces. But this will not be enough to satisfy the critics in Bombay. We have therefore inserted a new provision giving the widows of the *gotraja sapindas* mentioned in Clause 5(1) a right of inheritance which will place

them, as far as possible, in the same position as they now occupy in the Bombay Presidency. We recognise that this constitutes a departure from the principle of uniformity. But we are satisfied that the departure is not serious and may be made in view of the strong local sentiment felt in Bombay in this matter. Here again, we have no doubt that the Legislature will carefully consider what should ultimately be done.

120. *Part II, Clauses 10 and 11, Succession of Acharyas, etc.* - Some opposition was expressed to these two clauses. Clause 10 provides for the succession of the *acharya, sishya, etc.*, in the absence of heirs who are not related by blood, and clause 11 lays down special rules for the devolution of the property of hermits, ascetics, etc. The clauses are based on the rules of the existing Hindu Law and do not appear to have led to any difficulties in practice. The cases are very rare and we consider that the clauses may be retained. We have, however, added an Explanation to clause 10 making it clear that when construing the terms '*acharya*' '*sishya*', etc., it is the imparting, or the receiving, of religious instruction which should be taken into account and that such instruction should have been imparted or received at the *acharya's* house.

121. *Part II, Clause 21, Convert's Position* - It was urged with considerable force, and almost with unanimity, that not only the convert's descendants, but the convert himself, should be disqualified from inheriting the property of his Hindu relatives. The present position is otherwise and is the result of the Caste Disabilities Removal Act which has been law for over ninety years. The Legislature will not doubt consider the matter.

122. At least one of us may here be permitted to express a personal view. Hinduism has been described, and rightly, to be not so much a religion as a League of Religions, with toleration for every faith as its ennobling characteristic. To punish a man for choosing to worship God in one way rather than another would be a retrograde step opposed to the true spirit of Hinduism and now that Hindus too admit converts and reconverts to the Hindu faith, a tax on freedom of religion is of dubious value to the Hindu community.

123. It was also urged that colourable reconversions merely for the sake of getting the

inheritance of a Hindu relative should be prevented, by insisting on a rule to the effect that the reconvert should not only have come back to his original faith but retained it for a specified number of years. We are not greatly impressed by these fears. Clause 21 lays down that the heir should be a Hindu *when* the succession opens. Reconversion after the succession opens will not, therefore, be possible. This restriction will, in most cases, remove any danger of abuse of the provision contained in the clause. Where a reconvert claims the inheritance, the genuineness of the conversion will no doubt be considered by the Court.

124. There is, however, one anomaly which we consider should be removed by a suitable amendment of the Caste Disabilities Removal Act. The Act, while making the convert eligible to inherit to relatives who continue to retain the original faith, does not make those relatives eligible to inherit to the convert, if the law governing the latter disables them from doing so. Thus, if A, a Hindu, becomes a Muslim, he is entitled to inherit to his Hindu brother B, but B, is not eligible to inherit to A, as Muslim Law disqualifies B. We recommend that this anomaly should be removed.

125. *Part II, Clause 25, Escheat* - There is quite a considerable body of testimony in favour of modifying Clause 25 of Part II, so as to provide that the property should not go to the State but to Hindu religious institutions or alternatively, that the Crown should continue to take by escheat but subject to an obligation to devote the property only to purposes which are beneficial to Hindus. We are averse to laying down any statutory restrictions on the discretion of the Crown in this matter, and have no doubt that the Government of the day will respect the sentiment of the people affected, viz, that Hindu property which escheats to the Crown should be devoted only to Hindu purposes.

126. *Section 141 of the Indian Succession Act* - By virtue of Section 141 of the Indian Succession Act, 1925 (XXXIX of 1925) a legacy bequeathed to a person who is named an executor falls, unless he manifests an intention to act as an executory. A recent decision of the Madras High Court [I.L.R. (1944), Mad. 821, *Rajam v. Pankajam*

Ammal] has held that this section will apply, although there may be a very clear indication in the will itself that the legacy should stand even though the devisee declines to act as executor. We consider that this is clearly unjust. Section 141 applies not only to Hindus but also to other communities and we do not, therefore, wish to incorporate any amendment to Section 141 in the Code, but suggest instead that the question of incorporating the necessary amendment in the Succession Act itself may be taken up by the Government separately, so that it may apply to all the communities to which the section now applies. This can be accomplished by a short amending Bill. The course suggested by us will have the further advantage of bringing this particular amendment into force from a much earlier date than might otherwise be the case.

127. *Part IIIA, Clause 5(2), Maintenance of Concubines* - There was some opposition to the granting of rights of maintenance to a concubine on the ground that it would encourage immorality. This objection was expressed among others by Sir Harshadbhai Divatia and the Bombay Presidency Women's Council. The Gujarati Stri Mandal, on the other hand, was in favour of retaining the provision. We consider that the best defence of the existing provision is contained in the following remarks made by the Right Hon'ble M. R. Jayakar in the course of the examination of a witness in Poona -

"The provision only relates to a concubine who has been in the exclusive keeping of the deceased until his death. The concubine's position until the man died would be very precarious, as he could discard her at any time and if he did so, she would not get any maintenance. No women would, therefore, agree to become a concubine by reason of the provision made in draft Code for the maintenance of concubines. It would be no inducement at all. That is the effect of the provision. It cannot be said to be unreasonable".

We would, therefore, leave this matter as it is.

128. In a recent Full Bench decision of the Bombay High Court [I.L.R. (1945) Bombay 216, *Akku Prahlad v. Ganesh Prahlad*], it has been held that even though a connection with a concubine might be adulterous, it does not disentitle her to maintenance. Some witnesses in Poona,

relying on this decision, contended that the proviso to Clause 5(2), should be omitted. We consider that where a connection is adulterous or incestuous, the concubine should not have any rights of maintenance, although she may satisfy the other conditions laid down in the Clause. Her children will, of course, be entitled to maintenance until they attain majority or get married, as the case may be.

129. *Part IV, Inclusion in the Code of Provisions regarding Civil Marriages*, - There were loud protests from certain quarters that the provisions relating to civil marriage should not be included in the Code and that they should be incorporated in a separate enactment. At the same time, much anxiety was displayed that as many persons as possible should remain Hindus and that no one should needlessly be driven out of the fold. The desirability was stressed of having some provisions which will permit of a Hindu marrying a non-Hindu while continuing to remain a Hindu himself or herself. We invite attention, in this connection, to the following extract from the record of the examination of Poona of Mr. Chapekar of the Dharma Nirnaya Mandal:

"*Part IV - Clause 7, etc.* - Witness - I do not like the civil marriage provisions.

Dr. Jayakar - If a Hindu marries under Act III of 1872 the Indian Succession Act applies, and not the Hindu Law, and the parties virtually cease to be Hindus. Is that a desirable position?

Witness - I agree that the provisions regarding civil marriages might remain in the Code, as that will have the effect of preventing Hindus from leaving the Hindu fold".

We consider that there is no substance in the objection that the provisions relating to civil marriages should not be made in the Code itself but in a separate enactment. It must be remembered that the Code is not only for the orthodox Hindu but also for Hindus who have deviated, in greater or smaller measure, from present standards of orthodoxy. These standards themselves are constantly fluctuating, and many things which could not be done in former days are tolerated, if not encouraged, at the present day. The changed social outlook to sea voyage and interdining clearly shows this. Hindus who favour the civil form of marriage for any purpose should not have

to look to some other enactment. We are unable to subscribe to the view that there will be a sort of sacrilege or profanation in the same Code of law making provision not only for sacramental, but also for civil, marriages.

130. *Part IV - Inter -Caste, Sagotra and Sapravara Marriages*, - The question at issue here really lies in a very narrow compass, viz. Whether these marriages should take place only in the civil form or whether they may also be permitted to take place in the sacramental form. Orthodox opinion is strongly opposed to the latter suggestion. But the provision made in the Code is a purely enabling one and reformers contend with much force that it should remain, as it is unjust that the views of the orthodox should be imposed on them by legislative enactment. They urge that it is not fair to deprive them of the benefit of the customary form of marriage ceremony merely because they believe that the caste system has outlived its usefulness and is hampering progress and consequently that caste restrictions should be discarded in marriage.

131. The Code lays no compulsion whatever on the orthodox, and they are entirely at liberty to adhere to all the restrictions to which they are now subject. That being so, we consider that it is undesirable to drive reformers to the civil ceremony even in cases where they wish to perform the marriage in the sacramental or customary form. It is indisputable that marriages between persons of different castes were prevalent in the ancient days, and there is no reason why those who want to revive the old practices should be denied freedom to do so. The principle of Dr. Deshmukh's Bill removing doubts as to the validity of *sagotra* and *sapravara* marriages was accepted by a majority of the Hindu members of the last Indian Legislative Assembly in November 1946.

132. It is not likely that many inter-caste or even *sagotra* marriages will be celebrated in the near future. The existing law permits of marriages between persons of different sub-castes but belonging to the same main caste. Such marriages, however, take place but seldom. Marriages between members of different main castes will for a long time be rarer phenomenon still. There may possibly be an increasing tendency in

favour of such marriages but this fact by itself is not, of course, sufficient to invalidate them by law.

133. The weight of evidence favoured the simple removal of the conditions making identity of castes and diversity of *gotras* and *pravaras* essential for the validity of a marriage, rather than the alternative set of clauses in Part IV which provided for the validation of inter-caste, *sagotra* and *saprarava* marriages, after they had actually taken place by the application of the principle of *factum valet*. The feeling was general that if the existing restrictions are to be removed, it is better to remove them openly and frankly. We agree with this view and accordingly propose to retain the first set of clauses and omit the second. The alternative which we have discarded would have cast a slur on millions of Hindus.

134. *Prohibited degrees of relationship* - There is a strong feeling that the children of two sisters should be prohibited from marrying. We have enlarged the definition of prohibited degrees of relationship in Part IV of the Code, so as to cover this case also.

135. *Limits of Sapinda Relationship* - There is a substantial body of evidence for relaxing the limits of *sapinda* relationship from seven and five degrees to five and three degrees respectively, or even to three degrees on both sides. In most communities, the strict rule prohibiting marriages within the limit of *sapinda* relationship as defined in the *smritis* (7 and 5 degrees) has been considerably relaxed by custom. We are inclined to agree that the limits may well be reduced from seven and five degrees to five and three, respectively.

136. *Registration of Marriages* - Many witnesses consider that provision should be made for the compulsory registration of all Hindu marriages, including those taking place in the sacramental form. We consider that the provision made by us for the optional registration of such marriages (Clause 6 of Part IV) will be sufficient for the present. The question of making the registration of such marriages compulsory may be considered later, after some experience has been gained of the working of the provision we propose.

137. *Registrar to be a Hindu* - The All-India

Varnashrama Swarajya Sangha has urged that the Registrar of Hindu marriages should be a Hindu. We accept this suggestion and have made the necessary amendment in the Draft Code - Clause 8(1) of Part IV. We trust that there will be no practical difficulty in giving effect to it.

138. *Clause 28 - (Dowry to be trust property)* - Some witnesses felt that this clause would not be effective. Others contended that the trust should ensure not only in favour of the wife, but jointly in favour of the husband and the wife. On the whole, we consider that there is no justification for this change and recommend that the clause may stand as it is. Even if it is ineffective, it will do no harm; but if, as we hope, it is effective at least in part, Hindu society will be considerably benefitted.

139. *Sarda Act* - Many witnesses complained to us that the Child Marriage Restraint Act 1929 (XIX of 1929), commonly known as the Sarda Act, has not succeeded in preventing child marriages altogether among Hindus and that there was consequently need for strengthening the provisions of that Act and making it more effective in practice. The suggestion was also made to us that a marriage in contravention of the Sarda Act should be made voidable at the instance of the minor wife or her guardian. According to the evidence before us, in certain areas, the provisions of the Sarda Act seem to be violated in a fairly large number of cases. We doubt, however, whether we shall be justified in inserting a provision in the Hindu Code on the lines suggested. The Sarda Act is a general measure and applies not only to Hindus but also to Muslims, Christians and others. We consider that any amendments designed to make that Act more effective should be embodied in it rather than in Hindu Code. We recommend that the results of the working of that Act not only in the Hindu community, but also in the other communities concerned, and the wishes of the members of all the communities in regard to amendments of the nature suggested, may be ascertained.

140. *Part V - (Minority and Guardianship)* - The provisions of Clauses 6 and 10 of Part V, of the Code were criticised on the ground that they unduly limit the powers of natural and *de facto* guardians and will not really benefit minors. We

are not impressed with these criticisms and have not, therefore, made any change in these clauses.

141. *Part VI - Adoption* - We have made the following changes in this Part:

- (i) Clause 5 - The age of the adopter has been raised from 15 to 18 in the case of both men and women.
- (ii) It has been provided that a son should not be adopted by a husband whose wife is alive, without her consent, or where he has more than one wife, of one of such wives.
- (iii) Similarly, as regards giving a boy in adoption, we have prohibited the father from giving a son in adoption without the consent of the mother where she is alive and capable of giving her consent. [Clause 12(2)].
- (iv) We have also abolished the caste restrictions.

The above alterations are supported by the evidence before us. As regards the last alteration, it was contended before us with much force that it would be inconsistent to keep the caste restriction for adoptions while abolishing it in the case of marriages. Where the husband and wife belong to different castes, surely, a boy of either caste should be capable of being adopted. We are clear that, consistently with the essential principle that nothing should be permitted in the Code which offends against equality of all Hindus before the law, there is no alternative to the abolition of castes restrictions in the matter of adoptions.

143. *Bombay Rule* - There was some opposition to the proposal to give authority to a Hindu widow to adopt a son to her husband, where he has not expressly or impliedly prohibited an adoption by her. But in view of the very large and general measure of support accorded to the proposal, we consider it desirable to retain it. This rule now prevails in Bombay, and our proposal was to extend it throughout British India. Women in Provinces other than Bombay were almost unanimously in favour of this enlargement of their rights. The Maharani of Natore and other *purdanishin* ladies, whom we examined at Calcutta, were opposed to most of the alterations made by the Code, including the provision for monogamy contained in it, but they were in favour of the extension of the Bombay rule throughout the

country. We have accordingly retained it.

144. *Adoption of Girls* - A few witnesses expressed a desire that the adoption of girls should be permitted and that the existing law should be altered accordingly. We are not in favour of providing for such adoptions by a formal statutory provision in the Code. There is nothing to prevent any Hindu of either sex from bringing up a girl as his or her *abhimanaputri* and giving her property by will or deed. In our opinion, this should suffice. In fact, it was suggested to us by many witnesses that it would suffice even in the case of boys and that the adoption of boys may also be stopped.

145. *Dwyamushyayana, Kritrima and Illatom* - There was some evidence that the *dwyamushyayana*, *kritrima* and *illatom* forms of adoption may continue to be recognised. The evidence in favour of retaining the *dwyamushyayana* and *illatom* forms was not much. But in Bihar, there was a widely expressed desire that the *kritrima* form should be retained. The *kritrima* adoption creates a relationship only between the adopter and the adoptee and is practically in the nature of a contract between the two. It seems to us therefore that there can be no great objection to retaining this form in areas where it now prevails by custom, and we have done so. We have accordingly retained it as well as an essentially similar form of adoption known as the *godha* which prevails in parts of the Bombay Presidency.

146. *Adoption of orphans* - Some witnesses desired that the adoption of orphans should be made valid. But in view of the far-reaching effects on the person adopted, we consider it desirable to retain the principle that only a father or mother can give a son in adoption. We do not think that there is any wide demand or real necessity for the adoption of orphans. Further, there is nothing to prevent an orphan being brought up by any Hindu and property being given to the orphan by a disposition made by deed or will.

VI - GENERAL

147. *Virasaivas (Lingayats)* - Virasaiva witnesses told the Committee that they should be treated on the same footing as Jains and Sikhs, that they are more ancient in origin than the Sikhs, that they do not recognise the caste system and that no doubts should be thrown upon the validity

of marriages between Virasaivas, who, before conversion to Virasaivism belonged to different Hindu Castes. The contention that Virasaivas are not Hindus goes too far, but it may be conceded that their tenets are at variance with orthodox Hinduism on many points. We consider that in view of the strong sentiment felt by Virasaivas on this matter, it is desirable to meet their wishes to the largest extent possible. We have therefore mentioned them separately and specifically in the definition of the expression "Hindu" thereby according to them the same treatment as to members of the Brahmo Samaj and Arya Samaj. We hope that this will be found satisfactory by the members of this numerous and important community.

148. *Buddhists* - Evidence was tendered to us by a Buddhist Association in Madras that Buddhists do not wish to be governed by the Hindu Law. This Association expressed a preference to be governed instead by Burmese Buddhist Law. We are by no means satisfied that this preference is shared by Buddhists in general especially in other parts of the country. The Hindu Law now applies to Buddhists and, in our opinion, should continue to do so.

149. *Jains* - It was contended before us that Jain Law differs in certain respects from the Hindu Law and that there should be a separate Code for the Jains. We are not, however, in favour of this course. The differences are admittedly not many and none of them can be considered to be of a fundamental character or more important than those which exist between members of one Hindu community and another. The present position is that the ordinary Hindu Law applies to Jains, in the absence of proof of any special custom or usage varying with that law (Paragraph 613 of Mulla's Hindu Law, 10th Edition). We are accordingly of the opinion that the Code should apply to Jains also.

150. *Marumakkattayam and Aliyasantana* - It was pointed out to us that adoption among persons governed by the *Marumakkattayam* and *Aliyasantana* laws is of girls. It seems, therefore, necessary to exclude persons governed by these laws, not only from the scope of Part II of the Code, but also from that of Part VI. A saving clause, in the following terms, has accordingly

been added to Part VI:

"Nothing in this Part applies to a Hindu governed by the *Marumakkattayam* or *Aliyasantana* law of inheritance". (Clause 28.)

151. *Exemption* - It was stated before us that in certain communities, for example, the Gonds of Assam and other hill tribes, the matriarchal system prevails and that the Code should not apply to them. A representation was also received by us, in July 1944, through the Government of the Central Provinces, that the Gonds of that Province should be exempted from the Code. It is not possible for us to examine the validity or otherwise of these requests closely and arrive at final decisions in regard to each of them. It seems to us that most of the cases will be covered by the provision we have made in clause 1(3)(b) of Part I of the Draft Code viz., that where the provisions of the Code apply to any person by virtue of the fact that he or she is not a Muslim, Christian, Parsi or Jew by religion, if it is proved that he or she is not, in fact, governed by the Hindu Law or by any custom or usage as part of that Law in respect of all or any of the matters dealt with in the Code, the Code should not apply to him or her in respect of those matters. It is possible that there are cases which are not covered by clause 1(3)(b), but as they will arise only in the territories classed as "excluded areas" and "partially excluded areas" under the Government of India, Act, 1935, we recommend that the necessary modifications may be made in the Code when extending it under Section 92(1) of the Government of India Act to those areas in which any difficulty may arise.

152. *Minor changes* - Various other minor changes have been made by us in the Draft Code, but it is not necessary to lengthen this report by setting them out in detail.

VII - CONCLUSION

153. In the foregoing paragraphs we have examined briefly the validity of the objections which have been raised both to the Code as a whole and to particular provisions contained in it; and we have also set out the modifications which we propose should be made in the Code as published by us for criticism. We have tried to examine the questions raised with impartiality and without any prejudice or predilection in

favour of any particular point of view.

154. We are convinced that the proposal to codify Hindu Law is a sound one and that as in Baroda, it will prove a boon to Hindu society. The original sources of the Hindu Law lie scattered about in a multitude of works. As stated by Mahamahopadhyaya P. V. Kane in his 'History of the Dharma Shashtra', "The number of authors and works on the Dharma Shashtra is legion." This cannot but be so, having regard to the fact that they cover a period of over twenty-five centuries. Few people in India can claim to have mastered all this material. Sir M. Bhavanishankar Niyogi trenchantly observed: "I have yet to come across a man in Nagpur who has studied our ancient *shastras* and texts". The study of the Hindu Law occupies a considerable portion of the time of the students in our Law Colleges, but even so, graduates in law can only be regarded as being at the threshold of their study of the subject; and it takes a considerable number of years for practitioners to acquire a correct and full grasp of the principles and provisions of the Hindu Law. On many points, there is a conflict of decisions which has left the law in an unsettled state. A Code therefore which sets out in simple language the provisions of the Hindu Law and which will be accessible to all literate persons in the country, through the medium of translation, will be an inestimable blessing.

155. One witness before us put the matter very well when he said that the time has now come for writing a comprehensive new *smriti* of the Hindu Law in accordance with the principles which inspired the ancient *smriti* writers. Continuous adaptability is of the essence of the Hindu civilization and as Professor K. P. Chattopadhyaya of Calcutta said: "Now that we educate our girls and let them move about and qualify themselves to earn a living, a change in the social structure is required to fit in with those other changes: otherwise, there will be maladjustment. The economic and social setting has changed and the law must change with it".

156. It should also be remembered that at the present day there is no means of making changes in the Hindu Law except by legislation. Unless

Hindu society is to remain static and stagnant, the necessity will arise from time to time for making changes in the Hindu Law. It is no longer possible to effect such changes by bringing about a gradual change in customs for British Indian Courts do not recognise the validity of any custom unless it is ancient. There is thus no scope for fresh custom to grow. Nor is it possible for the Courts to effect any large improvements or changes in the Hindu Law to suit the needs of the times, for, when once the highest Court has decided a question (and most matters are now covered by such decisions) the decision becomes a binding precedent for the future, which cannot be set aside except by legislation.

157. Orthodox people appreciated the above considerations, and they could only suggest that changes should be *initiated* by a Pandits' *Parishad* and that no amending Bill should be placed before the Legislature which had not received the endorsement of such a *Parishad*. We do not think that this will be feasible in practice, nor do we think it necessary. Every Bill is now published and a reasonable time is given to all the people concerned to put forth their views and objections. Whenever any change is proposed in the Hindu Law by a legislature measure, we do not doubt that ample time will be given for its consideration and that all opinions including those emanating from Pandits and Pandits' *Parishads*, will be duly taken into account by the Government of the day before they take upon themselves the responsibility for passing the measure into law. In fact, some *Parishads* have been held to consider the draft Code published by the Committee and one of us was present at the *Parishad* held in Madras. We need hardly say that we have given our most careful consideration to the views and the arguments advanced at these *Parishads*. Although Pandits generally are not likely to be enthusiastic in the cause of reform, yet, there is nothing to prevent them from holding *Parishads* whenever they wish and suggesting in advance any changes which they think it desirable that the Legislature should make in the Hindu Law. The present position cannot therefore be considered to be unsatisfactory even from the orthodox point of

view.

158. Without minimising the opposition to some of the provisions of the Code, we would point out that the opinions of men like the Right Hon'ble Srinivasa Sastri, the Right Hon'ble Sir Tej Bahadur Sapru, Sir S. Radhakrishnan, Sir P. S. Sivaswami Ayyar and a number of other distinguished persons who cannot be accused of taking extreme or radical views must be heard with respect and attention. Moreover, we cannot afford to ignore either world opinion or India's own recent declaration of certain fundamental rights. It seems to us that a considerable body of thoughtful opinion favours the codification of the Hindu Law and the few changes which we have incorporated in it. In the younger generation, the vast majority favour the Code, and this is a circumstance from which we have derived the utmost encouragement. For, as a young man put it before us, it is the young who will have to live and be governed by the Code. We ourselves have throughout our work entertained a considerable bias in favour of the existing law and have made changes only where we felt them to be absolutely necessary. The changes have been restricted by us within the narrowest possible limits.

The Swamiji of the Jai Guru Society, U.P., In the course of his evidence said:-

"I am in favour of having one law for all Hindus, but Hindu culture must be maintained by the uniform Code which we make, and the Code must not offend against the spirit of Hindu culture and institutions".

We may say that is in the above spirit that we have laboured throughout.

159. We have derived considerable help in our task both from the written memoranda presented to us and the oral evidence tendered before us in the course of our tour. The labour undertaken in the preparation of some of the written memoranda must have been very great. One gentleman (Dr.

D. W. Kathalay of Nagpur) sent us a memorandum of more than 300 pages of typed matter for our consideration and the work done by him must have been arduous indeed. Many of the witnesses who appeared before us had to travel long distances at their own expense, and they grudged neither the cost nor the trouble involved. For various reasons, there was an atmosphere of excitement and passion at many centres visited by us which prevented calm discussion of the subject. As pointed out by many witnesses, even so, the hostility aroused by the Code was far less than that evoked by the Sarda Bill for the prevention of child marriages. The opposition to the Sarda Act has now died down, and it is now generally accepted to be beneficial measure. The Deshmukh Act of 1937, against which the same sort of objections as have been advanced against the Code could have been and were advanced, has also been accepted by Hindu public opinion, including orthodox opinion. In the same way, we are confident that the revised draft Code appended to this report, with such changes as the Legislature may make therein, will earn public approval.

160. In conclusion, we should like to place on record our deep appreciation of the services rendered by our Secretary, Mr. K. V. Rajagopalan. He is a tireless worker and his patient study of many difficult problems and his consummate draftsmanship have been of invaluable help to us.

161. The draft Code as revised by us in the light of the criticisms received and the evidence taken is appended to this Report.

B. N. RAU, Chairman.

J. R. GHARPURE, Member.

T. R. VENKATARAMA SASTRI, Member.

NEW DELHI;
February 21, 1947.

APPENDIX I

GOVERNMENT OF INDIA

LEGISLATIVE DEPARTMENT

New Delhi, the 20th January, 1944

RESOLUTION

No. F.-208(I)43-C & G.(Judl). - The Hindu Law Committee was appointed on the 25th January, 1941, to advise Government on the best method of dealing with the anomalies and uncertainties resulting from the Hindu Women's Rights to Property Act, 1937, as amended by Act XI of 1938. In paragraph 15 of their Report the Committee expressed themselves in favour of a codification of the Hindu Law by stages beginning with the law of succession and the law of marriage. The Government of India accepted this view and in pursuance thereof the Committee furnished Government in March, 1942, with two draft Bills, the first dealing with the law of intestate succession and the second with the law of marriage. Thereafter the Committee ceased to function.

2. On the 30th May, 1942, the two Bills prepared by the Committee were published in the Gazette of India, under rule 18 of the Indian Legislative Rules and thereafter were circulated by executive order for the purpose of eliciting opinion. The Intestate Succession Bill was in due course referred to a Joint Committee of both chambers of the Indian Legislature and a motion for the circulation of the Bill, as reported by the Joint Committee, for the purpose of eliciting opinion thereon was adopted by the Legislative Assembly on the 17th November, 1943. The Marriage Bill was introduced in the Assembly on the 2nd March, 1943.

3. The Intestate Succession and Marriage Bills both contain provisions fixing the 1st January, 1946, as the date on which they shall come into force. This date of commencement was proposed with a view *inter alia* to give the Central Legislature sufficient time to codify other branches of Hindu Law so that there may be an entire Hindu Code in operation from the 1st January, 1946. Referring to this provision in which they propose no change the Joint Committee in their Report on the Intestate Succession Bill express the opinion that "steps should be taken to resuscitate the Hindu Law Committee and to encourage the formulation and enactment of the remaining parts of the projected Code in the interval which is to elapse before the present Bill when passed comes into force" and they reinforce this expression of opinion with the remark that "it may well be found that the present Bill will require, before it is allowed to come into operation, readjustment and amendment in the light of decisions taken in connection with other branches of the Hindu Law". A Resolution embodying a similar recommendation was adopted in the Council of State on the 5th August, 1943. The Central Government accepted this recommendation and have decided to revive the Hindu Law Committee.

4. The Committee will be composed as follows:

Chairman

The Honourable Mr. Justice B.N.Rau, Kt., C.I.E., Judge, Calcutta High Court.

Members

1. Dr. Dwarka Nath Mitter, M.A., D.L., formerly a Judge of the Calcutta High Court.

2. Mr. J.R. Gharpure, B.A., LL.B., Principal, Law College, Poona.

3. Mr. T.R. Venkatarama Sastri, C.I.E., Advocate, Madras. Mr. K.V. Rajagopalan of the Madras Provincial Service will act as Secretary to the Committee.

The headquarters of the Committee will be at Simla and it will meet towards the end of January 1944.

Order - Ordered that the above resolution be published in the Gazette of India for general information and that copies be communicated to all Provincial Government and Chief Commissioners for information.

G. H. SPENCE,
Secretary of the Government of India.

APPENDIX II

EXPLANATORY STATEMENT PREFIXED TO THE
DRAFT CODE PUBLISHED ON AUGUST 5, 1944.

The Hindu Law Committee have been appointed by the Government of India for the purpose of formulating a Code of Hindu Law which should be complete as far as possible. It is generally felt that the evils of piece-meal legislation on this subject should be avoided and that an entire Hindu Code acceptable to the general Hindu public should be in operation at an early date. The intention is to place the Code prepared by the Committee before the two Chambers of the Central Legislature for their consideration so that they may have a complete picture of the Committee's proposals in their entirety, to enable them the better to deal with particular topics like the law of intestate succession and marriage.

2. The Committee accordingly prepared a draft Code on those topics of the Hindu Law on which alone the Centre can legislate under the existing Constitution, and had it circulated to leading lawyers in India. The draft has been largely revised in the light of the criticisms received and is now published for general information. All individuals and associations wishing to submit their views on the draft to the Committee are cordially invited to do so. The Committee hope to proceed to important cities in India later in the year, to hear the views of representative persons who are interested in the subject; and all persons or associations who wish to be orally heard by the Committee are requested to write to the Secretary to the Committee at Fort St. George, Madras, before the 5th of October, with an intimation of the City at which it will be convenient for them to appear before the Committee.

3. The draft now published is only a tentative one which is intended to focus the attention of the public on the main issues which arise, and the Committee should not be regarded as wedded to any of its provisions. They intend to revise the draft in the light of public opinion as elicited by them in writing and orally.

4. In introducing the draft Code to the public, the Committee wish to make one preliminary observation. One of the objects of the Committee is to evolve a uniform Code of Hindu Law which will apply to all Hindus by blending the most progressive elements in the various schools of law which prevail in different parts of the country. The achievement of

uniformity necessarily involves the adoption of one view in preference to others on particular matters. The Committee desire that the Code should be regarded as an integral whole, and that no part should be judged as if it stood by itself.

5. The draft Code deals with the following subjects: - Intestate and Testamentary Succession and matters arising therefrom, including maintenance; Marriage and Divorce; Minority and Guardianship and Adoption. These are all the topics on which the Centre can legislate at present and Hindu Code enactable by the Centre has necessarily to confine itself to them. The very fact that these topics are in the Concurrent

Legislative List instead of in the exclusively Provincial List suggests that they are the topics on which all-India uniformity is *prima facie* desirable. Except for the fact that succession to agricultural land falls within the Provincial field, and is excluded from the Central, the Code may be said to cover many important branches of Hindu Law. As regards agricultural land, it may well be hoped that after the Code has been enacted by the Central Legislature, the Provincial Legislatures will speedily extend its relevant provisions to agricultural land also.

M.G. RANADE'S LECTURES ABOUT TRADE

N.V. Sovani

FOREWORD

The main reason for undertaking an English translation of this 125 year old Marathi publication containing two lectures delivered by Justice M. G. Ranade in 1872-73 is to try to dispel the many misunderstandings about them, about their contents, etc., that have proliferated in both Marathi and English writings about them and consequently about Ranade himself. These misunderstandings and misconceptions have primarily arisen from the failure of Marathi knowing writers in understanding and conveying the analysis, not always faultless as shown below, that these lectures contain. Some Marathi knowing writers who have written in English are the main sources from which writers ignorant of Marathi but writing in English have derived their information and have copied their misunderstandings and misconceptions. They have done great injustice to Ranade's image and to his thoughts. With the passage of time these misunderstandings have crystallised into a sort of historical myth and it has become widely accepted in the related literature. Fortunately the original Marathi lectures are available in print and my humble attempt in translating them into English as faithfully as possible is to set the record straight. Future scholars can judge them for themselves and arrive at their own conclusions. I am not very sanguine about whether this translation will remove these deep-rooted misconceptions in toto. But I have made the attempt with that wild hope.

Before going further I would like to say a word about the translation. It is in the modern English idiom because I know no other. My endeavour has not been a literal translation but one which is faithful to the contents of the original. As a spoken word these lectures contain a number of repetitions. I have dropped quite a few in the interest of clarity and the flow of narration. There are a few misprints in the original and occasionally the use of a Marathi word that has dropped out of current usage. These I have indicated in the footnotes. There are a number of mistakes in the Tables and these have been indicated in them. The figures quoted in the text sometimes vary and I have left these unaltered. For example, the figure

for total savings in India is given as Rs 60-65 crore in one place and as Rs 75.00 crore in another place. These I have left as in the original.

Some remarks about the background of these lectures are necessary for their proper appreciation. When the East India Company was wound up in 1858, India passed under the British Crown and became a piece in the imperial mosaic. It ceased to attract live attention in the British Parliament. There was no machinery for ventilating Indian grievances. The Indian leaders, prominent among whom was Dadabhai Nowroji with his East Indian Association in London, began to voice a demand for a Parliamentary Committee which could pay attention continuously to Indian problems as they arose. The demand was accepted by the British Liberal Party. It came to power under Gladstone in 1870-71 and proceeded to appoint a Committee under the Chairmanship of Professor Fawcett in 1871 for this purpose. This Committee took evidence from prominent Indian leaders. Dadabhai Nowroji gave evidence before it. The Bombay branch of the East India Association, started in 1869 by Dadabhai Nowroji and of whose Executive Council Justice Ranade was a member, was urged to send a witness to give evidence before the Fawcett Committee in 1873. The Poona *Sarvajanik Sabha* and the Bharoch Association, which were associated with the Bombay branch of the East India Association, considered sending Ranade as a witness to appear before the Committee. For sometime it appeared as if Ranade would be going to England for this purpose and he is reported to have mentioned this possibility to several of his friends in Poona. But it did not happen. Instead Mr. Nowroji Furdunjee, an office bearer of the Bombay branch, was sent, with the consent of all the three associations mentioned above. He appeared before the Committee in June-July, 1873 and it is recorded that he appeared seven times before the Committee.

The point in narrating this incident is that when Ranade gave these two lectures in Poona he was studying these problems intensively and was boning up for his possible appearance before the Fawcett Committee. It can also be surmised that

he was at that time considerably influenced by Dadabhai's drain theory. The Fawcett Committee was wound up in 1875 when the Liberal Party lost the election in that year. Ranade, in 1878, published a book based on the evidence tendered before the Fawcett Committee entitled *The Revenue Manual of the Indian Empire*.

Now to the lectures themselves. They were given before the *Poona Vyaparottejak Mandali* (Poona Trade Promotion Society) started by Ganesh Vasudeo Joshi alias Sarvajani Kaka. The first lecture was delivered at the Phadtare Wada on 8th December, 1872 and the second at the Vishrambag Wada on 22nd February, 1873. Almost three months passed between the first and the second lecture. They were then published in a local newspaper of those times called the *Lok-kalyannechhu* consecutively in small portions over a period. The manager of the paper collected these portions together, got them corrected by Ranade himself and brought it out in book form of 63 demi size pages and priced at 4 annas in August 1873. They were reprinted in 1963 by the Gokhale Institute of Politics and Economics, Poona, and are available even today in book form. The title of the book was *Lectures about Trade* (1872-73).

The seed of the myth that has grown round these lectures in later years was sown by the official biographer of Ranade, Mr. N. R. Phatak. In the biography of Ranade published in 1924 the account of the episode of these lectures begins with the statement that the *Swadeshi* movement that developed in India after the partition of Bengal in 1905 was not a new thing to Maharashtra but had its origin 30 years before that in Ranade's lectures in 1872-73 on '*Swadeshi Trade*'. He further stated that these lectures influenced Sarvajani Kaka emotionally and he took the oath of *Swadeshi* in January 1873, thus placing the oath episode in between the dates of these two lectures [Phatak, 1924, Pp. 189, 193]. This has been literally followed and embellished by later writers.

The most recent socio-economic-political history of Maharashtra describes the above episode as follows: 'At the end of 1872 and early 1873, Ranade delivered a series of lectures on economic progress and Indian impoverishment. In these lectures he advocated the cause of *Swadeshi* and

urged his audience to use indigenously manufactured goods. The effect of these lectures was electrifying. A wave of *Swadeshi* swept over Pune and the surrounding districts. Joshi (Sarvajani Kaka) was so impressed by these lectures that he abandoned using foreign cloth and used only *Swadeshi* cloth for the rest of his life'.

To this the author subsequently adds: 'The credit for generating a popular and organised movement of *Swadeshi* in the 1870s goes to Ranade. Two lectures delivered by Ranade in Pune in 1872 on *Swadeshi* under the auspices of the *Vakrutwottejak Sabha* were so persuasive and effective that they set in motion a popular and organised movement which foreshadowed the *Swadeshi* Movement of later years [Sunthakar, 1993, Pp. 122, 536].

How many factual and interpretative untruths do these statements contain? First, it was not a series of lectures but only two with an interval of almost three months in between. Second, they were not delivered under the auspices of the *Vakrutwottejak Sabha* but those of the *Poona Vyaparottejak Mandali*. Third, the subject of the lectures was not *Swadeshi* but mainly the foreign trade of India and the tribute that India had to pay to Great Britain as her ruler every year. The term *Swadeshi* does not occur in the whole book and that idea is only tangentially mentioned at the end of the second lecture. It does not get even a small paragraph. Fourth, the audience at these lectures, considering the places at which they were held, could not have exceeded 50 or 60. Poona was a small town then of about 90,000 population and a public meeting was an unfamiliar and rare occurrence then. To say that these meetings started a popular and organised movement of *Swadeshi* is exceedingly economical of truth. Fifth, Sarvajani Kaka took the oath of *Swadeshi* on 12th January, 1872 (on the *Makarsankranti* day) along with his friend Govande, almost a year before Ranade delivered these lectures. Sarvajani Kaka was very active in the cause of *Swadeshi* since the oath and he need not have taken his inspiration from Ranade in this regard [Dixit, 1993, p. 67].

As to the contents of these lectures and their significance, the Marathi and English writers have made several mistakes, partly due to their ignorance of economic terminology and partly

due to their ideological preoccupations and prejudices. One of the first kind is the statement that in these lectures Ranade declared that 'of the national income of India more than one-third was taken away by the British in one form or another' [Chandra, 1990, p. xxvi. This is based on the statement in G.P. Pradhan and A.K. Bhagawat, 1958, p. 8].

This is just wrong. What Ranade had said was that the Home Charges of the Government of India amounted to a third of the annual *income of that Government* (See Pp. 144-145). The authors of the secondary sources were ignorant of the distinction between the national income of a country and the income of its government earned through taxes, etc.

A mistake of the second kind is more far-reaching. This is with reference to Ranade's attitude towards the investment of foreign capital in India. Bipan Chandra regards the favourable attitude of Ranade to foreign capital investment in India as one of his significant failures in understanding the true character of the colonial state in India. According to him, in his 1872 lectures, Ranade had said that foreign capital was not of much use to India but later he reversed his position and favoured foreign capital in contrast to other Indian nationalists like Nowroji and G. V. Joshi (not Sarvajani Kaka who had died in 1880) who opposed the intrusion of foreign capital in the Indian economy [Chandra, 1990, p. xxxv]. The fact is that in his 1872 lectures, Ranade did not oppose the investment of foreign capital in India. In them Ranade praised the foreign capital investment in the plantations of tea, coffee and indigo and remarked that their profits go back to England but they provide a good deal of employment and livelihood to a large number of our people. He, however, pointed out that the capital investment in the railways was not of that kind because irrespective of what the railways earned, an interest rate of 5 per cent had been guaranteed on the capital invested in them by the Government of India. As the railways earned about 3.5 per cent profit the difference between it and the guaranteed rate of 5 per cent was paid by the government out of its revenues and it was a dead loss; that if this continued over the next decades the original investment would be equal to the cumulative loss. This has been

misconstrued to mean that he was against foreign capital. As should be clear his objection was, not to the investment of foreign capital in the railways but to the system of guarantee under which it had come to India. This is clear from his remark in the same context that the capital investment in the railways would have been beneficial as that in the plantations if the railway companies had invested their capital at their own risk. Because they did it under a guarantee from government it was not beneficial.¹ This is not a man opposing the entry of foreign capital in his country and, in fact, in these lectures there is no statement like that. Nor in his later years was he an advocate of foreign capital, as Bipan Chandra alleges. For in 1893 he fully laid out the evil effects of foreign capital. He observed: 'The political domination of a country by another attracts far more attention than the more formidable though unfelt domination, which the Capital, Enterprise and Manufacturers exercise over the Trade and Manufactures of another. The latter domination has an insidious influence which paralyses the springs of all varied activities that together make up the life of a Nation' [Ranade, 1906, p. 105].

An extension of the second kind of mistaken analysis is to be seen in writings on the Tribute or Home Charges or Economic Drain that refer to these lectures. Ranade's statement of the problem of the tribute that India had to pay to Great Britain was sharp and a little impassioned and he seemed closer to Dadabhai at that time. A piquancy is given to this because Ranade subsequently in 1890 repudiated the whole argument. Then he wrote: 'There are some people who think that as long as we have a heavy tribute to pay to England, which takes away nearly twenty crore of our surplus exports, we are doomed and can do nothing to help ourselves. This is, however, hardly a fair or manly position to take up. A portion of the burden represents interest on moneys advanced to, or invested in our country, and so far from complaining, we have reason to be thankful that we have a creditor who supplies our needs at such a low rate of interest. Another portion represents the value of stores supplied to us like of which we cannot produce here. The remainder is alleged to be more or less necessary for the purposes of administration, defence and payment of pensions, and though there is good

case for complaint that it is not all necessary we should not forget the fact that we are enabled by reason of this British connection to levy an equivalent tribute from China by our opium monopoly. I would, therefore, not desire you to divert and waste your energies in fruitless discussion of this question of tribute, which had better be left to our politicians' [Ranade, 1906, p. 200].

This repudiation poses quite a dilemma for writers on Ranade, particularly those with the Marxist creed because for them the upholding of the drain theory and Ranade's so called opposition to foreign capital are the sole criteria for judging whether Ranade was an anti-imperialist and therefore a true patriot. If Ranade repudiated the drain theory he should be classified as an imperialist. That would be rather hard to swallow. So they invented an excuse for Ranade more damaging than the charge of being an imperialist. Bipan Chandra argues that Ranade did not really retract from the drain theory in 1890. His statement then indicated 'a tactical decision' arising out of expediency and not a basic change in economic analysis or thinking [Chandra, 1990, p. xxxii p. xxix]. In his later years Ranade did underplay the tariff and the drain questions because he thought that the acceptance of these demands were so basically opposed to colonial rule, colonial interests, and colonial ideology 'that the colonial administration would not accept them at least in the foreseeable future. Only an independent government could adopt them; but the struggle for independence, believed Ranade, was not yet on the agenda'. This is an astounding accusation against Ranade denying as it were the whole purpose of his life. This must be severely condemned by all. It does not save Ranade, it crucifies him instead unjustly.

It is tempting to argue that even in his statement of the tribute problem in these lectures there are enough hints about its future repudiation. But that will be too pat and hindsightish. But it is plausible to argue that his statement of the problem in these lectures can be faulted on so many counts that on more reflection and deeper thought on the question Ranade could have realised the hollowness of it and hence the repudiation that came after almost twenty years, like J. S. Mill's renouncing his wages fund theory. Let us note the most

prominent flaws in the argument.

First and foremost was the confusion between the balance of payments of a nation and its government's budget balance, a confusion that characterises most statements of the drain theory of those times. Ranade was no exception. The tribute was to be paid by the Government of India to England in foreign currency (gold). The foreign currency was provided by the favourable balance of trade (on private account) that India always had. There was, therefore, no shortage of foreign currency, provided the Government of India could raise the rupee counterparts through rates and taxes. The foreign exchange arising out of the surplus trade balance belonged to the accounts of the balance of payments of India as a whole while the rupee counterparts came from the budget of the Government of India. The two balance sheets were separate though there were transactions between the two. However, they were not parts of one another. In most of the drain theories the two have been wrongly treated as almost identical.

Remembering this if we look at Ranade's Table of Home Charges (See Pp. 144-145) it shows a sum of Rs 10.50 crore. Below the line Ranade adds a further sum of Rs 5.50 crore as the savings out of the incomes of British troops, civilian officers, and other European population of merchants, businessmen, planters, etc., resident in India. These savings were transmitted to England and, according to Ranade, they were a part of the tribute to England. His contention and logic are both faulty. First, these people earned their incomes in India and spent a large part of them in India giving livelihood and employment to many Indians. They also paid rates and taxes in India and invested in the securities of the Government of India as Ranade himself notes (See p. 145). In 1858, these securities amounted to Rs 52.00 crore of which according to Jenks two-thirds were registered in the name of European residents [Jenks, 1927]. In 1871-72 the total had risen to Rs 68.00 crore [Banerji, 1982, Pp. 102, 106]. The savings, including interest, of these people were transmitted to England by them and not by the Government of India. How can they be counted or considered as a part of the tribute to England? It was an item in the balance of payments on the debit side and not a payment out of Government

of India's income. The confusion is plain. To say that this payment was a tribute would be as absurd as saying that the thousands of Indians who migrated to Malaysia, Africa, Ceylon, etc., and who sent in money orders to India were levying a tribute to that extent on those countries. This addition to the tribute is unacceptable.

So the tribute amounted to Rs 10.50 crore. As Ranade himself pointed out this tribute had to be paid not because the British were the rulers but because India was enabled to levy a tribute on China for its opium imports from India, annually amounting to Rs 8-9 crore. This foreign tribute received by India has to be deducted from the total tribute to England to arrive at the net tribute. When this is done the net tribute comes to Rs 2.00 or Rs 2.50 crore annually. It amounts to 5 per cent of the total income of the Government of India. It then does not appear enormous.

A foreign tribute is essentially a case of unrequited exports. Ranade seems to be almost aware of this, but not quite. His formulation of the problem in the first lecture almost suggests that India gets little recompense for the export surplus it uses in paying the tribute. In the second lecture he begins by narrating that though not fully we get partial recompense for the tribute we pay. Though he acknowledges this, he seems not to be aware of the indirect recompense that India got from some of the items in the tribute. The case of railways has already been noted (Note 1). The coal that was imported to run the new factories was used both by the Indian and the English factories. The same can be said for other items. In a sense the tribute of Rs 10.50 crore was being partially recompensed and was not a pure indemnity.

And Ranade drew a false analogy between the annual tribute that India had to pay to England and the war indemnity that Germany had imposed on France around the time of these lectures. The French indemnity was fixed as an once for all payment and not a recurring amount like the Indian tribute. As pointed out above, the tribute was partially recompensed and was not an indemnity. Ranade's suggestion for dealing with India's tribute in the same way as the French had done was misconceived.

Thirdly, there is the link that Ranade tried to establish between the internal savings of the

Indian people and the tribute that the Government of India had to pay to England. A number of issues are mixed in this. The way he calculates the internal savings of the Indian people is faulty, but leaving that aside, his statement that the tribute is paid out of them is unacceptable. He is silent about the mechanism by which the Government of India requisitions these private savings to pay the tribute. It could not have been through taxation because Ranade's calculation of private savings is clearly based on incomes after tax.

Some sense can be made of Ranade's formulation if we recall that the tribute was paid out of India's export surplus and an export surplus is really external savings. That way the tribute is related to the external savings but not to the internal savings. The proportion that the tribute bore to the estimated internal savings on which Ranade harps was meaningless.

Some comments are necessary about the areas of darkness that we encounter in Ranade's analysis of India's foreign trade. In pointing them out the intention is not to belittle Ranade or to question his competence as an economist. No man can wholly transcend beyond his times and the state of arts that surrounds him. At the time at which (1870) Ranade was writing, the theory of international trade was in its infancy and the nature and concepts involved in the analysis of international trade were gross and vague. At the time of these lectures the London-centred world monetary and financial system which bloomed during the next fifty years was beginning to take shape and was not widely perceived as such. International trade was then largely considered as involving commodity exchanges between individual countries. The overall picture of an international transactions matrix was not even dimly perceived. Some of the views of Ranade, referred to below, arose out of the circumstances of those times.

(1) Ranade posits that there is a general rule that imports of independent countries usually exceed their exports, or at least balance them. There is no such rule, not only because it is historically untrue, but also because such a rule would be logically absurd. If some countries have an import surplus some others would have to have an export surplus. It is not, as Ranade seems to

believe, that 'straight' trade between two countries should be balanced by the equality of their imports and exports. An international system of payments overcomes the necessity of bringing about an equality between the imports and exports of a country individually with each of the countries it trades with.

(2) Ranade remarks more than once that the increase in the imports of India during the period under study included imports such as arms and ammunition, liquor, stores for railways, government and other factories owned by the Europeans and these imports were not directly demanded or consumed by the people of India. They therefore should not be considered as real imports. It is indeed a strange definition of 'real' imports as those directly consumed by the people of the country. With such a definition all imports of capital goods or defence equipment, etc., will have to be counted out of ordinary imports. This is not only illogical but also unrealistic. Imports are imports and there is nothing real or false about them.

(3) In regard to the increase in India's exports, Ranade asserts that this increase is not a result of voluntary exports but exports made necessary or compulsory because of the increased burden of taxation (See p. 153). It is true that during the period about which Ranade was speaking the total revenues of the Government of India almost doubled but the increase was due partly to the addition of new territories that were annexed to British India in that period (Punjab, Sindh, Nagpur, etc.) and partly due to the increasing efficiency of the collecting administration. Even if we concede that the producers sold in the market more goods because of increased taxation, they could not have directly exported them. They would sell in the internal market and these goods could be exported only if there was demand for them from abroad. India's exports increased several fold during this period not because they were pushed out by increased taxation but because there was increasing demand for them from abroad and also because of the increasing commercialisation of Indian agriculture during this period. The fact of the matter is that both revenue and exports increased but there was no causal link between the two. Suppressed third

factors were influencing both. Ranade's argument was invalid.

(4) Ranade's contention that our trade with countries other than England was more beneficial than our trade with England (See p. 155). is very specious. One of the reasons he cites in support was that while imports from England compete with the goods produced by our industries, the imports from other countries do not do so. That was true at the time of which (1870s) Ranade was writing but during the next fifteen years imports of sugar from Austria and chemical dyes from Germany slaughtered both the sugar and the indigo industry in India. Of course, Ranade should not be blamed for not seeing or anticipating these future developments, but all the same his argument was based on flimsy grounds.

(5) One of the most dubious contentions of Ranade was that during the period the external trade of India had increased far more than her internal trade. This he concluded from a comparison between the overseas trade of India and her inter-port trade. Such a comparison is apt for a small island country like England, but for a vast land mass like India, the most important internal trade can be along roads and land transport. Inter-port trade in such a country can be only a small proportion of the total internal trade.

(6) Ranade's statements regarding the imports of gold and silver and their consequences are curiously confused and often conflicting. In the first lecture he expresses himself clearly against these imports (that they involve an uneconomic use of our internal savings). He deplores the traditional aptitude of our people to waste their savings in making gold and silver ornaments and wearing them away on their bodies. He pleads that this should be changed (See p. 148). In the second lecture, however, he seems to say that the imports of gold and silver into India were necessary to replace the wear and tear of earlier stocks (See p. 154). At another place he says that if we were not required to pay a tribute to England an equivalent amount of precious metals would have come to India and we would have been considerably enriched by them (See p. 154). These are inconsistent observations. That gold and silver imports were only for replacement of the wear and tear of the stocks of previous years was not true. If they were, why did the imports fluctuate

from year to year? Besides, in the 1850s for some years the silver imports into India were so enormous that they exceeded the annual silver production of the world for these years. As Ranade himself noted, half of the silver imports from 1851 to 1872 were turned into coins. During 1834-1872 silver coinage increased threefold because of the increasing monetisation of the economy. The wear and tear of silver coinage judging from the amount of worn out coins handed into the mints was not more than 3-4 per cent of total coinage. Ranade's claim that the silver imports were necessary only to replace the wear and tear is untrue. It seems that he had not thought through the whole problem.

(7) Ranade's observation regarding the land system in India, which he shared with most of his contemporaries, was wrong. His contention was that land was owned by the government and the cultivators were only tenants; that the land revenue imposed by the government was not a tax but rent. This deprived the ryots of all their surplus. This problem was thoroughly examined by the Taxation Enquiry Committee (1922) and it concluded that (a) the government did not own all land. There was private property in land, and (b) land revenue was a tax and not rent.

I hope that these comments and the English translation of the lectures will help to dispel the misunderstandings that have gathered round Ranade's image and thought.

NOTE

1. In thus attributing non-productivity to the investment in the railways in India Ranade was taking an extremely narrow financial view. He disregarded many other direct and indirect

economic benefits that were flowing from the construction of railways in India. Let us note, to begin with, that the system of guaranteeing return on railway capital was not peculiarly invented for India. It was widely prevalent at that time in France, USA (where the states had given guarantees to railroad bonds). So it was no special dispensation for India alone.

The other benefits which are totally ignored by Ranade were the knitting together and widening of the internal market in India and promoting internal and external trade by facilitating the movement of men and materials as never before. The railways also created permanent jobs and employment for the Indian people. At one place in these lectures Ranade complains that the construction of railways originated employment for our people during a short period. Once the lines were constructed this disappeared (See p. 150). This was a half truth. During their construction the railways generated large revolving employment but after completion the lines gave rise to sedimented employment in their continuous operation [Buchanan, 1934, p. 182].

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M.G. RANADE'S LECTURES

I

STATE OF INDIA'S WEALTH

The purpose for which this meeting has been called is to consider the items as suggested in the report presented by my friend Mr. Ganesh Vasudev Joshi. I have been asked to speak on two items. To properly understand these two items it is necessary to be well-informed about the organisation of the wealth of this country in relation to its (i) political and (2) trading conditions. It will not be possible to correctly understand them without this information. I, therefore, take leave to inform you briefly about this.

(1) The State of Wealth in relation to the Political Set-up

It is felt all-round in this country that whatever trade and craft at which our people are found labouring hard do not seem to increase our wealth at the rate at which we expect. People complain as to why, though they labour hard enough, this happens. They always talk and grumble about it but are unable to understand the reason for it. Just as a person who contracts the malady of losing vital matter through the urine looks all right to external appearances, but continue to lose vitality and strength every day and does not know what is wrong with himself, similarly the wealth of our country has become the victim of a malady. There are two main reasons for this. One, that this country is ruled by foreigners and the second, that we have no resources to develop and increase arts and manufactures in our country as much as we require.

Let us consider the peculiar state of wealth of our country which comes about because it is ruled by foreigners. The area of British India is 9.00 lakh square miles containing a population of a little more than 15.00 crore. From it the British Government collects an annual revenue of Rs 50.00 crore. Of this a little more than Rs 45.00 crore is derived from taxes and land revenue. The remaining Rs 6.00 crore are obtained as a net profit from the Chinese because of opium exports to them. Because these come from outside India they must be counted as our profits or gains. If

we divide the total revenue income of Government by population, the average per capita comes to Rs 3. If we deduct from the total population one third each as accounting for women and children, the burden per adult male works out at Rs 9. The territory ruled by native princes is about 6.00 lakh square miles containing a population of 5.00 crore. The total annual revenue collected from them comes to Rs 20.00 crore. If distributed as above the revenue per capita comes to Rs 4. If we deduct the women and children as previously, the annual burden per adult male comes to Rs 12.

From these facts it would seem that the population in British India has to pay Rs 9 per capita as taxes, while that under the native princes Rs 12 per capita. It would seem that the burden of taxation on the population in the native states is much heavier than that in British India. But as I will show presently the population of British India is exploited more than that of the native states.

This can be made clear by an analogy with a family. In a family some members work and others merely consume. But so long as the joint family holds, one or two members spend the common income. This is one type of a family. Now if we imagine a family in which there are no idle members (that is the burden of supporting idle members is removed from the shoulders of the family) but the family is made to send a sum, more than what was spent before in supporting idle members, as a tribute to somebody else, that family will suffer more loss than the first type of family. The state of affairs of our country is like that of the second family.

If we examine the details of how much of the money that the British Government annually raises by taxation is spent in the country, we find that out of Rs 50.00 crore raised by taxation, about Rs 10.00 crore are paid as Home Charges to England (for meeting administrative charges for ruling us). The details of this annual tribute are as follows:

Rs 1.50 crore for stores purchased in England for government work.

Rs 0.50 crore for salaries and establishment expenses of the India Office in London.

Rs 2.50 crore for army recruits and naval establishments.

Rs 4.50 crore as interest on India's debt contracted for meeting the expenses of conquering and defending India. This debt amounts to about Rs 100.00 crore and of this about Rs 5-10 crore are owned by Indians who get the interest on it. The interest on the remaining Rs 90.00 crore has to be paid annually to the English people who lent it.

Rs 1.50 crore as guaranteed interest at 5 per cent on a capital of about Rs 90 crore raised for the construction of the railways. The total interest on this comes annually to Rs 4.50 crore. Deducting from it the profits that railways earn in India the net burden comes to Rs 1.50 crore. The total is Rs 10.50 crore.

Besides this there is another payment which we have to make to the foreigners. In India there are about 7,000 European Officers and 60,000 European troops. There are 5,000 European Civil Officers and other traders and merchants. Altogether they are estimated to be 1.50 lakh. Their salaries and incomes are high and what they save is transmitted to England. It is of no use to the livelihood of our people. It is difficult to estimate the total loss that we suffer annually on this account but a careful estimate can put it at Rs 5.50 crore and that will not be considered an overestimate.

All this comes to Rs 16.00 crore annually, a tribute which we have to pay for being ruled by foreigners.

The income of our native princes does not go out of the country. It remains here. Even if the princes squander money on darbar favourites, dancing girls and priests, that money enriches those on whom it is spent and does not go to people who can spend it productively. Even so the spending of that money creates livelihood for our people.

As will be clear from these facts two-thirds of the revenues of the Government of India is spent here while the remaining one-third (Rs 16.00 crore) goes out of the country. While the taxation is higher in the princely territories its proceeds are spent within the country and is of some use to the people in other ways. As mentioned previously

in the analogy of the second type of family, the subjects of the native principalities are not exploited as the subjects of British India.

(2) The State of Wealth of this Country in relation to its Foreign Trade

The following are the details of the trade we are carrying on with foreign countries. During the last five-ten years the exports of goods from India and the imports of goods from other countries into India have together averaged annually to about Rs 100.00 crore. It was Rs 15.00 crore in 1834-35. It increased to Rs 30.00 crore in 1848-49. In the next ten years it increased to Rs 50.00 crore and in the following decade it has reached the level of Rs 100.00 crore. The figure had reached Rs 125.00 crore during the two years when the cotton boom was on. In 1834-35 we imported goods worth Rs 5.00 crore and exported goods worth Rs 8.00 crore. In 1845-49 we imported goods worth Rs 9.00 crore and exported goods worth Rs 15.00 crore. In 1858-59 our imports were worth Rs 16.00 crore and our exports Rs 25.00 crore. Further in 1864-65 and 1865-66 together, our imports were Rs 58.00 crore and exports Rs 133.00 crore. Recently in 1869-70, our estimated imports were Rs 33.00 crore and our exports Rs 53.00 crore. From these details it would seem that we export more than we import. The difference between them is covered partly by imports of gold and silver. These amounted to Rs 2.00 crore in 1834-35 and Rs 3.00 crore in 1848-49. In 1865 and 1866, about Rs 25.00 to 30.00 crore worth of gold and silver came into the country. More recently, it has declined to Rs 10.00 crore annually.

The particulars of our imports from England are as follows. In 1850-51 yarn and cotton textiles worth Rs 5.50 crore were imported. In 1869-70 these had increased to Rs 13.50 crore. In 1850-51 silk and woollen textiles worth Rs 50.00 lakh were imported; at present this has increased to Rs 1.00 crore. Rs 4.00 lakh worth of wines and spirits were imported in 1850-51. This has increased to Rs 1.10 crore at present. In 1850-51 coal, etc., worth Rs 7.00 lakh were imported; at present such imports are around Rs 1.00 crore annually.

Copper, brass and iron (raw and manufactured) worth Rs 1.50 crore were imported in 1850-51; this has increased to Rs 3.00 crore at present. No goods connected with the railways were imported in 1850-51; nowadays they amount to Rs 1.00 crore annually. Formerly salt worth Rs 40.00 lakh was imported every year; now it has increased to Rs 70.00 lakh. Books, papers, etc., worth Rs 14.00 lakh were imported in 1850-51; now these imports come to about Rs 30.00 lakh.

The details of merchandise exports to England are as follows: Exports of coffee were worth Rs 6.00 lakh in 1850-51 and now they have increased to Rs 40.00 lakh. In 1850-51 raw cotton worth Rs 2.00 crore was exported; raw cotton exports at present are worth Rs 15.00 crore. Indigo exports were formerly worth Rs 1.50 crore and now they are Rs 2.00 crore. Leather worth Rs 20.00 lakh was exported in 1850-51; nowadays it amounts to Rs 1.25 crore. Oilseeds like suffola worth Rs 40.00 lakh were formerly exported; now they amount to Rs 2.75 crore. Saltpetre, salt, etc., worth Rs 20.00 lakh went out in 1850-51; now they amount to Rs 23.00 lakh. Shawls worth Rs 13.00 lakh were exported in 1850-51; nowadays they amount to Rs 60.00 lakh. Silk exports have risen from Rs 60.00 lakh in 1850-51 to Rs 1.10 crore at present. Sugar worth Rs 1.75 crore was formerly exported; now it has declined to Rs 24.00 lakh. Wool exports were formerly worth Rs 6.00 lakh, now they are Rs 40.00 lakh.

From these details it is obvious that our country's trade is increasing. The flaw in it, however, is that we mainly export raw materials and we mainly import manufactured goods from abroad. From the facts presented so far everybody here will realise the following two or three things.

(i) Because of foreign rule we have to send to England every year Rs 16.00 crore worth of goods that we ourselves produce. It must be admitted that this gives us political stability and the protection of a powerful country. But in relation to our trade, if our rulers were staying in this country and ruling us, at least two-thirds of the annual tribute of Rs 16.00 crore that we have to send abroad would have been spent here giving rise to livelihood and employment for our people. If about Rs 10-12 crore were so spent you can imagine how much livelihood would be created

for the people in a poor country like ours.

(ii) It is a general rule that a country's imports should be more or at least equal to what it exports to other countries. In our case the rule seems to work in the reverse; that is, our imports are worth less than our exports. Last year we exported goods worth Rs 50.00 crore and imported goods worth Rs 32.00 crore. This has been the case from the beginning. That is not so in other countries. Our trade has increased during the last twenty years but this pattern has not changed. So long as it lasts, it is clear, that it will not bring us prosperity.

(iii) One feature of our trade with England as revealed by the details presented is that progressively we are exporting more and more raw materials to it and we import manufactured goods from it. As a result our artisans and workers lose their business. As we buy more and more English goods we buy less and less of indigenously produced goods.

These three conclusions should be kept in mind by all. Now let us consider the problem whether the paying of Rs 16.00 crore annually from our savings to England makes us poorer? In this country, for the last 10-12 years, income tax is being levied at the rate of 1 per cent of income. The tax collected amounts to Rs 1.00 crore. If we estimate the income of the people from the rate of one per cent, the total income would come to about Rs 100.00 crore. In our country those who pay income tax can alone save. The remaining spend all their income on consumption. They do not contribute to savings. Even if we take into account the fact that the income tax payers conceal their income and are not correctly assessed to tax, their total income cannot be more than Rs 200.00 crore annually. We can estimate what proportion of it is saved. It is our experience that a few people save half of their income but the general run of people consider themselves fortunate if they can save one-third. If we assume this proportion of savings, the total annual savings of able people among us would work out at Rs 60-65 crore. That means that under the British our total savings amount to Rs 60-65 crore. Now the total tax revenue of the Government of India comes to Rs 45.00 crore annually. These taxes are not collected only from those who can save. Nearly two-thirds of the total tax is collected from

the poor. However, we are not at present talking about a high or a low tax burden. We are here concerned about what proportion of our savings goes to England as a tribute. It is clear that a quarter of the total savings goes to England. That is twelve annas out of a rupee remain here and four annas go out.* You can imagine how much employment and livelihood will have been generated in our country if this tribute had remained in the country. Earlier, I placed before you the analogy of a family. Such a family is in a situation where the old and the non-working parents or women and children consume away 6 annas out of the total income of Re 1. Is it not better than the situation of a family, where we are asked to drive away these mere consumers and to pay 4 annas out of the total income of Re 1 as a tribute to some outsider? All should think about which of these situations is more beneficial to the family. If any body asks questions like 'Why are not our industries and trades prosperous? Why are people desperate everywhere?', the answer is that our wealth is draining away, reducing our hard earned strength and making us feel weaker and weaker everyday. It may be that this will lead to future welfare. But if we look at it practically we will find that just as a vessel with a hole at the bottom can never be filled up to the brim no matter how much water we pour into it, similarly it is not surprising that though the trade of our country has increased, much of our strength is going out day by day.

Be that as it may. It is not in our power to stop the tribute that we have to pay to foreigners from our savings. May be that this heavy tribute which we have to pay year after year produces benefits which are not apparent. Let us keep the question aside for the time being and consider seriously the second drain of our wealth which with open eyes we ourselves are giving rise to. It happens this way. We have estimated that out of our annual savings of Rs 65.00 crore one-fourth goes out to England but, in addition, one-eighth of our savings we throw into the sea! You will feel that I am exaggerating. But I am not. Those of the people who are able to save are perpetrating this folly every year.

This is how this happens. I present Table 1 which contains figures of imports of gold and silver into India during 1860-1870. If we add up these figures we find that during this period of ten years a total of Rs 165.00 crore worth of gold and silver were imported into the country. During the same period a total of Rs 13.00 crore worth of gold and silver were exported from it. If the net input of 10 years is averaged out, then the net retention of these was worth Rs 15.00 crore annually. Table 2 which I present contains figures regarding how much of these net imports were given to the mints for coinage. Figures for 1870-71 are not available but if we assume that the annual average of the past nine years also holds for that year, it would seem that nearly Rs 80.00 crore worth of gold, silver and copper were turned into coins during this period of 10 years.

Of the total of Rs 165.00 crore worth of gold and silver that came into the country Rs 15.00 crore worth was exported. Of the remaining Rs 150.00 crore worth, about half was turned into coins and entered the stream of exchange and business activity in the country. One would be surprised if one tries to find out what happened to the remaining Rs 75.00 crore worth. In countries other than India there is little demand for gold and silver besides that needed for coinage and a little for gold and silver thread making. But barring this there is no demand for precious metals in these countries. What is available is immediately transformed and used in business to increase employment and trade. That is not the case in this country. Half of the retained gold and silver gets absorbed in coinage through government mints and the remaining half disappears into the ground (that is, it is as good as buried in the ground). Just as heated earth absorbs water, these precious metals are absorbed by our people for making ornaments which are put on the persons of their women and children. They wear out these in the course of time. Once the metals are made into ornaments they cannot be used in trade or economic activity. They come out only if their owner faces a crisis in his economic affairs. But the ornaments do not undergo any change until they are worn out or spoilt by the application of lac.

I have already given detailed figures regarding

* Re 1 was equal to 16 annas.

what we export and import and the deficit that results. I have just shown what happens to the imports of gold and silver that are a part of this deficit. Half of it is converted into coinage and the other half of it, nearly worth Rs 7-8 crore, is put underground, that is, it is converted into ornaments by the people ensuring that their savings do not go into trade or business. To begin with, our savings are meagre. Out of them we have to send Rs 16.00 crore to England as a tribute. Over and above this, because of the foolish beliefs of our people and their lack of a sense of security, about Rs 8.00 crore out of our savings are buried into the earth by being converted into ornaments. In this way saved wealth, which can be used in productive economic activity is being wasted as just described, and thus the country is losing wealth. Because it is in our own power to stop this loss, everybody should calmly think about it. If what we save is not used in business or trade but is buried into the earth or is transformed into ornaments which are either worn or spoilt by the application of lac, then it really amounts to throwing the saving into the sea. In countries where savings are high, such waste is tolerable and does not lead to much loss. But in a poor country like ours because of foreign rule and the misguided behaviour of our people, our country is being drained of Rs 25.00 crore annually. All of us should ponder on this.

If the thoughts expressed so far are properly understood, everybody will realise why the people of this country are getting weaker every year. For increasing the wealth of the country, the savings that are applied to industry and trade must increase. It seems to be an abiding situation in our country that basically, because our industry is small, our savings are meagre. Because of foreign rule and people's idleness and lack of sense of security our savings do not go into industry and trade. Of the annual savings of Rs 75.00 crore, Rs 25.00 crore become as if they are not saved. Because of this drain the body of our nation has lost strength. If a strong man is made to carry a heavy burden on his head, is heavily shackled and then made to climb a steep mountain, it is not surprising that his strength oozes

away.

Even in this difficult situation we must not despair or lose hope. During the last four thousand years our country has gone through many such difficult times and survived. No doubt the roots of our lives are very deep. It should be the faith of all of us that we will get rid of this burden and the shackles that bind us now.

In our own day France was burdened with a debt of Rs 500.00 crore because of the fault and foolishness of her Emperor.* The enemies which defeated France imposed an indemnity of Rs 300.00 crore on it. The expenses of that War had also to be borne by the French people. Even so at the end of the war the French people did not despair. They cut down their superfluous expenditures and paid the indemnity imposed by the enemy. For this they had to suffer an increased burden of taxation of Rs 30.00 crore annually. The kind of crisis that engulfed France suddenly is a permanent malady with us. The possibility of ending or lessening of the tribute which we have to pay for foreign rule is very remote. So we must bear the burden stoically and think about remedying the situation.

Learning from the example of the French people, how they drastically reduced their expenses on luxuries and prepared themselves for paying doubled or trebled taxes, we must with the same determination cut our superfluous expenditures and save more. And see that the savings so made are put to use to generate employment and industry for our people.

If the Government increases a tax in some year, all of us pay it by curtailing our expenditure. In the same way we should regard this burden of the annual tribute, which unbeknowningly falls on us as a tax, and meet it similarly. If we reduce our expenditure and save more, as much as the annual tribute we have to pay, it will almost amount to not paying it though we will be paying it as before. Therefore, everybody should strive for bringing down his expenses to the level which would have been attained if we were ruled by native rulers. This means that our savings should be as much as

*The reference is to the defeat of France in the Franco-German War of 1870 and its aftermath. The Emperor was Louis Napoleon.

before after paying the tribute. Unreasonable expenditures must be curtailed or we all should economise in other ways so that savings can increase and that will end all our troubles.

If we have Rs 100.00 we can use them in six different ways. If they are thrown into the Ganges they will disappear. If they are put into a box or earthen pot many will feel happy either by its warmth or its sight. If we turn them into ornaments they will please our eyes or beautify our bodies. If we spend them on sweetmeats or luxuries and enjoy them, we will get physical pleasure. If we employ ten servants and ask one to massage our bodies, another to waft us with cool breezes, yet another to sing, etc., we will enjoy a kind of pleasure. Finally, if we invest them in trade and industry we will ensure that they will return to us with interest.

Of these six ways of using savings, the country which uses them the most in the last way, gets speedily rich. The extent to which the five other uses of savings are prevalent in a country to that extent its prosperity retreats. If we want to use our savings economically we must use them in ways that will expand wealth and return back to us. If all kinds of wealth are merely kept with us they turn to ashes. That is a truth that all of us should keep in mind.

In the present circumstances for these reasons all of us should live economically. This means that we must cut down on the first five kinds of uses of our savings and increase that of the sixth kind. I had to give this elaborate explanation lest my plea to economise be misunderstood as a plea for miserly behaviour or not to spend our incomes at all.

II

STATE OF INDIA'S TRADE

On a previous occasion I explained the system of wealth in our country as affected by foreign rule, how much we have to pay to England as a tribute every year out of our savings, and how because of that our strength declines continuously. It is not surprising that we feel sorry because a poor country like ours has to pay Rs 12.00 to 15.00 crore as a tribute to a foreign country. Yet we should not entertain such a one-sided view. We must not forget that though we have to pay a heavy tribute because of foreign rule we are able to levy a tribute of Rs 7-8 crore on other countries because of that same foreign rule. You would all be knowing that we grow the best opium in the world. At least our opium is best liked by the Chinese. There is heavy duty on opium that we export to China, in paying which the Chinese pay us a tribute. This income was absent under the Mughals or the Peshwas and we would not have got it if the present Government had not made special arrangements in regard to it. Every year we get a net income of Rs 7.00 crore from opium exports solely because of our foreign rulers. Another thing to bear in mind is that the foreigners who rule us have, by investing

crores of rupees as capital have started the production of new crops that we did not grow before. In former times we did not know anything about tea. So also we had only heard of coffee, that it was called 'bund'. The trade in indigo was also small. These three crops have been developed by the English and they are generating crores of rupees of income. The producers of these crops are Englishmen. They come from outside and produce these crops in our land. The details regarding them are as follows. For the last 15-20 years tea is grown in Assam and other sub-Himalayan lands. The annual crop is worth Rs 50.00 lakh. Tea production amounts to 1.00 crore lbs or 50.00 lakh seers. Nearly 70,000 of our people are employed in the production of tea. Similarly, in 1850 we exported coffee worth Rs 6.00 lakh. Everybody knows that for the last fifty or so years there are indigo factories in Bengal. In 1850 we exported indigo worth Rs 1.50 crore. In 1869-70 indigo exports were valued at Rs 2.00 crore. Besides these the foreigners have started many other factories for producing other things by investing their own capital. In the three crops, the foreigners invest annually Rs 5.00 crore and

we must say that our people get that much livelihood. If the foreigners were not ruling us these benefits would not have come to us. We should not feel too sorry for the heavy tribute we have to pay to the foreigners. In recompense, we are able to levy a tribute on foreign countries without fighting a war. Also because of the Englishmen's industries there is employment for our people worth crores of rupees. We should bear in mind these facts.

Many people think that in the same way as the foreign investment in the tea, coffee and indigo plantations benefits us, so does the investment of foreign capital of about Rs 100.00 crore in developing the railways. But that is incorrect. Had the railway companies invested their capital at their own risk, then that would have benefited us. But the money that the Englishmen have invested in railways is not at their own risk but under a guarantee from the Government of India. Whether the railways make a profit or not the investors have been given a guarantee of receiving interest on their capital at the rate of 5 per cent per annum. Everybody knows that the money spent on railway construction has been loaned to us and we have been paying interest on it from the beginning. Of the Rs 90.00 crore that have been spent on railway construction so far, Rs 35.00 crore have not given rise to any livelihood for our people. All of it has been used for buying stores in England. We are made to pay interest on this sum. Excluding these, the remaining Rs 55.00 crore were spent in India and generated livelihood for our people. When railway construction begins anywhere employment increases for a short period. But apart from it what abiding profit do we derive from it? A reckoning shows that over and above the income that the railways earned from the beginning, the shareholders of these companies had been paid about Rs 20.00 crore as interest by the Government. It is now twenty years when the railways started in India. Over the twenty years we had to pay Rs 20.00 crore as interest on it. If the broad gauge railway tracks (5' 6") comprising most of the railway network of the present is operated in the same way as before for the next twenty years, we will have to make up the annual loss of Rs 1.50-2.00 crore as during the last 5-10 years, and at the end of

forty years we will have suffered a total loss equivalent to the original capital investment. All should keep these facts about the railways in mind. Up to the end of 1871 the total expenditure on railways had amounted to Rs 90.00 crore. The railways so constructed earned Rs 6.14 crore in 1871. In 1870 the earning was Rs 6.03 crore. Out of this more than half - about Rs 3-4 crore - was spent as running costs. The remaining profit does not amount to even 3 per cent on the total capital of Rs 90.00 crore. For paying the guaranteed rate of 5 per cent these profits have been supplemented by about Rs 1.50-2.00 crore annually from public revenues. Such a loss cannot be tolerated in any big industry. All know how little such an industry means in terms of employment for our people.

From all the detailed information supplied so far all of you will realise the character of the partial return we get for the tribute our trade has to pay for foreign rule. Those who understand the full impact of these facts will realise how misleading are the contradictory views generally entertained about this subject, such as that because of foreign rule our trade is a total loss or total gain. As regards the political aspect, we have become the subjects of a people of a distant island. But, because of it, our trade with other countries of the world has continuously expanded and one day our full potential in this respect will be fully realised. Occasionally we ourselves wonder as to why we have been reduced to such a poor state even when for quite some time we have been in contact and close association with the richest country in the world. An association with the rich does not always make the poor rich. If for a moment we imagine that all the leading persons in Pune are landlords whose lands are in distant Konkan. They manage them by sending their clerks there and collect the rent and revenue. All the income that they get is spent here for living expenses and in the pursuit of pleasure. They never visit their lands. All the income from there is brought here to build big houses and gardens with it and to enjoy them. If we grasp this analogy correctly we will realise what happens when we have to pay a tribute to foreigners. It is not difficult to imagine such a state of affairs because that was the state of affairs when we ourselves ruled. Even now the vestiges of that system can

be easily seen around us. Because we are rich landlords it does not mean that our tenants are also happy and well-to-do. On the other hand if we consider the state of ourselves (landlords) and that of the ordinary people (our tenants) in the distant lands we will find an inverse relation between the two. In a way the Indian Kingdom is an *Inam** of the English. Because they are rich that does not mean that we share their riches. The only saving grace is that just as a landlord builds a temple in the distant land or a dam across a stream or a public place and his tenants are pleased by his religious fervour or his enthusiasm so also we get some livelihood from the Englishmen's wealth that percolates to us. So we should be pleased and our effort should be to increase that (percolation and) livelihood.

That is the correct perception of our situation. But it is our great fortune that the fertility and fruitfulness of the mother country into whose lap God has put us, is of such magnitude that it would be correct to say that all kinds of climate complexes, waters and soils anywhere in the world are found in it as well as all kinds of trees, herbs, medicinal plants, materials, grains, grow plentifully in her soils. This is more particularly borne in on us when we think of it in relation to our international trade. Often we feel afraid that how our people who are weak, afflicted with poverty, ignorant of machine tools, without any industry to speak of, without wealth, without any desire to save, can cope with other nations of the world. That fear is mitigated when we think of the miraculous productivity and fruitfulness of our mother country. In relation to trade it seems that whenever there was a shortage of useful commodities in other countries our country, though poor, went forward to meet that shortage. Not only did it do so but even when the shortage was overcome in these countries our command over their markets has remained unimpaired. No other country in the world possess such an endowment and fruitfulness. Man-made and labour-intensive commodities are produced in other countries many times more than in ours. The endowment of our land (the details of which I shall give presently) is a matter of great pride for us. The

cultivation of tea and coffee has developed during the last twenty years. During that period when a war occurred between England and Russia*, the supply of Russian hemp and jute and linseed to England stopped. Taking advantage of that opportunity, India came forward and supplied these commodities to England. Not only did she do so during the war but was able to maintain the market for those commodities even after the war. Russian goods were not in demand in the English market. When the Civil War** in America broke out, the export of Carolina rice from it to other countries stopped. At that time Pegu, Burma and Bengal supplied this need and, though the war ended, the demand for Indian rice not only was maintained as before but actually increased.

So also everybody knows that the cotton trade has prospered because of the American Civil War. Even when that war ended the quantum of our cotton exports has not declined. The same story is repeated in the case of wool. I will now relate in detail the rise and flourishing of trade in respect of these commodities.

To correctly appreciate the change that has taken place in our trade by comparing the goods we exported in 1850, on what scale, and the changes that have occurred in respect of each of them since then, it would be necessary to know the history of our country. I do not want to go into details to that extent. It would be enough if we come to realise in general terms the potential of our country.

If we take tea, everybody knows that it is mainly grown in China. The East India Company traded in Chinese tea for many years and it had a monopoly of that trade. That monopoly was abolished in 1834-35. When the English realised that tea can be grown in India they started tea plantations in the foothills of the Himalayas, in Assam, Cachar, Chhota Nagpur, etc. The industry is not even twenty five years old. Tea is not much consumed in India except by the European population. So most of the tea produced is exported to England. From 1851 to 1855 on an average, tea worth Rs 4.50 lakh was exported annually. During 1855-60 the annual average rose to Rs

**Inam* : A grant in perpetuity without conditions; now applied loosely to grant in general (Molsworth).

The reference is to the Anglo-Russian War of 1854. *The reference is to the U.S. Civil War of 1861-65.

8.50 lakh. This increased by three times during 1861-65 when the annual average came to Rs 22.50 lakh. It has increased further during 1865-70 as can be seen from the following details. In the territories named above there are now 459 plantations of tea. A total of 60,000-65,000 acres are under tea plantations. In 1870, the total production of tea was 1.25 crore lbs and at the price of 8 as per lb. it was worth between Rs 60-65 lakh. Nearly 70,000 labourers are employed in these plantations and they earn a good livelihood. The story of coffee is similar. Everybody knows that coffee is the crop of Arabia. Just as in the foothills of the Himalayas, the climate, rain and soil were found suitable for the tea crop, so too in the south on the top and sides of the Nilgiris and in Ceylon the Europeans found conditions suitable for growing coffee. And so during the last twenty five years we have seen the cultivation of coffee grow. There are 282 coffee plantations in the Nilgiris owned by Europeans. 21,500 smaller plantations, developed in imitation of the Europeans, are owned by our people. A total of one lakh acres are under coffee. Besides coffee is also grown in other parts of Madras and Travancore. Coffee is not consumed by our people. So what coffee remains after the consumption of resident Europeans is exported. The annual average of coffee exports were worth Rs 9.50 lakh during 1850-55. They rose to Rs 13.50 lakh during 1855-60 and further to Rs 55.50 lakh in the next five years. They increased very fast during the subsequent quinquennium. In 1870 the duty on coffee was 4 annas per maund (28.00 lbs) and the total duty collected was Rs 3.50 lakh. Estimating from this it would be fair to say that the coffee exported in that year was worth Rs 85.50 lakh.

In this way tea, the main produce of China, and coffee, the main produce of Arabia, not only came to our country to stay but are prospering day by day.

It is now necessary to describe the performance of our country in respect of cotton. Even before the American Civil War cotton used to be exported from India to England and other countries, but the quantum was not large. In England nobody cared for the inferior Indian cotton as against the superior American cotton. I now

present Table 3 giving figures regarding the exports of cotton to England from India and America during 1860-1868.

It will be apparent from this Table 3 that of the total cotton sold to England in 1860-61, 82 per cent was from America and only 12 per cent from India. When cotton scarcity developed during the next two-three years, our exports increased manifold. Cotton prices have come down now and American cotton is again available. And yet the scale of our exports has not declined. In 1868-69, of the total cotton sold to England half was from India and the other half from America. In these exports from India, the Bombay harbour played a major role. Of the 16.00 lakh bales exported from India 12.25 lakh bales went out through the Bombay port. Table 4 culled from the annual trade reports of the Bombay port for 1871-72 gives the amount (lbs) and value (Rs) of cotton exported from it during the last ten years.

Several things in the Table 4 are noteworthy. The main thing is that the export trade in cotton is not dependent on the rise in the prices of cotton. Even though cotton prices have been normal during the last couple of years the cotton exported in 1871-72 was more than what was exported during the period of the American Civil War. It is, therefore, obvious that our cotton exports have increased because our cotton is more fancied than before. Secondly, we are not dependent on the English market as we were ten years ago. Our trade with England has not increased but has not decreased either. Our trade with other countries, which was negligible before, has been increasing day by day. In 1863-64 we sent out 40.50 crore lbs of cotton of which all except 2.00 crore lbs went to England. Of the total value of cotton exports of Rs 28.00 crore, Rs 26.00 crore were received by England. It is not the position today. We sent to England in 1871-72 as much cotton (38.00 crore lbs) as we had sent to it in 1863-64 but we exported to other countries 14.00 crore lbs in 1871-72. Even though cotton prices are now ruling low, the payment we received from countries other than England was Rs 4.00 crore. Those who appreciate this will be glad of this development. When our exports began to increase at the time of the American Civil War it was feared that when that war ended and the

American cotton once more became available, nobody will demand our cotton. These fears are now baseless. Whereas our cotton exports to England have not fallen, our exports are going to other countries in significant quantities, though they were negligible before. We can say without fear of contradiction that the idea of many people, that the cotton trade had done us harm, was baseless. The annual average cotton exports were worth Rs 3.75 crore during 1850-51 - 1855-56. It remained the same in the following quinquennium. During 1860-65 there was a great boom in cotton exports and they increased to an annual average of Rs 22.00 crore. In 1864 and 1865 we earned an annual average of Rs 36-37 crore from them. The scale has come down markedly during the following five years. Even so we earned Rs 15.00 crore from cotton exports. In short, we are now earning every year four times of what we were earning before the American War.

A similar story is that of wool. On an average during 1850-55 wool worth Rs 15.00 lakh was exported per annum. This increased to Rs 35.00 lakh during the next quinquennium and further to Rs 77.00 lakh in the following quinquennium. It declined a little in the following five years and at present the annual average comes to Rs 60-65 lakh. Similarly, the trade in linseed and sesame has increased. These goods were imported from Russia into England. In 1854 the war between Russia and England and France began. A year before that, the exports of the commodities from India were worth Rs 47.00 lakh. The quantum doubled in 1854-55 and trebled in 1855-56. During that year those exports were worth Rs 1.25 crore. Even when the war ended the demand did not decline but actually increased. It has decreased somewhat recently but not very much below Rs 1.25 crore. Similarly, in the old days rice worth Rs 2.25 crore used to be exported from Bengal and other eastern provinces. Since the American Civil War began, our rice has been much fancied in Europe. Rice exports increased from Rs 2.25 crore in 1860 to Rs 3.50 crore in 1862, to Rs 4.00 crore in 1864 and Rs 5.50 crore in 1865. The war was over quite a few years ago

but the demand for rice from Pegu, Siam and Bengal has been maintained.

This detailed information about the leading traded goods of the country would give you an idea about the extraordinary natural endowment of our country. Why should we not regard it as our good fortune that Chinese, Arabian, Russian products can be produced in this country as well and as much as required. Soil, water and climate are all favourable though manpower is a limitation.* Because of this limitation when we concentrate on increasing one particular crop we find that the production of some other crop suffers. When the cotton crop expanded we experienced a rise in foodgrain prices. I will not dilate on it further.

In order to give you an idea as to how our international trade has grown I now present a Table giving the quinquennial averages of trade from 1834 onwards (Table 5).

Three main things stand out of it. (i) Our exports are worth several crore more than our imports. (ii) The difference between the two has been progressively increasing. It was Rs 4.00 crore in 1834, in 1870 it was Rs 7.50 crore and in 1871 it was Rs 19.00 crore. The proportion in which the price and quantum of our exports has increased is not matched by that of our imports. That the imports of a country should be greater than its exports is the characteristic of a normal country's trade. Not only is this characteristic absent in the pattern of our trade but the abnormality of exports being greater than imports seems to be progressively growing. We have discussed this before and it is not necessary to repeat it. Whether the wealth of our country is increasing cannot be judged from the quantum of our exports. If a country's capacity to import increases then it is a decisive indication that its wealth is growing. The reason why our exports have increased is that the burden of taxation in our country has increased very much. To the extent to which the burden of

*Ranade uses here the word *aptti* an old word that has fallen out of current usage. The word, as per Molsworth's dictionary means 'distress arising out of the failure of crops; distressing scarcity.' I have translated it mildly as 'limitation' which is warranted by the sense of what goes before and after the sentence.

taxation increases to that extent it becomes necessary for sellers of goods to sell more. If we examine the increase in the burden of taxation we find that the total annual tax collection in India during 1834-39 was Rs 22.00 crore. It increased to Rs 24.00 crore in the following five years and to Rs 28.00 crore in the succeeding five years. The average was Rs 34.00 crore for 1854-59. During the next two quinquennia it rose to Rs 45.00 crore and Rs 50.00 crore, respectively. The total tax revenue has doubled during the last thirty years. The taxation has increased so much that to meet it farmers and people in other professions have to export their wares to a greater degree than before. There is no scope for selling this production in the home market. We also get a better price abroad and that is why we export it.

The portion that is exported because of high taxation cannot be taken into account when we think about the increase in our exports. If a man incurs debts and his monthly salary or yearly produce goes into the bazaar to meet the debt charges, we cannot say that the man has a large trade because all his income finds its way to the market. The case of our country is similar. The portion of our revenue which goes to England as a tribute is a separate matter and has been explained before. What is now being referred to is an independent matter. Of the total international trade of our country that portion, which comes about because of the necessity imposed by increased taxation on the ryots of selling more of their produce for export, does not represent real growth in our international trade. Everybody does not understand this and yet there is nothing mysterious about it. We cannot say that our trade has not increased during the last thirty years. The trade figures that I gave a while ago do show an increase, but in real terms not as much as the figures apparently show. The goods that we export for paying our taxes must not be taken to constitute an increase in our trade. The other test of this proposition is that in all independent countries of the world generally their external trade is much less than the internal trade or at least they are balanced. That is not so in our country. Our international trade amounts to about Rs 100.00 crore while the inter-port trade in our country amounts to Rs 25.00 crore only. This

means that the trade which we have among ourselves is only a quarter of that we have with foreign countries. This strengthens our contention that our increased exports during recent years cannot be taken to mean an increase in our real trade.

The figures of growth in our exports give a false picture about our real trade. The wealth and the strength of our country have not increased on the same scale. We export more because of the necessity of meeting increased taxation and that is no indication of our increasing trade. This I have explained. To strengthen our proposition a second test has been applied. If our trade had increased as a result of an increase in wealth the inter-port trade of our country would have also increased to that extent. But it has not. The appearance that our trade has increased is false. This has also been explained. We must think a little more about imports. There are no gold or silver mines in our country. But annually we spend crores of rupees for purchasing gold and silver for making ornaments or coins. For these two reasons gold and silver are very prominent in our imports and the more we have them the better we will be. Crores of rupees worth of gold and silver are being worn out to waste in the ornaments of twenty crore population. It is also being worn away in the form of coins. It is estimated that annually about Rs 4.00 crore of gold and silver are worn away in coins and about the same amount in ornaments. If this country does not import gold and silver worth Rs 8.00 crore every year it will be in difficulties. That is why our need of gold and silver is acuter than that of other countries. During the last couple years the French paid a war indemnity of Rs 200.00 crore to the Germans and one-third of this was raised by them by a change in the currency. That is, the gold and silver coins in circulation were replaced by paper currency and the precious metals thus recovered went into the payment of war indemnity without raising taxes. Our people have not the same wisdom, understanding or faith. That is why crores of rupees worth of gold and silver are locked up in coins. So also because of our craze for ornaments we purchase gold and silver in large quantities. That is why gold and silver play such a prominent part in our imports.

I have presented before details about imports as a whole but its division by gold and silver and other commodities has not been presented. It is necessary to understand this and I now present the necessary statistics in Table 6.

It is clear from Table 6 that the quantum of imports of commodities and precious metals has increased enormously during the last decade as compared with that of the preceding twenty years. Even so the value of imports of commodities and precious metals is less than the value of exports. This difference results, as previously explained, from the political tribute we have to pay. If we had not to pay the tribute much more gold and silver would have come into the country. It is not necessary to debate this as this has been extensively discussed before.

It is true that our imports have increased during the last decade but the whole subject is of such a nature that what it looks like at first sight is not the reality. We feel that imports have increased but when we go into details the illusion disappears. Generally in straight and equal trade the extent to which we import without affecting adversely the economic activity in our country, to that extent the strength of our country can be said to be increasing. It cannot be so said if by ruining our industries more goods are imported from foreign countries.* To make easy the understanding of such a subtle thought let us take an example. Suppose there is a big family. The male members following different trades meet the needs of one another. Some do agriculture, some weave cloth, some trade, some tailor, some cut and some others do one or other thing and so help one another. As can be imagined there will be little work for outsiders in such a case and the trade of the family with outsiders will be meagre. If, because of growing idleness or quarrels within the family everybody stops helping everybody else and starts consuming his accumulated savings and getting work done by outsiders, it would mean that the family will be purchasing much more (that its trade transactions would increase) from outside. But it cannot be said that the family is more prosperous or stronger than in its former

state.

The present state of our country is like that of the second kind of family which is idle and pleasure loving. We must think about what kinds of imports do we buy? Was our country producing in the past the same kind and quality of goods? Have the increased imports harmed or promoted our industries?

From the detailed figures supplied before we find that increased imports of our country are really not required by our country or people. Of the goods imported on a large scale most are not bought by our people. They are for the convenience of the large European population in our country and for the industries that they have started here. It cannot be said that the consumption of these goods has increased among our people.

Considering these things it seems that if we are able to keep our trade with England expanding at a slow rate and also expand the trade which we have with countries other than England then it will be really beneficial to us. The goods from these countries come to us in straight trade in exchange for our exports to them. The goods imported from these countries do no harm to the production or finishing of goods that we do and did in the past. But the trade we have with England differs from this on both counts. The trade is not on equal footing. The imports from it do not come in as supplies of goods not manufactured or produced in our country. They displace goods that were produced in our country in the past and the burden of purchasing them falls on our people and the profit is earned by foreigners (Englishmen). We shall, therefore, discuss separately imports from England and those from other countries.

I now present in Table 7 the classification of our imports during the last fourteen years according to their origin.

On the whole our trade with England and other countries has increased during the last fourteen years. The annual average imports from England during the first seven years was Rs 27.00 crore and Rs 31.00 crore in the next seven years. The annual average of imports from other countries during the first seven years was Rs 12.00 crore

*There is possibly a misprint here in the original text because the sentence as it is there does not make sense. I have taken the liberty of translating it according to what the preceding and the following arguments require.

and Rs 16.00 crore in the subsequent seven years. Our trade with other countries has increased at a higher rate than that with England. This is obvious from the totals but comes out more prominently if we look into the details.

They show that there are three differences between our imports from England and those from other countries. First, the imports from England do not represent a straight trade of simple exchange. Secondly, the goods that come from England are such as were being produced by the artisans of this country and were famous throughout the world. Thus by harming these indigenous industries these imports are coming in. Indigenous goods are being displaced by foreign goods. Thirdly, the remaining imports of goods are not used by our people but are mainly for the consumption of the European population in our country. The first kind of difference cannot be illustrated by an analysis of figures because our trade, both with England and other countries, is in the hands of British merchants. We export Rs 9.00 crore worth of opium to China annually and buy from it silk and tea worth Rs 3-4 crore. Both these trades are in the hands of British merchants. Because of that the surplus due to us from China is not directly received by us. England trades with China and what China owes to England in this trade is received in England and after adjustment with our trade in England, the remainder only is received by us through England. That is why it is not possible to show this by statistics. But there can be no doubt about the veracity of the statement.

Table 8 which I am presenting now contains detailed figures about the imports from England and other countries during the last fourteen years. The figures of imports from England include the imports of store, railway goods, gold and silver. The table also contains statistics regarding exports to England and other countries.

It is clear from Table 8 that while our imports (including gold and silver) from England had exceeded our exports to it, our exports to other countries had exceeded our imports from those countries. And both the annual differences were progressively growing.

The total of goods and precious metals imported from England during the last fourteen years was

Rs 406.00 crore and that imported from other countries was Rs 196.00 crore. During the same period we exported to England goods worth Rs 380.00 crore and Rs 306.00 crore worth to other countries. The total export surplus was Rs 84.00 crore. In reality we did not get anything for this export surplus of Rs 84.00 crore. It may appear that our export surplus with England was Rs 26.00 crore. But that is not the real surplus. I have already said that we have annually a deficit in our trade with England. We had an export surplus of Rs 110.00 crore with other countries. But we do not get all of it because the trade is in the hands of British merchants. They make the payments out of the total surplus for the annual tribute we have to pay to England so that instead of Rs 84.00 crore we get only Rs 26.00 crore. This would not happen if the trade with all the countries was of the straight character. This does not mean that we are not getting our due from other countries. We get it but out of it is deducted the payments we have to make to England annually because of our peculiar relation with her. If we had trade only with England we would not have received even a rupee for our export surplus. Because we have trade with other countries we pay England out of our export surplus with them and the remainder only comes to us.

Let us look at the other finding. Among the goods which we import from England and which are consumed by our people, there are three main items: all kinds of cotton, silk and woollen cloth (textiles), iron, brass, copper, etc., metals and pots and salt. Textile imports in 1850-51 were worth Rs 5.00 crore. They increased to Rs 10.00 crore in 1860-61 and to Rs 20.00 crore in 1870-71. The exports of cotton, wool, etc., had gone up in the past but have come down since. But imports of cloth have not shown any such trend. They have increased continuously. They increased about four times during the last twenty years. The imports of brass, copper, etc., was Rs 80.00 lakh in 1850-55. They increased to Rs 1.60 crore during the next five years, that is, they doubled. During 1865-71 they have averaged at Rs 3.20 crore. These kinds of imports have increased four times during the last twenty years.

The third commodity in our imports from England is salt. In 1850-51 salt worth Rs 7.00

lakh was imported. The import rose to Rs 37.00 lakh in 1870-71. One is surprised at the fact that we import salt from England. When we produce salt extensively by solar energy we may wonder as to how it is possible for England to send salt from over three thousand miles and still sell it cheaper than indigenously made salt. The fact is that the salt that comes from England does not come as a commodity for sale. The empty ships that come from England to India to carry back goods from here formerly used to have a ballast of sand, earth and stones which were thrown into the sea when the ships reached here. Shippers in England now use salt bags for ballast. In England, as here, salt is made at low cost. Earth, sand, etc., are not saleable commodities in India but salt is. As a result ships that use salt as ballast do not lose, as they used to when they used earth, sand, etc., as ballast. By this arrangement English salt is sold in Bengal.

If all the three items important in imports from England are considered together in 1850-51, their share in the total imports of Rs 8.25 crore (excluding gold and silver) from England was Rs 7.00 crore. In 1858-59 total imports (excluding gold and silver) was Rs 12.50 crore. In 1867-68 their share was Rs 18.50 crore in the total imports (excluding gold and silver) of Rs 30.50 crore. In 1871-72 the total imports were Rs 33.50 crore and the share of these commodities was Rs 24.00 crore. Because of the increasing demand for English textiles we have seen the destruction and decline of all our handlooms and weavers. The trade in indigenous metals has also languished. The Government had a large factory manufacturing salt employing thousands of people who got their livelihood from it before salt began to come in from abroad. That factory has been closed down by Government.

The third finding can also be similarly illustrated. Besides the main three items mentioned already, several other commodities like books, paper, glassware, umbrellas, wooden furniture, etc., are also imported but they are not consumed by our people. Therefore, any increased trade in them cannot be said to be a real increase in our trade. Some of such things are: rifles, arms and ammunition, coal, British stores required for the military and the railways. These goods are not

required by our people but by Europeans and their industries. They are being brought in increasing quantities. Coal worth Rs 1.00 crore, liquor worth Rs 1.00 crore, railway goods worth Rs 1.50 crore and other miscellaneous items worth Rs 50 lakh. Altogether such goods worth Rs 4.50 crore are imported every year. Because these things are not demanded by our people, trade in them cannot be counted as an increase in our real trade.

In sum, the fact that our trade with England and with other countries is growing year after year is a good omen. The extent to which our trade with England increases, to that extent we will be able to have surplus profits after paying the tribute and for the replacement of the annual wear and tear in regard to coinage of gold and silver. We are lame in two respects. Because of political necessity we have to pay annually a tribute of Rs 10.00 crore. Because of that we are under the protection of a mighty nation but in reality we do not earn a profit. We must make up for the tribute of Rs 10.00 crore and the replacement of gold and silver lost through wear and tear. Whatever profit we retain after meeting these charges can then be saved and invested in industries in the country for their expansion. Whatever we receive in partial recompense from England for the tribute we pay to her has been already explained. The less the investment we make in gold and silver the more we will be able to invest in industries and that will be beneficial to us. I have already explained how our trade has increased during the last twenty years and how the appearances are different from reality.

Let us conclude this discussion by analysing the following questions: What bad effects we have had to suffer because of the present situation? How to turn some of them around in our favour and how to avoid the bad effects? What are the steps we can or cannot take in this regard?

I have already explained in detail the present state of India's international trade, how it had grown, etc. Now we have to think about our country's future; whether it is good or bad. How difficult or feasible are the steps that we ourselves can take in this regard? From the account of development during the last twenty years the following conclusions can be drawn. (1) To begin with, the quantum of our imports and exports has

increased by three times. (2) The exports of agricultural commodities like tea, rice, opium, coffee, wool, indigo, etc., have increased considerably. (3) Exports of goods produced and processed here like silk and cotton textiles, gold and silver, thread work, shawls, sugar, etc., have totally declined. (4) The extent of increase in trade as shown by the figures presented is more apparent than real. Our trade has not increased to that extent. A considerable part of our exports go out because out of them we have to meet our expenditure in England, for meeting the savings that go out in other ways, so also because of the necessity of meeting budgetary revenue needs which have doubled during the period. For these we do not get enough compensation. To that extent we cannot say that our trade has increased. (5) Because we are ruled by foreigners our trade with England is not of the straight kind as between equals. On the whole it is the main characteristic of the trade of rich countries that their imports (in value terms) are more than their exports. The state of our trade is exactly the opposite. It apparently seems that we import from England goods and precious metals worth more than we export to it. But we have to pay a tribute to England. On that account we have to pay to England all the profit we earn in our trade with other countries because that trade is handled by British merchants. Our savings are reduced to the extent to which we have to pay this tribute. (6) There are no gold or silver mines in our country. The people are accustomed to make and wear silver and gold ornaments and our money consists of silver coins. As a result our people are unable to carry on without importing gold and silver worth between Rs 8-10 crore every year. The gold or silver that goes into coins or ornaments is lost to business and wears out completely in the course of time. Thereby our savings are wasted away and business activity suffers. (7) Most of the important goods figuring in our imports were being made in our country wholly or partly, in the past. The industries making them have collapsed as a result. All our industries except agriculture are depressed. (8) The strength of our country has not increased in proportion to our imports. The increase is only apparent because many of the imported goods are

for the consumption of the factories of government, railways and military and of the European population in our country rather than for our people. (9) Our trade with countries other than England is increasing. Since the opening of the Suez Canal (1870) our trade with countries in Europe is a new development and it is a welcome sign.

On the whole there is reason to feel happy because our trade with England and other countries has increased. But when we look closely into this we find occasion for regret and anxiety. That our trade with other countries should increase is undoubtedly a very desirable development. Our prosperity will increase with our trade. But the unwelcome fact is that our people have been increasingly left with no other activity but agriculture. That we should grow things, that these should be processed by English artisans and workers and then we should use them is becoming the order of the day. We should seriously consider whether devoting ourselves exclusively to agriculture and forsaking other crafts is desirable. Everybody knows that agriculture is very much dependent on factors external to it. In industries all places, all times and all seasons are more or less the same. The dependence of agriculture on external factors is so overwhelming that even if you labour hard round the whole year an unseasonal shower or a storm can ruin the whole business and lead the ryots into a famine. Though in our country, all the good things in all the other countries can be grown, there is on the whole in many regions of our country acute water scarcity that renders agriculture unprosperous. At times it is difficult for the labouring ryots to make both ends meet or have enough to eat. There are few regions in our country that like America are newly settled and immensely productive. Our rulers often advise us that we should all devote ourselves to agriculture and not think of anything else. For us to repeat this parrot like without thinking is not very becoming. Besides the two difficulties about agriculture just mentioned, there is a third difficulty that arises out of government policy. That difficulty does not affect other industries as it does agriculture. The government claims that all the land in the country is owned by it and it has the power to levy rent according to its convenience

or needs. The land system is being administered accordingly. So there is little prospect of making profit in agriculture. In other industries there is usually no handicap in regard to time and place. They are solely within the purview of man. In them there is more scope for the division of labour and it is possible for a few people to earn sufficiently for themselves and to provide for many others. That is not so in agriculture. England is a small country, not even as large as a province in our country. There a small proportion of the population is engaged in agriculture and the rest in other industries and professions. That is why it is possible in that small area for four crore of population to live in prosperity. If they had engaged only in agriculture the standard of living of half the population would not have been even a quarter of what it is at present. We all know this. Besides in any country the area and location of fertile land with good climate and water supply is limited. When that land is occupied and worked the remaining land of inferior fertility is brought under cultivation. It does produce but not in proportion to the labour put in. If labour input is doubled, or if twice the area of land is cultivated, it does not yield twice but only one and a half times the former produce. That is not the rule in activities other than agriculture. There the general rule is that if labour input is doubled or the scale of production is doubled production increases more than twice.

Those who understand this will clearly realise that if all of us engage in agriculture only, that will not lead to the prosperity of the people but to their poverty. If we consider the peasants engaged in agriculture and people engaged in other occupations the difference in their well-being becomes obvious to all. The population other than that engaged in agriculture is economically better off, wiser, more understanding, more united than that engaged in agriculture. The difference between the rural and urban population can be said to be partly because of this. Who will deny that the independence, wisdom, and standard of life is higher among the metal workers, carpenters, ironsmiths, painters, bangle-makers, bricklayers, potters, and all kinds of traders than among the peasants? All of us should think about how it will adversely affect the welfare and good

fortune of our country if all these non-agricultural craftsmen are ruined and the cities are devastated if we all become agriculturists.

Let us consider the state of our country in relation to the trade with other countries as it is evolving day by day. I have already explained that we engage in agriculture and produce raw materials but refrain from processing them further, that they are processed by Englishmen and we only consume the fruits thereof. This is not desirable. Agriculture by nature is a business that is dependent on factors external to it, characterised by diminishing returns and very troublesome in relation to government. So also we find that those engaged in agriculture are less knowledgeable and weak in understanding and in economic well-being than those engaged in non-agricultural pursuits. The wages in agriculture are lower than in non-agricultural occupations. The capacity of agriculture to meet the living needs of the people is very limited. In a like manner we can safely say that this capacity is almost unlimited in non-agricultural activity. The general proposition is that those countries in whom the urban population (workers in non-agricultural occupations) is larger than the rural population (farmers and villagers) are usually more prosperous and happy. The same is true in regard to political thought and activity. If farmers are oppressed they find it difficult to unite. The oppression is silently borne. Those engaged in non-agricultural occupations usually live together as a community and they have enough leisure and better understanding. That is why any oppression on them is short-lived and it also gets publicity. This is an important consideration in a country that is ruled by foreigners. If land revenue is doubled it does not get noticed. But if income tax, etc., on trades and others is changed even slightly it becomes a matter of countrywide agitation. This is our experience. This is about the worst effect of the adverse effects that are experienced by our people as a result of our growing trade with other countries. Generally we ride the railways, send our messages by the telegraph, enjoy the goods of every day use and luxuries made by machines in England and we get lost in the pleasure derived from them. We do this with enthusiasm and we are blinded by that

light. We feel happy because we do not see the shadow of that light. Who will not say that it is a thing of sorrow that in a richly endowed country like ours the people should be unable to make goods for their living, convenience, and luxury and that they should only have the intelligence to enjoy ready-made goods imported from abroad? This does not increase the strength of the country. In this country we all men have become women or small children and just as they are totally dependent on others our country has similarly become dependent. Nobody can say that this is a desirable state of affairs. We feel that the law and order situation in our country has considerably improved than before. But in our complacency we forget that we have become disarmed in the bargain. This is the experience all round. Just as in the political sphere we have become unable and weak to defend ourselves, we have in relation to trade and economic activity become unable to feed and clothe ourselves. Just as in regard to political powers we have become the slaves of foreigners, so too in regard to economic activity we have become slaves of their slaves. When one thinks about this everybody agrees that this is so. But the knowledgeable and pleasure-loving people say that this has not resulted from any compulsion on us and that we have surrendered to it voluntarily with pleasure. Therefore there is no reason to complain about it. It is also not wise. This argument is very much like the arguments that were trotted out by the educated and the complacent in America when there was slavery in that country. That the slave has not to bother about feeding himself but if he is freed he will have to do so. That the slaves do not suffer because their master looks after their needs and conveniences. Besides the slaves are quite happy with their state. These were the kinds of arguments that were made against the abolition of slavery. We must take special care of things that are evil but appear to be the opposite of it at first glance and tempt people. We must speak loudly and clearly against it because our people are accepting this fate without any complaint. Everybody must realise that day by day our activities are becoming more and more dependent and the state of the country is becoming more effete. This is an evil thing and unproductive of

any good.

Another relevant thought is that if our country was in a savage state this dependence would have been understandable and perhaps desirable. But when we remember that the things for which we have become dependent on England were being exported by us to England 30-40 years ago, we realise the depth of foolishness of those who think that our present state is desirable. I could not get details about exports from Bombay but a native scholar has provided the following figures regarding the exports of cotton textiles through Calcutta (Table 9).

From these figures we find that in 1813-14 cotton textiles worth Rs 90,000 came into India from abroad. This has increased to Rs 9.50 crore in 1871-72, that is in sixty years they had increased a hundredfold. We will be able to notice the change during the twenty years 1813-1833. Everything changed radically from 1833-34 when steam power based factories began to be set up in England. It does not seem possible for our handmade cloth to face the competition from machine made cloth. Even so where there is no religious taboo or prohibition, cloth is still being produced in this country. It is true that in ordinary transactions nobody is willing to pay 4 paise for a good which can be had for 2 paise. But it is also true that if we want to take a thing placed at a high level we have to stand on something to reach it. How can people work if they are not given the necessary leeway? It is true that if we have to compete with England we must do so with the aid of machines. But, if for sometime our liking is fixed on indigenously made goods in place of the liking that is now fixed on foreign goods, not because they are qualitatively better but by the sheer force of imitation, there would be scope and relief to the indigenous workers. If we look at the experience of other countries we find that the people there do not fatalistically accept the gospels of political economy. They impose protective duties on the imports of those goods that they feel should be produced in their country or the goods in respect of which their country should be self-sufficient. They produce the goods themselves. Because of protective duties they have to pay higher prices for the indigenously made goods. But they do not mind. That is the position

in America. They imposed duties on British textiles and as a result the textile industry grew and flourished in America in the last twenty years. Today half the cotton production of America is consumed by that industry for making cloth. The politicians in France, Belgium, etc., do also make similar arrangements. In 1860 Mr. Wilson* increased the duty on cotton textiles from 5 per cent to 10 per cent. As a result many textile mills were started in Bombay. The mills are not run quite properly but even so not only have they survived but their number has increased even when the duty was reduced to the former level. At present a capital of Rs 3.00 crore of our people is invested in them and they are giving livelihood to 20,000 workers. In their own interest the Englishmen tell us that we should not involve ourselves in factories and machinery but should continue to produce raw materials and send them to England for further processing. That is our natural duty. Those who agree with this are a great

compliment to their rulers. But there is little of wisdom in it.

Who will say that we should not produce in our country the arms and the ammunition that we require for war because they are cheaper abroad? Just as it is not right to think in terms of cost about our defence we should not think about cost in regard to our food and shelter. In this regard every country should be self-sufficient. This is not a matter of political economy. If politics, the country's administration and the nation as a family are considered together then you will apprehend the inner meaning of these thoughts.

A NOTE ON TABLES

These are nine tables in the original. They are neither numbered nor entitled. I have numbered them and given them titles. Most of the figures have been taken from the *Statistical Abstract Relating to British India (1840-1873)*. However, there are a number of incorrect entries due to errors of copying and/or misprints. There are a few mistakes of addition too. All the corrected entries are shown in brackets in each table.

TABLE 1. IMPORTS AND EXPORTS OF GOLD AND SILVER IN INDIA 1861-1870

Year	Imports (Rs crore)		Exports (Rs lakh)	
	Gold	Silver	Gold	Silver
1861	4.00	6.33	1.00	110.00
1862	5.50	9.75	0.50	67.50
1863	7.00	7.75 (13.60)	3.30	107.00
1864	8.10	14.00	2.75	124.00
1865	9.10	11.50	3.50	141.00
1866	6.75	20.20	64.50	154.00
1867	4.66	8.66	74.00	171.00
1868	4.75	7.00	16.00	137.00 (131.00)
1869	4.16	10.00	12.00 (17.00)	137.00
1870	5.50	8.50	12.00 (9.80)	82.00 (92.00)
Total	60.00	105.00	109.00 (189.00)	1,215.00 (1,230.00)

Source: *Statistical Abstract Relating to British India (1840-1870)*.

*Mr. Wilson was the Finance Member of the Viceroy's Executive Council in India.

TABLE 2. GOLD, SILVER AND COPPER RECEIVED AT THE GOVERNMENT MINTS FOR COINAGE 1861-1869

Year	Gold (Rs lakh)	Silver (Rs crore)	Copper (Rs lakh)	Total (Rs crore)
1861	7.00	5.20	24.00	5.50
1862	6.00	70.00	15.00	9.50
1863	13.00	9.00	15.00	9.50
1864	5.50	11.00	29.00	11.80
1865	9.50	10.00	23.00	10.80
1866	1.75	6.20 (14.50)	14.00 (26.90)	6.30
1867	2.75	6.20	14.00	6.16
1868	2.00	4.40	2.50	4.50
1869	2.50	5.30	9.00	5.50
Total	40.00 (50.00)	75.00 (64.00)	158.00 (145.00)	77.00 (67.00)

Source: *Statistical Abstract Relating to British India (1840-1873)*.

TABLE 3. IMPORTS OF AMERICAN AND INDIAN COTTON INTO GREAT BRITAIN 1860-1868

Year	U.S.A.	India
1860-61	2,838,000	422,000
1861-62	2,026,000	740,000
1862-63	80,000	805,000
1863-64	145,000	1,048,000 (1,043,000)
1864-65	217,000	1,349,000
1865-66	488,000	1,056,000
1866-67	1,282,000	1,619,000
1867-68	1,361,000	135,000
1868-69	1,350,000	1,370,000

Source: *Statistical Abstract Relating to British India (1840-1873)*.TABLE 4. TOTAL EXPORTS OF COTTON FROM BOMBAY
PORT AND THOSE TO GREAT BRITAIN ALONE 1862-1871

Year	Total (lbs) (crore)	Price (Rs crore)	To Great Britain	
			(lbs) (crore)	Price (Rs crore)
1862-63	36.50	15.00	34.50	14.00
1863-64	40.50	28.00	38.50	26.50
1864-65	38.00	30.30	36.00	29.00
1865-66	52.75	25.50	50.50	24.50
1866-67	27.66	12.00	26.30	11.30
1867-68	44.50	15.50	39.25	13.50
1868-69	49.33	15.00	40.00	12.00
1869-70	38.50	14.20	31.00	11.50
1870-71	43.33	15.50	35.50	13.00
1871-72	53.33	14.50	38.00	10.33

Source: *Annual Reports of the Working of Bombay Port*.

TABLE 5. IMPORTS AND EXPORTS OF INDIA 1834-1871

(Rs crore)

Year	Imports	Exports	Total trade
1834-39 (average)	7.66	11.33	18.30
1839-44 (average)	10.50	14.25	24.60
1844-49 (average)	12.10	17.00	29.20
1849-54 (average)	15.80	20.00	35.80
1854-59 (average)	26.80	25.20	52.80
1859-64 (average)	41.00	53.16 (43.16)	84.25
1864-69 (average)	49.33	57.66	107.00
1870	46.80	53.50	100.00
1871	38.80	57.80	96.30

Source: *Statistical Abstract Relating to British India (1840-1873)*.

TABLE 6. IMPORTS OF GOLD AND SILVER AND COMMODITIES INCLUDING GOLD AND SILVER INTO AND TOTAL COMMODITY EXPORTS FROM INDIA 1834-1870.

(Rs crore)

Year	Imports of Gold and Silver	Imports of Commodities (including Gold and Silver)	Exports of Commodities
1834-35	2.00	6.25	8.00
1835-39 (average)	2.25	7.33	11.25
1839-44 (average)	2.75	10.40	14.00
1844-49 (average)	3.00	12.25	17.00
1849-54 (average)	4.00	16.75	20.00
1854-59 (average)	11.25	26.75	26.00
1859-64 (average)	17.00	41.00	43.00
1864-65	21.00	49.25	69.50
1865-66	26.00	56.00	57.50 (67.70)
1866-67	14.00	45.00 (42.30)	50.00 (44.30)
1867-68	11.00	49.00 (47.50)	51.50
1868-69	15.00	51.00	54.00
1869-1870	14.00	47.00	53.00
1870-1871	15.50 (5.40)	49.00 (38.90)	58.00

Source: *Statistical Abstract Relating to British India (1840-1873)*.

TABLE 7. VALUE OF IMPORTS INTO INDIA FROM ENGLAND AND OTHER COUNTRIES 1858-1872

(Rs crore)

Year	Value of Imports from England	Value of Imports from Other Countries
1858-59	22.00	9.00
1859-60	21.50	13.00
	(22.60)	(12.00)
1860-61	32.00	8.50
1861-62	25.30	8.50
1862-63	26.66	12.25
1863-64	28.00	15.00
1864-65	33.30	16.66
Total	188.00	83.00
Average for 7 years	27.00	12.00
1865-66	30.25	19.25
1866-67	33.50	23.00
1867-68	25.50	16.50
1868-69	33.30	14.30
	(31.60)	(15.90)
1869-70	36.50	15.00
	(35.40)	
1870-71	31.66	15.50
	(30.40)	(16.50)
1871-72	29.50	9.00
	(28.80)	(10.00)
Total	220.00	113.00
Average for 7 years	31.50	16.00

Source: *Statistical Abstract Relating to British India (1840-1873)*.

TABLE 8. IMPORTS AND EXPORTS OF INDIA TO ENGLAND AND OTHER COUNTRIES 1858-72

(Rs crore)

Year	Imports from England	Exports to England	Imports from Other Countries	Exports to Other Countries
1858-59	22.00	10.66	9.00	17.66
1859-60	21.50	11.00	13.00	19.50
	(22.60)			
1860-61	32.00	11.75	8.50	17.66
1861-62	25.30	14.30	8.75	19.66
1862-63	25.50	18.66	12.25	18.50
1863-64	28.00	27.66	15.00	21.50
1864-65	33.25	45.00	16.66	22.00
1865-66	30.25	48.25	19.25	22.50
		(46.90)		
1866-67	30.50	43.66	23.00	24.30
1867-68	25.50	22.66	16.50	20.75
		(23.70)		
1868-69	33.25	27.25	14.30	25.25
	(31.60)		(15.90)	
1869-70	36.50	29.80	15.00	24.66
	(35.40)			
1870-71	31.66	27.80	15.50	25.75
	(30.40)		(16.50)	
1871-72	29.75	31.60	9.00	26.00
	(28.80)		(10.00)	
Total	406.00	380.00	196.00	306.00

Source: *Statistical Abstract Relating to British India (1840-1873)*.

TABLE 9. EXPORTS OF CLOTH FROM INDIA AND IMPORTS OF CLOTH INTO INDIA 1813-33

(Rs lakh)

Year	Exports of Cloth from India	Imports of Cloth into India
1813-14	53.00	0.92
1814-15	85.00	0.45
1815-16	131.50	2.66
1816-17	166.00	3.16
1817-18	132.75	11.25
1818-19	115.25	26.50
1819-20	90.30	15.80
1820-21	85.80	25.50
1821-22	76.66	46.75
1822-23	80.00	65.80
1823-24	58.75	35.20
1824-25	60.16	53.00
1825-26	58.30	41.25
1826-27	39.50	43.50
1827-28	26.75	52.50
1828-29	22.25	80.00
1829-30	13.25	52.25
1830-31	8.50	60.12
1831-32	8.50	45.50
1832-33	8.25	42.50

AYODHYA AND BEYOND

S.H. Deshpande

I

The author of these two books is something of a sensation. His earlier book *Ram Janmabhoomi vs. Babri Masjid, A Case Study in Hindu Muslim Conflict* [Voice of India, 1990] argued the Hindutvavadi case forcefully and in a scholarly fashion and he was hailed among those circles as a Daniel come to judgement. In that book he exposed what he would call the 'lies' of the so-called 'secularist front' including the intellectuals, especially J.N.U. historians, and the media persons. The books reviewed here followed in quick succession. By the time I write this piece two more have appeared: *Indigenous Indians: Agastya to Ambedkar* [Voice of India, 1993] and *Psychology of Prophetism: A Secular Look at the Bible* [Voice of India, 1994]. Really, all the books need to be reviewed together since they hang together but I have not been able to catch up with the breath-taking speed with which Elst has been publishing. *Indigenous Indians*, the book I have merely thumbed through, is devoted to the discussion of problems like the Aryan invasion theory, the ethnic problems which beset India and the Dalit problem - all in their historical perspective. *Psychology* I have not seen.

I have read his earlier book *Ram Janmabhoomi* but have not specifically referred to it here because the main argument has been summarised in *Ayodhya*. In fact there is a good deal of avoidable repetition from one book to another in all the three books.

Who is this man? The blurbs provide the following information. He was born on August 7, 1959 in Leuven, in the Flemish (i.e., Dutch-speaking) part of Belgium. He grew up in a Catholic family. His father is a scholar who has written for theological journals; one uncle of his was a parish priest, another is a missionary in Brazil. He was active in the New Age movement whose concerns were ecology, Eastern disciplines, 'alternative' medicine/agriculture /lifestyles, etc. He took courses in Chinese studies, Philosophy and Indian studies at the Catholic

University of Leuven. He has an equivalent of an M.A. in all these subjects. He then took courses in Indian Philosophy at the Benares Hindu University and interviewed many Indian leaders and thinkers during his stay in India between 1988 and 1992. He has published in Dutch about language policy issues, contemporary politics, history of science and oriental philosophies; in English about the Ayodhya issue and about the general religio-political situation in India.

As can be seen Elst is surely a man of wide intellectual culture. He is different from the usual run of foreign India-admirers drawn here for her spiritual heritage. He does have a high regard for what Hinduism has to offer but is not content with mere expression of admiration; he is deeply concerned about the welfare of the Hindu Society and involves himself in current debates with a zest and passion and turn of phrase which few Hindutvavadis would equal. His continuing target of criticism is Islam which he attacks mercilessly but where relevant he does not spare Christianity and its spokesmen. 'Christianity in India is not the toothless, softened Christianity that I am familiar with, but has retained the aggressiveness and self-righteousness of the colonial period; and even the European churches become a little bit aggressive again when advertising their work among the wretched Pagans of India. Therefore I see no reason to mince words and to spare the Christian establishment when it comes to exposing its divisive and subversive role' [From the blurb of *Indigenous Indians*]. This speaks for his objectivity.

The above personal details about Elst were thought necessary in part because I thought the reader should know his background and in part because the rumour, floating in the air sometime back, that the man does not exist and that Koenraad Elst is just a pseudonym, must have reached other ears also. It now seems that the suspicion was first raised by a 'secularist' reviewer of his first book (N. 107. Henceforward in page references 'A.' stands for *Ayodhya and After* and 'N.' for *Negationism in India*.)

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*Koenraad Elst, *Ayodhya and After: Issues Before Hindu Society*, Voice of India, New Delhi, 1991, Pp. XI+419, Price Rs 250.00; *Negationism in India - Concealing the Record of Islam*, Voice of India, New Delhi, 1992, Pp. VII+176, Price Rs 150.00.

His language is frequently sharp, sometimes bordering on the vituperative (in one place there is even a blank, suggesting a four letter word); but from this the tenor of his writing should not be misjudged. The man loves Hinduism and Hindus and it exasperates him no end to see Hindu society's own intellectuals working overtime for its ruin. But his analysis of facts is careful and his judgement on many issues balanced. He is conscious of his own verbal excesses and promises to improve! (N. 143).

I shall first provide a selective digest of his arguments and then make my own critical comments. Finally I shall try to review his stand on the more fundamental issues.

The Ayodhya Controversy

To begin with *Ayodhya* then. In the beginning Elst summarises his view on the Mandir-Masjid controversy. 'There is archaeological evidence that a temple, or at the very least a building with pillars, has stood on the Babri Masjid spot since the eleventh century' (A. 1). The building was most likely to be a temple since it was constructed on elevated ground and in all likelihood the temple was a Ram temple considering the importance of Ram in Ayodhya. There is also the long held belief that the site is Ram's birth-place. The Muslim rulers and invaders have generally been in the habit of destroying temples and building mosques over them and so in all probability a pre-existing temple was razed and the Babri Masjid was constructed. Elst is of the view that there is not a shred of evidence to refute these facts and conjectures.

His advice is the following: The Ramjanmabhoomi in 1949 already became a temple since the implanting of the Ram idol. 'And it is not the Hindus who have been demanding a hand-over, it is actually the Muslim groups like BMAC, BMMCC, IUML, Jama'at-i Islami' (A. 26). Therefore there the Hindus should concede nothing. 'On Kashi Vishvanath and Krishna Janmasthan, the Hindus may choose to leave it at the present compromise situation (temple rebuilt next to mosque), but it is not unreasonable and they are within their rights if they make a moral demand on the Muslim community to return these

two sacred places. The demand should focus not on the buildings, but rather on the free-will gesture of a hand-over to formally finish the history of Hindu-Muslim conflict. Concerning the thousands of other stolen or destroyed temples, no organisation devoted to the advancement of Hindu culture and society should rake up those controversies' (A. 26). Such a gesture would mean the admission by Muslims of the wrongs done to Hindus in historical times. There are good precedents to go by for such an acknowledgement of guilt. 'In 1989-90 the Japanese people have, via both their Prime Minister and their new emperor openly expressed their regrets over the oppression meted out by them to the Korean people in the half century before 1945' (A. 27). 'Right now, many court cases are being fought in the "new world" by Native Americans and Australian Aborigines to claim back ancestral sacred places and some other property. Some are lost, some are won. ...the principle that the wrongs of history may have to be righted, was not questioned as such.... In the (erstwhile) Soviet Union too, many places of worship that were confiscated and turned into storing-rooms, offices and what not, are being given back to the religious communities' (A. 31).

The Mandir-Masjid dispute leads Elst into its genesis- the Hindu-Muslim problem. Elst takes up this question in *Ayodhya*, particularly in chapter 13, but the theme is more fully developed in *Negationism*.

Negationism

Let Elst himself tell us what 'negationism' means. It 'means the denial of historical crimes against humanity. It is not a reinterpretation of known facts, but the denial of known facts. The term *negationism* has gained currency as the name of a movement to deny a specific crime against humanity, the Nazi genocide on the Jews in 1941-45, also known as the *Holocaust*.... Negationism is mostly identified with the effort at re-writing history in such a way that the fact of Holocaust is omitted' (N. 1).

Elst argues that there is a strong school of thought in India which negates the fact of Muslim crimes against humanity and India in particular.

Negationism is a frontal attack on this school.

In the first chapter Elst lists large-scale genocides of history: massacre of native populations of Caribbean Islands and Latin America by Europeans in the colonising period, killing of Africans in the age of slave trade, murder of Christian Armenians by the Turks in 1915-17, killings of its own citizens by the Soviet regime from 1917 to 1985, Mao's slaughter of the Chinese and Tibetans and, ironically, one of the earliest genocides (documented in the Old Testament) - that of non-Jews by Jews.

The Muslim record in India is summed up by Elst in the following paragraph: 'The Muslim conquests, down to the 16th century were for the Hindus a pure struggle of life and death. Entire cities were burnt down and the populations massacred, with hundreds of thousands killed in every campaign and similar numbers deported as slaves. Every new invader made (often literally) his hills of Hindu skulls. Thus, the conquest of Afghanistan in the year 1000 was followed by the annihilation of the Hindu population; the region is still called the *Hindu Kush*, i.e., 'Hindu slaughter'. The Bahamani sultans (1347-1480) in central India made it a rule to kill 100,000 Hindus every year. In 1399, Teimur killed 100,000 captives in a single day, and many more on other occasions. The conquest of Vijayanagar empire in 1565 left large areas of Karnataka depopulated' (N. 26-27). Add to this pre-partition and post-partition riots and sporadic killings of Hindus in Pakistan and Bangla Desh. 'In 1948, Hindus formed 23% of the population of Bangla Desh (then East Pakistan), in 1971 the figure was down to 15% and today it stands at 10%' (N. 29). In Pakistan Hindus constitute only 1% now. Elst quotes Will Durant: 'The Islamic conquest of India is probably the bloodiest story in history. It is a discouraging tale, for its evident moral is that civilization is a precious good, whose delicate complex of order and freedom, culture and peace, can at any moment be overthrown by barbarians invading from without or multiplying within' (N. 25). Elst's own summing up of the Muslim record in respect of massacres is, 'I estimate that Muslim conquerors killed more than six million Hindus, the number of Jews killed by the Nazis' (A. 225). In other words he dubs it the greatest crime in

human history.

It is this record and the other darker sides of Islam which are sought to be concealed by the Indian negationists. In this context Elst deals with the Congress, M.N. Roy, Jawaharlal Nehru, the Aligarh School, and finally, the Marxists - and the last-named draw the most fire from him. Roy proclaimed that Islam stood for equality and that the lower castes had 'welcomed' Islam for this reason. Elst calls Islam's equality a 'myth' and says that there 'is no record anywhere of low-caste people "welcoming the Muslims as liberators"'. ...By contrast there is plenty of testimony that these common people rose in revolt ... against the Muslim rulers' (N. 30-31). Nehru has described how Mahmud Ghaznavi admired Mathura and its temples, without mentioning that he later destroyed them (N. 31). He denied any religious motive behind his depredations saying that he was not a religious man, whereas the facts point to the contrary: 'Every night Mahmud copied from the Quran "for the benefit of his soul"'. He risked his life several times for the sake of destroying and desecrating temples in which there was nothing to plunder, just to terrorise and humiliate the Pagans' (N. 31-32).

The Aligarh School threw up historian Mohammed Habib who tried to paint a 'tolerant' face of Islam. According to him, (a) the atrocities were not very serious in any case, (b) factors other than Islam such as the economic motive were at work, (c) there was also a racial factor, and finally, (d) conversions were voluntary. Elst refutes all the arguments one by one. In respect of the racial and economic factors he again cites the example of Mahmud Ghaznavi who, although a Turk, was a man of culture. 'He didn't care for material gain: he left rich mosques untouched, but poor Hindu temples met the same fate at his hands as the richer temples. He turned down a Hindu offer to give back a famous idol in exchange for a huge ransom,' saying, 'I prefer to appear on Judgement Day as an idol-breaker rather than an idol-seller' (N. 35). Later Elst accuses Romila Thapar also of suppressing this fact (A. 86). Firoz Shah Tughlaq (1351-88) personally confirmed that the destruction of Pagan temples was done out of piety, not out of greed (N. 36). Elst concludes, 'Habib tried to absolve the ideology (Islam) of the

undeniable facts of persecution and massacre of the Pagans by blaming individuals (the Muslims). The sources however point to the opposite state of affairs: Muslim fanatics were merely faithful executors of Quranic injunctions. Not the Muslims are guilty, but Islam' (N. 37).

The real heyday of negationism came with the Marxists. They were particularly visible in the Mandir-Masjid dispute but they have been, as Elst has shown, active in the area of entire Muslim history and their weapons consisted of neglect of evidence, its suppression and its distortion. Their main theme is the 'amity' between Hindus and Muslims in pre-British times and the claim that seeds of dissension were sown by the British between the two communities. Prof. R.S. Sharma mentioned Elliott and Dowson's *The History of India as Told by its own Historians* as an example of the divide and rule type of biased colonial history depicting Hindu-Muslim conflict. 'This work does indeed paint a very grim picture of Muslim hordes who attack the Pagans with merciless cruelty. But this picture was, not a concoction by the British historians: as the title of their work says, they had it all from indigenous historiographers, most of them Muslims' (N. 38).

The Marxists have played, according to Elst, a particularly nefarious role in the debate about the Babri Masjid. In respect of ignoring hard evidence Elst says of them, 'Time and again, the negationist historians (including Bipan Chandra, K.N. Panikkar, S. Gopal, Romila Thapar, Harbans Mukhia, Irfan Habib, R.S. Sharma, Gyanendra Pandey, Sushil Srivastava, Asghar Ali Engineer, as well as the Muslim fundamentalist politician Syed Shahabuddin) have asserted that the tradition according to which the Babri mosque forcibly replaced a Hindu temple, is nothing but a myth purposely created in the 19th century (by the British rulers). ... They have kept on taking this stand even after five documents by local Muslims outside the British sphere in the 19th century, two documents by Muslim officials from the early 18th century, and two documents by European travellers from the 18th and 17th century as well as the extant revenue records, all confirming the temple destruction scenario, were brought to the public's notice in 1990. In their pamphlets and books, the negationists simply keep on ignoring

most or all of this evidence, defiantly disregarding historical facts as well as academic deontology' (N. 39). They have buttressed this ploy by other weapons in their armoury: character assassination of historians of the opposite camp, picking on a minor flaw in the opponent's argument to make the whole appear worthless, selective quoting, apportioning blame equally between Hindus and Muslims, stating on the basis of fragmentary and doubtful evidence that Hindu rulers were equally intolerant of other faiths, attributing 'economic motive' to perpetrators of vandalism, etc. Elst has given instances of each type.

For example, Sushil Srivastava wrote to the effect that the Quran 'clearly' prohibits prayers at a contentious place. Elst shows that there is no such prohibition in the Quran; it is in the *Hadis*, but it exclusively concerns conflicts within the Muslim community or a community with which Muslims have a treaty. Further, to put all doubts to rest he tells us that the Prophet himself broke all the 360 idols of Arab polytheists at Kaaba (A. 89). Partha S. Ghosh in extenuation of Muslim spree of destruction says that all ancient conquerors asserted their authority by temple destruction; Elst goes through Chinese, Roman and pre-Muslim Indian history to show up this statement as false (A. 99-102). But even assuming that such a general pattern existed the Muslim acts of destruction are a special case - they were ordained by scriptures. Further, 'when a Muslim ruler conquered another Muslim country he did not go and destroy the chief mosques. Never. Conversely, Muslim rulers often had temples destroyed when their rule was firmly established and not in need of any assertion' (A. 102).

A frequently employed negationistic trick is to pick up and flaunt a few verses from the Quran supposedly demonstrating Islam's tolerance. Assuming that they do, they are no more than half-a-dozen against scores which explicitly prove the opposite. But in fact, Elst shows, they do not mean what apologists for Islam manipulate them to mean. On the contrary Muslim theologians have found in some of them support for intolerance and hatred. Furthermore, these verses belong to the earlier period of Mohammed's career and therefore, if they really mean what the 'tolerance' apologists say they do, they stand

cancelled by the later ones. Elst concludes, 'We may safely conclude that there is not a single verse in the entire Quran which teaches tolerance and peaceful co-existence of different religions' (N. 129).

Going hand-in-hand with the secularist intellectuals are the press-persons, both Indian and foreign, who have been the subject of bitter comment by Elst (A. Ch. 7, 'Press Reporting on Ayodhya').

Elst's reading of the Indian situation is that Marxists and their softer replicas, the socialists, hold the intellectual field today; they enjoy an undeserved prestige for being objective scholars and undisputed authorities. They hold positions of power in academia and exercise a firm control over the media. According to him they are the chief enemies of the Hindu society. As he says in the introduction to *Ayodhya*, 'The struggle of Hindu society is not primarily with the Muslim community. The most important opponents of Hindu society today are not the Islamic communal leaders, but the interiorized colonial rulers of India, the alienated English-educated and mostly Left-leaning elite that noisily advertises its "secularism"....' (A. vi).

Another part of the negationist phalanx is the political establishment which slaps bans on publications which are thought to hurt Muslim sentiments. Banning of Salman Rushdie's *Satanic Verses* is a recent event; but even earlier, such works as Colin Maine's *The Dead Hand of Islam*, A Ghosh's *The Koran and the Kafir*, R.H. Eaton's *The Sufis of Bijapore* have been proscribed. The crowning piece is banning of Ram Swarup's book, *Understanding Islam through Hadis* in March 1991, after the Hindi version had been banned in 1990. What is this book? It is a faithful summary of the *Sahih Muslim*, one of the two most authoritative *Hadith* collections (Acts of the Prophet) (N. 59). Of course none of the secularist intellectuals has seen it fit to protest against this obscurantist act (N. 59).

We must note that banning of *Understanding Islam through Hadis*, though stupid, is extremely meaningful in the sense that since the book is a faithful summary of *Hadith* (or *Hadis*, 'Acts of the Prophet'). The ban acknowledges the fact that all the acts of the Prophet are not edifying. The

same is probably true of *Koran and the Kafir*. If it reproduces Quran on what it says about the Kafir, the ban simply advertises the fact that it does not say very pleasant things about the Kafir.

Look at the absurdity of the situation. A petition before the Calcutta Hindu Court in 1984 seeking a ban on the Quran for preaching cruelty, intolerance and violence was dismissed by the judge. The Criminal Procedure Code removes classics and religious scriptures from the court's jurisdictions, but summarised versions of those very scriptures get blacked out.

The curiousest phenomenon is the sequel. Chandmal Chopra, the petitioner, got the documents of the legal dispute, along with the Court verdict, published. The administration (West Bengal's Marxist Government) decided to prosecute him on the basis of the very same Penal Code articles which Chopra had invoked against the Quran (N. 61). The case is pending!

Counter - Offensive

The counter - offensive to negationism came in the form of Voice of India, a publishing house whose chief pillars are Sitaram Goel and Ram Swarup, both Gandhians. In their many publications since the fifties they have exposed communist falsehoods as well as falsehoods about Hinduism and Hindu-Muslim conflict. (Elst's books have also been published by Voice of India.) The chief contribution of Goel is the tracing of Muslim behaviour to its source - Islam.

Elst gives an outline of one of the recent publications of Voice of India - *Hindu Temples*. According to the account given by him the first volume of this book, subtitled *A Preliminary Survey*, published in 1990, contains a list of about 2,000 mosques in India that have forcibly replaced Hindu temples. 'This list is not complete, and does not concern Pakistan and other countries where temples have been violently replaced with mosques. Moreover, the number of temples of which material has been used in these 2,000 mosques, far exceeds 2,000. For the single Quwwat-ul-Islam mosque in Delhi, as an inscription at the entrance proudly proclaims, 27 Hindu temples had been destroyed. These 2,000 are only the tip of an iceberg. ...The first volume

also contains a list of over 200 temples destroyed in Bangla Desh in November 1989 under pretext of protest against the *Shilanyas...* ceremony of the prospective Rama temple in Ayodhya' (N. 89). The second volume is subtitled *The Islamic Evidence* (May 1991). The most important feature of this book is a 174 page chapter giving 'quotations from Muslim documents that describe and glorify the destruction of Hindu temples explicitly' (N. 91). Another 145 page chapter presents results of research into pre-Muslim Arab Paganism and tries to clear it of Islamic accusations (N. 92-99).

Riots

Elst discusses other issues connected with the Mandir-Masjid imbroglio – the legal and judicial aspects and the politics surrounding the controversy. These I prefer to gloss over. More important are his disquisitions on riots (A. Ch. 11) and Hindu Fascism (A. Ch. 14). On riots by way of a summary statement he has the following to say: '... going by the riot information generally available, I do find that there is truth in the received wisdom that (1) a clear majority of riots are started by Muslims, (2) a clear majority of victims are Muslims, at least in the final count, (3) a clear majority of the victims shot by the police (not including the Kar Sevaks) are Muslims; the police in most of these cases claims self-defence against attacks by mobs or snipers' (A. 164). Naturally the question arises: why do Muslims start riots when they know the disastrous sequel? Elst's answer is that 'there are two very distinct groups of people involved: those who start the riots, and those who bear the consequences' (A. 177). Those who instigate riots are the communalist politicians who stand to benefit from them. 'You thereby strengthen their feeling of being a community, in which the members have to depend on each other against a hostile environment. ... Moreover, you make them feel they need a strong protector: in politics the communalist MP or MLA, on the ground his goonda gang' (A. 178).

Elst also shows how press reporting about riots, as usual, is biased against Hindus.

Hindu Fascism

The Hindutva movement has earned this label from its opponents and Elst tries to show that in reality the boot is on the other foot. One strand in the position of critics of Hindutva is the Aryan invasion theory. It says that Hindutva represents the interests of Brahmins, or at the most of the minority of the upper castes – descendants of the invading Aryans who want to lord it over the rest of Indian society through the caste system, as they once did.

Insofar as the Aryan invasion theory is concerned Elst has dealt with it extensively in his subsequent book *Indigenous Indians*. In *Ayodhya* he says the following: 'By now the whole notion of Aryan invasions has come under fire. Western scholars start recognizing what many Indian scholars have since long pointed out: that there is not a single piece of proof for the whole theory, and that all the known relevant facts can just as well be explained with alternative and equally coherent theories' (A. 246).

About the caste system he says that in spite of the hierarchical structure and differences of status there was 'plenty of co-operation, amity and human concern across caste lines' (A. 251). Of course, there was 'oppression and misery' which need not be denied (A. 251), but in essence the traditional Hindu society consisting of autonomous caste groups was the very reverse of Nazism or Fascism. 'The traditional Hindu society knows many layers of social organization: family, kula, upajati, jati, varna. Now this layeredness of society, this devolution of many organizational functions to intermediary levels is the strongest possible buffer against dictatorship and totalitarianism' (A. 251-252).

He refers to the unity-oriented ethos within the RSS. 'In fact, the unity of Hindu society, and the promotion of the backward castes in the mainstream of society, has always been the major plank of Hindu organizations like the RSS. In its literature, the RSS boasts of having received compliments from such non-communalist people like Mahatma Gandhi and Jayaprakash Narayan, for its entirely caste-free structure and working'

(A. 254). After admitting that for decades after it was set up it was mostly an organisation of Brahmins and, increasingly, of Vaishyas, he shows that the caste composition of RSS is changing and quotes with approval a report that 'much to the despair of Marxists and secularists alike, it is not the upper caste that dominates the Sangh's shakhas. It is ironically the middle castes and rising Dalits' (A. 254-255).

Elst argues that it is not the Hindu but the Semitic religions who contain elements of Fascism. Pagan religions and tribal societies looked upon other religions and groups as *different* from their own but *equal*; 'This basic equality is broken in the 'Semitic' religions. There, one part of humanity has God on its side. That implies that whoever stands against it stands against God.... There is now a fortunate part of humanity, and another part which is doomed and cursed' (A. 264). 'By contrast the "Aryan" religious tradition has not pretended to be the special recipient of a unique divine revelation' (A. 264). Elst endorses Girilal Jain's opinion that Nazism was a direct descendant of the Semitic tradition which divided humanity between 'chosen' insiders and 'lost' outsiders (A. 266).

Elst then takes cognizance of the usual charge: 'They killed the Mahatma'. The Court which tried the murder case sentenced the culprits involved but did not proclaim the Hindu Mahasabha and RSS leaders as guilty. True, the RSS did strengthen the anti-Gandhi mood but they had every right to get angry with his actions. However, that does not mean creating the atmosphere for Godse's act (A. 276).

What about the organisational structure of the RSS? Elst admits that it is 'partly' authoritarian but points out that the RSS does not deem it the model for the organisation of the state. It is true however that 'a certain "follow the leader" spirit prevails in the RSS rank and file, and that independent thinking is not encouraged' (A. 318). However, this weakness on the intellectual front is not compensated by street violence and terrorism. In fact the RSS does not even react violently to terrorist (Khalistani) attacks on it. 'Compare with the massacre of Sikhs that Indira's

followers committed after Indira's murder: who is "fascist" then?' asks Elst (A. 319). According to him Fascism is emerging among the 'anti-Aryan' groups. 'A tendency of fascism taking shape in India exists among the self-proclaimed leaders of a different majority, or pretended majority. There are attempts to forge an anti-Hindu front including all the minorities, the Scheduled Castes and Tribes, and Other Backward Castes, against the upper-caste Hindus. One of the embodiments of this drive is V.T. Rajshekar's writing, another is Kanshi Ram's Bahujan Samaj Party' (A. 323). Kanshi Ram has endorsed 'methods' of Khalistanis and Rajshekar promises a 'bloody revolution' (A. 324).

Intellectuality of Hindutva

Elst has pointed his finger to the central weakness of the Hindutva movement and there, too, he is as unsparing in his criticism as elsewhere. At several places in both the books but especially in the last chapters of *Ayodhya*, Elst has taken the Hindutva followers to task for neglecting intellectual work. They are, according to him, 'mute cows without an ideology'; they have 'no analysis, merely some emotions and slogans' (A. 320). 'This movement has not more than a vague intuition of where it is going.... nowhere in its party documents or even in the scarce ideological literature ... do I find an outline of the grand political goal of the Hindutva movement' (A. 338). About the VHP he says, 'Their movement has behaved like a dinosaur with a lot of muscle but little brain' (A. 81). Monopoly of ideology rests in the hands of the Communists and socialists. Compared to the mountains of literature on Marxism there is nothing by way of a well-developed and 'coherent vision on a range of topics which any social thinker and any political party will have to address one day' (A. 339).

In very vivid terms, Elst describes the pathetic state of Hindutva intellectuality: 'The best achievements of the best minds among the Hindutva people still do not exceed the length of a speech or an article, and seldom do they have more ambition than to comment on one past or

present event. There is as yet very little original or comprehensive work being done. Moreover, they are all isolated: never is there any Hindutva ideologue who sits down to make a critique of the work of one of his predecessors, or who takes up a line of research where an earlier writer had left it. So, there is no growth, no progress, no building on top of what has earlier been achieved, and no weeding out of what was wrong or poorly formulated. Short, there is no intellectual life in this Hindutva movement' (A. 340). 'The whole Hindutva movement is till now a body without much of a mind. It is looking for a mind' (A. 342).

Elst points out that 'the best critiques of the problems facing Hindu society have been formulated by people who are insistently independent from the Hindutva movement' [*Indigenous Indians*, p. 214]. His advice to the movement is implied in the following: 'As long as there is no intellectual mobilization, Hindu society is badly on the defensive. Hindu society has a host of bright young people available, trained in the traditional or modern learning whose talent is wasted because there seems to be no Hindu nerve centre interested in putting them to work. The official Hindu leaders have still not realized how indispensable the intellectual dimension is to the success of a cultural and political movement, and Hindu moneybags will rather spend their funds on Mother Teresa than on an institute for Hindu thought' [*Indigenous Indians*, p. 214].

One singular example of Hindutva's depressing intellectual vacuum is the near-total absence of analysis of Islam. What angers it is Muslim political behaviour; but it refuses to track it down to its source - Islam. This is probably the reason why established Hindutva organizations have been cold to Voice of India work (N. 82). The reason, according to Elst is that 'RSS leader Guru Golwalkar once said: "Islam is a great religion. Mohammed is a great prophet. But the Muslims are big fools"...' (N. 81). This shallowness is all-pervasive. In the Ayodhya debate it appeals to Muslims to give up the mosque because the Prophet disallows a mosque on a disputed site (which is not true). It calls temple-destroyers 'foreign aggressors' (which is not true). It fights

shy of calling a spade by its real name. Now, since you have no analysis you cannot have a proper policy.

II

I have summarised above those points from Elst's book which I consider important. I shall restrict my comments only to some of them.

To start with let me say something by way of appreciation of the pair of books under review. Looking at his tirades against Islam, a superficial view might suggest that Elst is a preacher of hatred. Most certainly he is not. The whole thrust of his criticism is against Islamic texts, the teachings of the Prophet and not against the Muslims. In the context of riots he says: 'What Hindu leaders should teach their followers (and first of all imprint on their own minds), is that "the" Muslims are not to blame for communal violence. Even when it is established that a far more than a proportionate amount of the communal violence emanates from Muslim quarters, it should still be upheld as dogma that the Muslim people are not to blame' (A. 190). '(T)he problem is not the Muslims, the problem is Islam' (A. 191). His advice is that 'communal thinking should be removed through 'dialogue and education' (A. 194). This he says repeatedly in both the books. In fact he goes to the extent of suggesting that 'it is better to get killed than to kill' (A. 193).

That the Quran preaches intolerance, hatred and violence has been shown by many; Elst brings his knowledge of comparative religion to bear on his analysis. Particularly useful is his demonstration that the 'tolerant' verses in the Quran are in fact not so.

His central contribution is the exposure of the 'progressive' intellectuals who have been trying to hide the truth about Islam and Muslim history. This task he has accomplished with rich and convincing detail. The picture that he paints of respected academicians throwing all norms of academic objectivity to the winds in order to serve political or ideological vested interests is extremely disquieting. It confirms one's worst fears of intellectual 'fascism' - this time emanating from a different source.

Elst is ruthless in his criticism of Hindutva's Achilles' Heel - its shameful neglect of the

intellectual side. What he says is too true. The things that he says are being said by indigenous sympathetic critics for the last fifty years but without much effect. Let us hope now that a sympathetic foreigner's barbs go home and do the trick. Especially penetrating is his charge that the RSS has no analysis of Muslim behaviour and therefore no notion of what it ought to do about it.

Now I turn to some blemishes as I see them. A serious shortcoming of *Negationism* is the total absence of references, even of bibliography. Considering the importance of the theme the absence of any reference to sources appears surprising, especially when the author has provided exhaustive footnotes in his other books.

His discussion of Hindu Fascism is not entirely satisfactory. The caste system in one of its aspects, that of 'autonomy', may be a bulwark against uniformity implicit in Fascism but the inequality and the exploitation inherent in caste hierarchy need not be underplayed.

A cardinal principle of the RSS is the supremacy of the collectivity (*Samashti*) over the individual (*Vyashiti*). This tenet has fascist aura. This is regularly invoked in RSS literature and the *bouddhiks* (intellectual sessions). It is, of course, possible to interpret this obsession with collectivity differently. When addressing followers to sacrifice their individual interests for the welfare of society a certain amount of hyperbole is natural; after all the RSS is an organisation of volunteers who are expected to give their all for the nation. And therefore, it may be said, such linguistic flourishes are to be considered rhetorical. Perhaps they are not understood in the anti-democratic sense even in the RSS. And yet the fact remains that the doctrine is repeated so often that it may give the impression of being part and parcel of official political philosophy.

I agree that the composition of the RSS has vastly changed in the last few years but the Brahmanic stamp has not been completely wiped out. A close look at the RSS social thinking would reveal admiration for the traditional social structure of the *varna* system. It tends to idealise the past and play down the injustices of the social system. Neither the RSS nor the Hindu Mahasabha have earned the reputation of being really

forward-looking in social matters. Among prominent Hindutvavadis, Savarkar was the sole moderniser and reformist but his message has been lost on the Hindutva followers. I do believe that the more conservative and orthodox elements monopolised Hindutva and the opponents' contention that they are social reactionaries is not very wide of the mark. The changed composition has so far only meant that a few young people are making bold to declare their faith in social equality. That is about all.

The reason why Elst himself does not see any problem with this state of affairs is, probably, that he himself can hardly be described as a modernist. But more about this later.

III

I now come to the more important matter of the socio-political philosophy suggested in Elst's writings and I confess that much of what he says leaves me uneasy.

Elst's principal theme is that the teachings of Islam are the source of all the arrogance, callousness and cruelty of Muslims and that the task before the Hindutva leaders is to free the Muslims from the incubus of religion. Let us grant that this is so. Now, there is not much that Hindus can directly do to bring about religious reform among Muslims; but they can create an atmosphere conducive to enlightened thinking and encourage nascent reformistic tendencies.

From this position follow certain implications for the reformulation of the Hindutva concept and I think Elst's own formulation is at bottom inconsistent with the desired outcome.

Now, if the Hindus want to loosen the stranglehold of religion on the Muslim mind they have to first free themselves of it – in the public sphere. It is taken for granted, as Elst has done too, that religion need not be removed from the individual's mind in the manner of totalitarian communist regimes; it will remain a personal affair. But the Hindutva movement must unequivocally affirm its faith in the ideal of the secular state. For me the secular state fundamentally means that all social problems it deals with, i.e., political, economic, educational, etc., will *not* be tackled in the manner ordained by any of the scriptures, Hindu or non-Hindu, or by any authority considered as

'sacred' but through the instrumentality of human reason alone. Insofar as individual pursuit of religion is concerned the state's job is done once it has guaranteed religious freedom - so long as it does not encroach on other people's freedom. The state must desist from active encouragement or discouragement of any religious tradition; non-discrimination shall be the governing norm. It follows that political parties must not support religious causes and must not use religious symbols. I wonder whether Elst stands by this concept of secularism. I find him extremely unclear and yet what is unmistakable is his negative tone. He says that practice of secularism all these years has not checked separatist tendencies and has become useless in that context (A. 117-118). One would like to ask whether it is the practice of secularism or its non-practice, or at least the practice of a wrong kind of secularism that has led to this result. (What has been practised is 'pseudo-secularism' and Elst does agree that this is so.) Further, he calls it 'purely a negative ideology, which merely divorces one of the strongest motivating forces in an individual's life from public life' (A. 118). So he wants to retain religion as a motivating force? He accuses 'leftist intellectuals' of wanting to ban religious programmes on TV, use of religious symbols at state functions, etc. (A. 133). While explaining the meaning of secularism he says, it means 'freedom regarding religion', i.e., 'freedom to take it or leave it' (A. 128). But this is only one aspect of secularism and not the whole of it. From this statement he draws the conclusion: 'secularism as a political term means: neutrality of the Government in religious matters. That is all' (A. 129). Neutrality, if it means non-interference, still falls short of the ideal of the secular state which must actively remove religion from the public sphere. However in further explanation he says it 'leaves any spirit-oriented choices to the individual, and limits the state to pursuing world-oriented objectives. Secularism does not limit the individual, who is left free to pursue religion, with the state guaranteeing this freedom. Secularism limits the state, and prevents it from espousing other causes than its worldly functions' (A. 130). This comes closer to what I have in mind but I would add - not merely the execution of 'worldly'

functions but their execution through 'worldly' means - human reason.

Further, Elst agrees with the proposition that Hindu culture, in the preferred sense, is intrinsically secular. 'The innermost and actually religious level of Hindu culture is an individual affair' (A. 132). Yes, but confining religion strictly to individual level takes a lot of doing in the dislodgement of religion because religion, any religion, covers much more than the relationship between the individual and whatever transcendent principle he believes in. Therefore leaving everything to 'Hindu culture' in the hope that it will automatically guarantee secular processes is not enough. I doubt, also, that Hindu culture is 'essentially secular' in the required sense but let us not dwell on this.

Through 'real religion', based on individual consciousness, 'real secularism' can be achieved, according to Elst, and so he turns to extracting indigenous Hindu secularism from *Chaturvarnya*. The latter, according to him, is not the system of hereditary castes but an 'idealized division' of functional groups which historically came to be superimposed upon the actual division of castes (A. 140). This *Chaturvarnya* system, Elst tells us, contains the idea of 'separation of powers'. 'The idea of separation between these two varnas (Brahmin and Kshatriya) can ideally be understood as a separation between the "secular" domain of action and politics, and the "non-secular" domain of knowledge and spirituality.... (This is) the best way of letting the two domains flourish optimally' (A. 141). It is hard to agree with this. In the first place, an 'idealized' division, purely a mental construct with no counterpart in practical reality, cannot be a 'system', a method to deal with real problems. Secondly, let us assume that *Chaturvarnya* existed as a social system. There the Brahmin's domain may have been knowledge and spirituality but that knowledge was supposed to consist not merely of spiritual lore but also of secular lore in the Dharma Shastras, and the Dharma Shastras, as interpreted by the Brahmin, were to guide the actions of the Kshatriyas. The Kshatriya function was not independent of Brahmin function. *Chaturvarnya* is not a blueprint for a secular state. And even if it is, how does one bring it about?

In a later chapter he actually proposes dropping of the word 'secularism' from the Hindutva parlance - because it has been contaminated 'through systematic distortion and misuse' (A. 343). This is a useless remedy for a situation that can be corrected within the secular framework and, in fact, must be corrected only within that framework. And, again, what does he propose instead? Keep quiet and let 'Hindu culture' prevail and, hopefully, dissolve the problem?

We need secularism in India because a secular state is a 'good' state in the sense that it does not shackle the human mind to any supra-rational authority. But it is also a practical necessity in our country whose most vexing problem is the welding together of different religious groups into one common nationality. That would be one way of 'educating' the Muslims out of their religion and doing it 'gently', as Elst proposes.

Leave aside the Muslims, even for the Hindus there is no alternative to adoption of a secular state because the several religions, sects and subjects that go under the name of 'Hindu' have not merely different but even the most conflicting approaches to matters pertaining to philosophy, world-view and rites and rituals.

Savarkar's approach to nationalism partly accomplished this task. Partly, because his 'Hindu' was still rooted in one religion or another via the *Punjabhoo* (holy land). But he knew that when all the elements of that 'Hindu' (Jains, Buddhists, Sikhs, Adivasis, members of the other indigenous sects) were to be bound together, no religious principle would be available and one would have to fall back on 'culture' whose constituents would be primarily secular. And, indeed, his picture of the Hindu *Rashtra* is that of a democratic, secular state. Savarkar had little use for 'Hindu religion'. Elst has completely misunderstood him. He thinks Savarkar was trying to 'define a religion' or 'build a religion' (A. 280). Nothing of the kind. He was trying to build up the concept of a *national* Hindu, indifferent to any religious ideology.

The RSS, in principle, went even further and broadened the Hindu concept by removing the *Punjabhoo* criterion, i.e., by abolishing the distinction between indigenous and non-indigenous religions and substituting 'culture' in the place of

the religious connection. This culture has to be logically secular (although the RSS, owing to its muddled thinking, does not see it that way). And hence expressions like 'Mohammedi Hindu' or 'Christian Hindu'. Elst tries to make fun of such expressions implying that they are absurd and self-contradictory [*Indigenous Indians*, p. 220]. They are not, if properly understood. Yes, even the Shahi Imam can be a Mohammedi Hindu if he calls this country and its cultural tradition his own. Then on his visit to Jeddah he may very well fill up the information form as: 'Nationality: Hindu; Religion: Muslim' and against purpose of his visit he will not write 'preparing *ji*had against Hindu Kafirs' [*Indigenous Indians*, p. 220]. He (or his spiritual descendants) will be going there, who knows, to sing the glory of Hindusthan or even to spread the message of Elst's Sanatan Dharma. The point is that Shahi Imams, present and potential, will remain Shahi Imams, much to the misfortune of this country, if we stick to the narrow-meaning Hindu concept. (And it must be noted that in terms of the group of people connoted by the word 'Hindu', Savarkar's and Elst's Hindus are the same.) That is why I welcome the Sangh's formulation over Savarkar's. (The only question then would be why the term 'Hindu' should be retained when it has association with Hindu Dharma, worse, Brahmanic Dharma. Personally I do not mind *Bharateeya* as a substitute.)

Thus state secularism, truly and strictly practised, is a pre-requisite of the desired fusion of various diffuse and warring elements of Indian society into a somewhat homogeneous whole. This is the essence of the problematic that nationalism in India is. Of course, by itself secularism does not provide a positive binding principle; it only removes obstacles in the way of unification and thus creates a background. Now the question is whether Elst has anything to offer in terms of the binding principle.

The difficulty with Elst is that he is not very serious about nationalism. He gives it a secondary place. What is important is 'Sanatana Dharma'. The country and its people become derivatively important as an 'abode' of Sanatana Dharma. The country 'can only acquire a value, and be an object of commitment, if it becomes historically linked

with a substantial value' (A. 282). That substantial value is Sanatana Dharma. In fact he fears that fascist tendencies might emerge from insistence on being too secular-nationalist (A. 283). Indian Muslim spectators cheering a Pakistani team on the sports ground do not worry him too much (A. 280). Loyalty to the state is not important (A. 281). He is not in favour of a common civil code, at least immediately (A. 358). 'Forget about Bharatiyatva', he says, 'The day when the world has one global culture, and that day is not too far off, these concepts of territorial patriotism, of Indian-ness or American-ness etc., will only apply in football stadiums' (A. 282). Primacy is to be accorded to Sanatana Dharma. Of course, in order to protect it the Hindu society must live. 'So, as abode and defence of Hindu culture, this land and this state can count on the Hindus' allegiance and attachment. At this secondary level, nationalism becomes meaningful' (A. 282-283). In other words, India's nationalism would have to be a shell to preserve and protect Sanatana Dharma. Alternative theories of nationalism, such as those espoused by Nehru, Golwalkar and Savarkar are, according to him, 'territorial' (A. 279). They venerate merely a piece of land.

What, then, is Sanatana Dharma?

Well, one thing at least is clear. It does not, for Elst, mean what the term has meant all these years - Vaidik (Vedic) Dharma or Dharma based on the Vedas, the law-books and the *puranas* (*Shruti-Smriti-Puranokta*). For that would be only one among the several religions which go to make up Hindus (A. vii). This departure from traditional usage should have been avoided but let that be. When it comes to positively defining it Elst is not very enlightening. At one place he says it is 'positive education in mental culture and truthfulness. That is what *Sanatana Dharma* is all about' (A. 23). At other places the following observations appear. 'It teaches that everything is generated by thought' (A. 194). This seems to suggest the idealistic view of history as against the materialistic. Perhaps the same thing is meant when he says, 'I have come to agree with the basic assumption of Hindu culture, that consciousness is the basis of everything' (A. 21). But in the very

next few lines this same consciousness is identified with self-awareness and self-respect. See for example the following: 'Ethics and justice are necessary in human society, but they are not the ultimate in human endeavour and happiness. Forget about a humane society if you do not have a cultural ... cradle for it... Social involvement should be there, but it can only be guided and sustained by a larger cultural feel and consciousness.... it is only through self-respect that a larger sense of duty and responsibility can grow' (A. 21-22).

On occasions Hindu culture is admired because it emphasises the individual, as in the following: 'The innermost and actually religious level of Hindu culture is an individual affair.... Action and ritual may be community affairs, but the basis of real religion is a culture of consciousness, and consciousness is individual' (A. 132). Thus you have a number of meanings to choose from. However, the following seems to me to be the most important of all the meanings because it goes well with what Elst wants Hindus to preserve as a 'substantial value'.

'The one common goal of all schools of Sanatana Dharma is the methodical discovery of the "fourth state", the objectless consciousness, variously known as "emptiness", "enstasis", "liberation", "aloneness" (i.e. without a second, without object)' (N. 156).

'The unfathomable God can be experienced through absolute stillness of consciousness, through self-absorption - that at least is the position of Sanatana Dharma, in various formulations' (N. 157).

I hope there would be no objection to my concluding that *Moksha* ('fourth state', i.e., the fourth *purushartha*; 'liberation') is the highest goal of human life according to Elstian Sanatana Dharma. This is the essence of Hinduism or Hindu culture. It is *Moksha*, which supplies the *raison-de-êre* for India's nationalism. I think also that this interpretation is correct because the 'Integral Humanism' of Deendayal Upadhyay, the Jana Sangh ideologue, gets a favourable attention from Elst although, in his opinion it is 'elementary and crude', suggesting that it can be developed into a comprehensive philosophy. 'Reductionist systems (like communism) which see man only as

producer or consumer of material goods, are out. The mental horizon clears up and prepares for the era of integral humanism continuous with the age-old spiritual vision of *Sanatana Dharma*' (N. 90). '....it is clear that humanity now needs an ideology which can only be some kind of "integral humanism". (This) ideological starting-point of the Hindu movement is perfectly acceptable' (N. 81).

Incidentally, it is not clear why Elst lumps up Golwalkar along with Nehru and Savarkar among 'territorial nationalists'. All his life Golwalkar stressed 'Hindu values of life' as the king-pin of nationalism, among which seeking for *Moksha* occupied a prominent place. Upadhyay merely paraphrased him. He can at the most be credited with a new phrase.

But coming back to *Sanatana Dharma*, which we have to consider in the context of nationalism. Our difficulties are the following:

One. *Moksha*, it is claimed, leads to God-realisation. Sceptics might question the concept of God and say that it is unproved. And even Hindu society can have sceptics. Indeed, many Hindu traditions are atheistic. 'God' is a matter of belief. You cannot expect a whole society to be God-believing.

Two. Alternatively, *Moksha* is a certain state of mind - as explained by Elst - 'entasis' and other things. Even if it is considered realisable, it is not everybody's cup of tea. It cannot be rated as a social objective.

Three. Whatever the meaning of *Moksha*, the *Sadhana*, the process of achieving it, seems to call for 'withdrawal from the world' as many seers and sages have told us. ('Self-absorption', Elst's word, probably tells us the same thing.) Now, this decidedly knocks the bottom out of nationalism which is an expression of concern for things worldly - the survival, defensive capability and prosperity of the society. Ram or Babar should make no difference to a person who wants to get absorbed in his 'self'.

For this last reason alone *Moksha* needs to be scrupulously kept at an arm's length; to put it more strongly, it needs to be kept even outside the reach of the proverbial barge-pole.

Nationalism needs a philosophy which sets out integrative principles. *Moksha* cannot be an

integrative principle, even for Hindus, let alone members of other communities.

The other function of an integrative idea is psychological. The binding principle must inspire pride. Therefore the question is: does the search for *Moksha* constitute a matter of 'national pride'?

It must be conceded that, after all, the pursuit of spirituality has been a distinguishing characteristic of the Hindu society in the sense that it has produced, and still continues to produce, a large number of persons who feel that there are 'higher' goals and it is worth one's all to dedicate one's life to their search.

I would class these as experiments in psychology (which, until now, have not yielded much) and be modestly proud of my ancestors for undertaking them, remembering all the while that there are other sources of pride which nourish a more vigorous, creative, life-loving attitude.

Thus in my philosophy of nationalism, Elstian *Sanatana Dharma* would play no more than a minor role. And so we have to find out more mundane, secular constituents of culture which would be the brick and mortar of our nationalism.

However, the question raised by Elst needs to be answered. Why nationalism? To preserve and uphold what? The answer is like this. Any group of people on this earth has a right to live its life undisturbed, unexploited and in self-respect. This in itself is a complete justification for nationalism. It need not be burdened with a 'message', a 'value', a 'contribution to world civilization'. It is difficult to imagine that each one of the hundreds of nations inhabiting this globe lives for preserving a 'substantial value'. Here is a piece of territory called India on which crores of people live. They are a weak and demoralised people facing threats of disintegration, if not extinction, from other peoples who consider their own interests superior to India's. (When this need is over nationalism will not be necessary.) In order to survive in this cut-throat competition, Indians must unite and gain strength so that they can withstand and repel external onslaughts. For forging unity emotional bonds are needed and for acquiring the will to survive, and fight if necessary, historical sources of pride are necessary. They cannot be found in religion because in a multi-religious country like India they simply do

not exist. The sources of national pride cannot be located in age-old beliefs or practices because they might be irrelevant, useless or positively harmful to the present well-being of the society. They can be found in secular manifestations like heroic exploits, contribution to material or mental culture - science, philosophy, fine arts. Bonds of unity can also be derived from participation in common festivals, fetes and celebrations.

Savarkar's picture of Hindu Rashtra ran along these lines. Elst's understanding of him is completely wrong. He was not attached to a piece of ground, he was very much concerned with men of flesh and blood; he did not show symptoms of 'advanced state of self-forgetfulness' (A. 283); rather, he revived the memory of his countrymen and brought to their attention the achievements of their forefathers in a wide range of human endeavour; he was not careless about Hindu culture (A. 283); for him the precious part of that culture consisted of things other than the emasculating and life-denying philosophies of the past; he emphasised things like the Sanskrit language,

contribution to architecture, fine arts, sciences, poetry, philosophy, heroism on the battle-field, memory of great men and women.

On the whole, in terms of showing the Hindus the direction ahead Elst is disappointing.

I do not know whether I should say this in an article in a learned journal, but with the advantage of age on my side I feel tempted to say that Elst seems to be a young man in a hurry - which shows in the fast rate at which his publications appear as well as in his incomplete appreciation of some of the relevant material. However, his readers will be grateful to him for the warnings he has issued and the challenges and perils he has portrayed. As a friend of the Hindu society he has performed this task with exemplary boldness. If he uses his language with restraint, I think he will reach a wider audience, which is really what should happen. Otherwise the same 'establishment' which he attacks will have one more reason to damn his work as 'abusive' and thus ensure its neglect.

REVIEW ARTICLE*

WOMEN'S MOVEMENT IN INDIA: SOME IMPORTANT ISSUES

Suneeti Rao

Women's movement in general and even Indian women's movement in particular has been delineated upon many a time in recent years. Still these essays are not yet another addition to the annals of women's studies for they recapitulate the Indian women's movement as understood by an activist feminist, many aspects of whose life have enriched her perception of the women's problems in India. Firstly, the country of her birth and childhood is post-War Germany, Berlin, to be precise, where apart from Communism, the church offered resistance against fascism. This fact attracted her to religion but as she admits, she 'felt too secular to enter the church'. So she turned to the history of religions in her higher studies.

Since 1972, India has been her adopted country where she has been playing the role of a working mother. Being on the faculty of the Tamil Nadu Theological Seminary in Madurai, she has equal access to people of all shades- those who are 'religiously colour blind', those who turn anti-religious for humanist reasons or those guileless villagers with an elementary conviction, who worship at the roadside shrine. Although she distrusts institutionalised religion immensely, she acknowledges 'that it was through a very traditional religious institution that I first got access to questions of faith and spirituality which had a liberating dimension for me later on' (p. vii). Her religious conscience has evolved from a strange mingling of Christian theological thought, Hindu symbols and content, to which she has spontaneous access because of her not being hampered by caste, sect or bonds of kinship, and certain ardent feminists' demand to throw out religion as an oppressive ideology. Endowed thus, she has analysed the question of women's emancipation, religion and secularism in the first two essays in the collection. They bear testimony to the profundity of her comprehension of this problem.

Religion and Women

The author views this question as pre-eminently a human rights problem. She is of the opinion that it is the duty of the state, particularly a state which professes to be secular, to protect the basic human rights of all its citizens, including women. She regrets that the Indian state has failed miserably in fulfilling this primary obligation towards the women of India. Whereas the human rights or the fundamental rights, as they are designated, guaranteed under articles 14, 15, 16, and 29(2) of the Constitution prevent discrimination on the ground of religion, race, caste, gender, place of birth, etc., yet the freedom of religion assured by articles 25 and 26 constantly and systematically allows violation of women's rights. As an instance of such discrimination and violation she cites the Muslim Women (Protection of Rights on Divorce) Act, 1986. Maintenance Law under sections 125 and 126 of the Criminal Procedure Code, as interpreted by the courts, provides maintenance upto Rs 500 to a dependent wife who has just reasons to live separately from her husband. Here the term wife is so defined as to include an ex-wife or a divorced wife. This is a secular provision made by the British, so that destitute women should not be compelled to lead a life of sin and crime. Muslim women in India, particularly afflicted by the oral triple-*talaq* system of divorce permitted under the Muhammadan family law, used to be benefited by this provision. But the above-mentioned Act has deprived Muslim women of that meagre maintenance available under this provision to women of other denominations in India. The Act was a 'direct backlash to the attempt of a divorced Muslim woman of Indore, 72-year-old Shah Bano, seeking maintenance and achieving justice in the highest court of the land'. The author blames 'the unfortunate anti-Muslim polemic in the judgement' for triggering 'a highly communalised debate about Muslim personal laws' which ultimately led to the passing of the Act by the Government (p. 4).

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*Dietrich, Gabriele, *Reflections on the Women's Movement in India*, Horizon India Books, New Delhi, 1992, Pp. xiv+145, Price: Rs 150/-.

It may be pointed out that although the judgement did provoke a dreadful rift between the two communities, the majority and the largest minority in India, there was nothing 'anti-Muslim' about the observations made in it. As Engineer [1986] pointed out, 'Little did the poor Muslims know that the judges had consulted the authoritative translations generally accepted by the Muslims everywhere'. There was in the judgment a certain avoidable explanation of one *Aiyat* (verse 2:241) in the Quran pertaining to maintenance; that explanation may certainly be termed as unfortunate. The two key words in this verse- *mata'a* and *m'aruf*- have been translated differently by scholars and exegetists. Allama Yousuf Ali and some other scholars translate them as 'maintenance' and 'reasonable scale', respectively. Accordingly, the verse means 'for divorced women maintenance should be provided on a reasonable scale. This is a duty of the righteous' [quoted from Engineer, 1992, p. 130]. Most jurists interpret them as maintenance during the period of *iddah*, which is the waiting period incumbent upon a woman after the dissolution of her marriage, either by death or divorce, before she enters into another contract of marriage. In the case of divorce it is of the duration of three months, if she is not pregnant. This restriction on remarrying for a definite period is to ensure the certainty of paternity. The Supreme Court's acceptance of the former version that maintenance be paid beyond the period of *iddah*, inflamed the orthodox Muslims, who opposed it vehemently. The Indian Muslim leaders and the office-bearers of the Muslim Personal Law Board took it as undue interference in their religious matters. Tempers and tensions mounted to a crescendo, and accusations of intruding on the divine Quran, and thereby depriving the minority community of their religious freedom, were liberally made. Finally, the authority of the courts itself to interpret the Quran, exclusively claimed by the *ulema*, was challenged. As a result, the Bill to prevent the application of the secular law of maintenance to Muslim women was pushed through Parliament in great haste by the ruling party apparently to pacify the agitated Muslim

leaders, but obviously for political gains. This provoked the majority community and the events that followed need not be repeated. The entire controversy and its aftermath could have been avoided, had Justice Chandrachud just discreetly followed the precedent of the earlier judgements of the Supreme Court, which gave the same relief to two other jinxed Muslim divorcees [*Bai Tahira v. Ali Hussain Fidaali Chothia*, All India Reporter 1979 Supreme Court 362 and *Fazlunbi v. K. Khader Vali*, All India Reporter 19880 Supreme Court 1730]. It would have also saved the Court's precious time, particularly in view of the pending cases mounting to the level of what is called 'docket explosion'.

All the articles in the Constitution, guaranteeing equality and forbidding discrimination on the grounds of religion, caste, community, etc., are violated by this Act. Moreover, it takes us further away from securing a Uniform Civil Code throughout India, as envisaged in article 44 (erroneously typed 41 on p. 4 in the book) of the Directive Principles of State Policy of the Constitution. But the state was oblivious to these considerations. The author rightly points out, 'The truth is that women have been getting a worse deal from the state than Dalits and Adivasis' (p. 3). Beneficial protective provisions have been made for them after Independence in spite of the orthodox Hindus opposing them tooth and nail. But the state has sacrificed the welfare of one section of Indian women, Muslim women, to appease the orthodox Muslims. And this section is the weakest, the most helpless, thrown out of the home, at their husbands' whim.

Dietrich is conscious of the present economic and political crisis, the country is passing through. So she rightly sees the prospects of enacting a uniform, generalised, secular, gender-just family code in the near future as very bleak. It would certainly add a socioreligious dimension to the existing situation of confrontation and no ruling party would dare to risk the fallout of such a step. Hence her advice to the couples, who wish to avoid the repressive double standards within their own religious laws, is to marry under the Special Marriage Act, 1954, a kind of optional gender-just

law, provided by the state in the early years of Independence (Pp. 11-12).

The second chapter, in addition, recapitulates in brief the scenario pertaining to religion and women in India during the struggle for Independence. The freedom movement sponsored religious revivalism in the name of a mythical concept of motherland. This obscurantist image of the 'mother', based on Durga or Kali had a mass appeal; it simultaneously ruled out any alternative role for women. Any social reform, including that concerning women, was postponed until political independence was achieved on the ground that such an attempt would unleash divisive forces and undermine the freedom struggle. It is only when Gandhi felt the actual need for bold participation of women in mass *satyagraha*, that he gave up his original views on the role of women, on the conventional sexual division of labour, assigning women sovereignty in the home and leaving political struggles to men. He appealed to women as independent individuals, and not just as wives and mothers. His main contribution to the cause of women was, as quoted by the author, 'his absolute and unequivocal insistence on their personal dignity and autonomy in the family and society' (p. 16). Dietrich compares Gandhi with the nineteenth century social reformers. They viewed women as objects of reform, helpless creatures deserving charitable concern. She has disdain for this view, also for the romantic, conservative conception which eulogises woman for her compliant submission to maintain the sanctity of the home or virtually worship her as a child-bearer and child-rearer. Instead, she appreciates Gandhi for considering women as active, self-conscious agents of social change and for his exhortations to men to discard their aggressive attitude towards them.

However, the author's analysis of the dialectic of religion and women is more profound and delves into its wider aspects. She comments on its quite recent origin and argues that the feminists' belated attention to it is due to their attitude towards patriarchy. They define patriarchy as 'exploitation of a woman's labour, sexuality and fertility. It is, therefore, only logical that primary

attention should go to the economic aspects and to the actual physical subjugation of women' (p. 13). Likewise, the author does not agree with the Leftist inclined women's organisations who are convinced that religion is a personal, private affair, and that it has no role in regulating social relationships. She thinks that only a narrow bourgeois concept of secularism can see religion in this light (p. 114). She believes that 'religions have offered their believers a code of ethics, a sense of being answerable to others and for the fate of others, symbols facilitating psychological integration, ways to make sense of good and evil ...', that religions are 'expressions of the human capacity to anticipate, to hope, to transcend given limitations and to grope for the meaning of life in history and in cosmos'; and that 'religions integrate elements of poetry, art and story-telling' (p. 31). Religious space in society can be one of the free rooms of relative autonomy of collective self-organisation. At the same time Dietrich is aware of religious persecution, specifically of women who have all along been the primary victims of orthodox religion. She as well perceives that law, which governs the social relationship, is being consistently used to suppress progressive religious forces and not for curbing the religious reactionaries nor communalism. Religious family laws mainly serve the purpose of upholding the patriarchal family, which in turn strengthens institutionalised religion. 'To break through this alliance is a major task' (p. 26). Yet she does not want to abandon religion and throw the baby with the bath-water. She simply demands that 'religious leadership is stripped of the power to coerce the followers into obedience and blind faith' (p. 31). For, she asserts that religion can be neither the cause nor the end of orthodox oppression or of communalism; it is only their vehicle. She regrets that women have rarely been theologians and would like women actively intervening in the domain of religious ideological production. The Vatican's recent rejection to the priestly ordination of women, mainly on the ground of god's maleness, made her assert that god is neither male nor female, but an integration of both, transcending the gender

dichotomy [D'Cunha, 1995, p. 86].

The author supports genuine religious reform, which ensures equal participation of all in religious concerns, and also enables 'individuals and groups to participate in secular political processes ... struggling for equality of all citizens and against economic, political and cultural exploitation, without being forced to abandon the faith dimension of their religious identity' (p. 14). She prefers the progressive, spiritual, humanist content of all religious faiths to be crystallized, stressed, elaborated and made widely acceptable. She demands this substance to be 'measured by two criteria whether religious believers and communities are prepared to actively denounce and dismantle patriarchal controls over women' (p. 10), and whether 'non-believers or people of other faiths can relate to this humanist content in their own rights' (p. 14). '(T)o unclog our minds on the question of how to deal with religious tradition' (p. 25), she offers the earnest religious reformer three methodological principles, viz., (i) analysis of religious sources, writings, etc., by comparing any statement on women therein with their actual position in the then economy, society; (ii) research on the position of women who have lived lives in their own rights, as self-reliant human beings, not just as wives and mothers, and also research on broader anthropological statements which are of general humanitarian value and which override other statements of subordination; and (iii) appraisal of the distortions and blatant contradictions in most conservative writings. She forewarns about the implications of the fact that all these texts with few exceptions were written by males. But she is confident that the reinterpretation of religious scriptures, stories, myths, rituals and festivals from a woman's perspective (deconstruction) would help to reduce communal tensions in the country and build a secular, pluralistic, humanist culture. Her views do hold good to an extent. The fact, that in the past the illiterate villagers were culturally more advanced than the present generation of rural masses hooked to the cable television, supports her contention. Religious stories, myths, songs, etc., did offer people a few morals

and certain values, like hospitality, geniality, tolerance and integrity. In the villages of the past, the itinerant performers kept alive the rich Hindu tradition of which the present generations, whether rural or urban, are totally deprived. The secular educational policies of the state ensured a primary school in every village and a secondary school within a walkable distance of three km but separated religion and education. As a result, people are literate, even educated but not principled nor cultured. Secondly, contrary to expectations of shaking the oppressive hold of the religious leadership on the masses, today's education has left the religious heads with a free field to interpret the religion as they wish. No wonder, most of them use religion to feather their own nests, at times with the aid and abetment of political parties, culminating in communalist cleavages and reactionary, feudal oriental revivalism against the occidental modernism. It would only lead to further restrictions on women.

Sexuality

The third chapter discusses sexuality. It may be called the *raison d'être* of the book. It also reflects the depth of the author's sensitivity to the problem of Indian women, as distinct from that of feminism. Her practical, down-to-earth approach to sexuality, its lucid elucidation and the wide coverage of all its aspects have rendered her discourse as one of the few enlightening ones on the subject, since talking about women's sexuality embarrasses most of us Indians.

At the outset Dietrich raises some fundamental queries, such as what is sexuality; whether only men are sexual beings with a birth-right on sex and women just sexless mother-animals; what is the link between sexuality and fertility; and finally, whether sex is not a biological but a social event, so that attitudes towards sexuality are highly culture-specific and gender-specific. Her candid analysis of these questions reveals the root cause of patriarchy. In addition, she probes into several other aspects of sexuality and her observations concerning them are no less significant. Sexuality is defined by her 'as a self-expression

and a way of relating to others' (p. 36). But in India, where marriage is virtually compulsory and getting children imperative, sex is a part of the package deal of facilities or services essential for survival, like cooking, washing, cleaning, emotional support, housekeeping, etc. A man has a birth-right to all these services and women are brought up to provide them. In return they are promised a matrimonial home where they would be protected, safe and secure and earn 'respectability'. While they are trained to render properly all other housekeeping services, they are usually kept in the dark about sex. They are just told that men expect sex, and that regarding sex, they have to obey their husbands' wishes and adjust. Thus sex becomes one of the household chores. Ideologically sex is dirty, a sin, and therefore a taboo for Indian women. A woman is supposed to have such qualities as chastity and motherliness. Ideal feminine values deny and control sexuality whereas ideal masculine values include sexual potency, virility and manliness.

The author regrets that women are looked upon either as the object for sexual enjoyment, for reproduction or 'the heart consuming itself in anxiety about the beloved', but never accepted as 'human beings', as equal partners in sex as well as in life (p. 46). They are the property of their fathers and husbands. Manu's oft quoted verse, '*na stree swatantryam arhati*' keeps her under the control of her father, husband and ultimately, her own creation- her son. The roots of patriarchy, Dietrich traces to antiquity. She quotes from Ambedkar: 'From time immemorial man, as compared with woman, has had the upper hand. ... Woman, on the other hand, has been an easy prey to all kinds of inequitable injunctions, religious, social and economic. But man, as a maker of injunctions, is most often above them all' (p. 89).

However the quintessence of the debate on sexuality is the link between sexuality and fertility as well as free sex and fertility control and a health movement for women. The author is exceptionally acerbic about the 'so-called sexual revolution' in the West in the late sixties which accepted pre-marital sex and change of sex partners as a

fairly normal way of life. In reality, it was 'a very patriarchal event' (p. 37). In this later capitalist consumer society, 'having sex' was in line with 'having so many other things' among the *yuppies*. The sexual freedom was brought about by the drug companies, producing contraceptives and having hardly any regard for their harmful side-effects on women's health. Unfortunately, many of our young women watching electronic media today are enamoured by the so-called sex revolution. At least in the West a strong movement for women's health evolved in the seventies. Neither the women's organisations in our country nor the state have shown such great concern for female health so far, particularly regarding the use of various measures of fertility control. On the contrary, the state, under the pressure of our fast growing population, is obliged to promote every measure of birth-control, sometimes even before proper testing.

The basic human right of every person is the sanctity of the body and mind or individual freedom, right to life and personal liberty, which article 21 of our Constitution guarantees. But has a woman this freedom in most of our families? Just as she does not have the choice of decision-making in sexual matters, similarly, she has no voice in decision-making in birth, in matters, like whether to have a child or use some measure for fertility control, what kind of measure to use or to undergo abortion, when to have a child, of what sex, etc. Paradoxically, child bearing and child rearing- 'production of life' and 'human maintenance work', the nomenclature the author prefers- are the exclusive responsibility of women, and consequently, it is assumed that they are the proper target for fertility control and family planning. The law, banning the sex-determination tests- amniocentesis and sonography- unless medically advisable, has not prevented abortion of female foetus imposed on defenseless mothers. Yet, like the anti-*sati* law under this law too, these helpless victims of crime are held punishable along with their husbands and/or relatives who subject them to crime. The author correctly points out that it is the drug industry, the religious institutions, the state

through its family planning programmes and abortion laws, the funding agencies like the World Bank, and of course, the husband, who together control women's fertility and not they themselves. It is a pity that the author has not broached the topic of artificial insemination (surrogate motherhood) and abortion *vis-a-vis* religion. The discord between pro-life and pro-body or pro-choice protagonists has several aspects, including legal, which are overlooked, such as one spouse's right to have a child even when the other doesn't want it.

Women's Movements: Class-based and Autonomous

The class-based movements are orthodox Marxist organisations which take a class reductionist position and view women's oppression as a part and parcel of the tyranny of the 'haves' over the 'have-nots'. They encourage women to join the working class and their organisations and to participate in the revolutionary process. They are optimistic that the specific type of exploitation that women suffer could be resolved in this manner 'during and after the revolution'. The autonomous movements, on the other hand, want 'cultural revolution first', after which production of life, exclusively a female *forte*, is recognised as an indispensable condition for any further production process and accorded priority over any other form of production, including production of wage goods. This dichotomy between the two perspectives on women's emancipation is, not unfamiliar to India, particularly Maharashtra where before Independence, two eminent personalities- Lokmanya Bal Gangadhar Tilak and Gopal Ganesh Agarkar clashed on the issue of what should receive priority- political liberation from the British or social reforms. Most of the reforms related to women and the *Dalits*.

Because of her participation in the students' revolt of the sixties in Berlin and of her pre-occupation with working class struggles there, the author could gather basic feminist insights into women's situation. In India too, she is deeply involved in the women's movement, at the local, state, regional, national and international level too. This brings her into constant interaction with

women of all strata. She rejects the male-chauvinist Marxist perspective of patriarchy as a category reducible to class, or the naive belief that establishment of a classless society would in due course automatically resolve the problem of patriarchy, and usher in the 'sexual revolution'. She firmly believes in the integration of autonomous women's movements and class-based mass movements, and hence has always striven to bring together women from 'mixed' class based organisations and those from 'autonomous' feminist ones. Despite being distinct, patriarchy is nevertheless related to class, she asserts. Both class relations and patriarchal relations are, from time immemorial, exploitative. Women are productive not only as producers but also as procreators. Since patriarchy permeates the relations of production of both the kinds, public and domestic, women are doubly exploitable. Patriarchy tends to impose the division between manual and mental labour along sex-lines inside as well as outside the house. This sexual division of labour is the organic link between patriarchy and class society. It explains how sexual oppression contributes to the exploitation of women's labour, both domestic as well as paid wage labour, and confines them to subsistence production, i.e., procreation and production of use-values to replenish the species, in order to enable men to achieve the real accumulation. Women's subsistence production has been so important to men that they coerce women to stick to it and acquire ownership of women and their children. Consequently, women's question can neither be solved within capitalism nor can socialism solve it automatically. Class differences and patriarchal divisions, both must be acknowledged. 'It is not a matter of subordinating the one to the other or solving the one problem first and the other automatically following suit' (p. 72).

In the recent past, attempts have been made by the Marxists to understand the women's issues not on the traditional Marxists' matrix. The author discusses their views in brief. The crucial question dealt with is how to analyse domestic, household labour in terms of the theory of value. She analyses various contradictory and incoherent claims, such as (a) household labour produces

labour power but since it is not paid according to the labour time spent on creating it, it is a source of surplus value; (b) household labour creates value, not surplus value, since it converts commodities bought with the workers' wage into regenerated labour power which gets exchanged at the market in the production process; when the labour power produced and reproduced through household labour gets sold, the use value produced in the household becomes, of course with a time-lag, exchange value; (c) household labour results in production of use values for consumption and not in wage goods for exchange; (d) household labour is not equal, equivalent and interchangeable with other forms of concrete labour, quantitatively or qualitatively, firstly because fluctuations in its price do not affect its performance or supply, and secondly because there is no competition among the household units and inefficient, non-performing households do not fail to sell their commodity; (e) household labour may be categorised as subsistence production; and so on.

The author affirms beyond doubt that household, domestic labour as a whole cannot be categorised as consumption, but that it results in the production of use-values and 'that housewives, as a rule, are the household members who consume the least while producing most of the use-values. Part of female malnutrition and mortality in India is precisely due to this fact that women eat the leftovers of the meal and get hardly any rest or medical attention' (p. 58). Not only in respect of household labour, but in the case of paid wage labour too, women's wages are appropriated 'nearly entirely for the needs of other family members while, at the same time, national or international capital appropriates the surplus they produce' (p. 64), for, in comparison with men, they never get equal remuneration for equal work.

Yet another kind of appropriation of women's labour is the exploitation of their sexuality, the use of their bodies in advertising by media, to enhance profits in marketing or the abuse of sex-workers through direct sale of their bodies in the flesh trade, in pornography, peep shows, etc. It is, Dietrich maintains, encountered principally under capitalism. The recent exposures in Jalgao

and other places in Maharashtra evinced this genre of exploitation prevailing in India. Young girls studying in colleges and schools were the targets. Further, Dietrich wholly agrees with other feminist writers like Maria Mies and Vandana Shiva that 'use value of products has to override exchange value. Obviously, our economy is not organised according to such criteria' (p. 101), and 'production of life has been ousted by production of profit' (p. 102). She advocates 'a drastic rethinking and restructuring of human civilisation as a whole' (p. 70), with human subsistence as the central public issue, and 're-defining basic value systems' (p. 132). She delineates on this point again in the last two chapters which acquaint the reader with her perceptions about the dilemma of development.

Dalit Movements and Women's Movements

The interface between patriarchy, the caste system and untouchability is perhaps more consequential in India than that between patriarchy and the class. The author attempts to explore it, with particular emphasis on violence against *Dalit* women *vis-a-vis* the society. They are 'thrice alienated' - by patriarchy, caste and class. Dietrich here uses the word *patriarchy* in its wider connotation, not just the rule of fathers or of husbands, but the system of male dominance which maintains women's exploitation and oppression, under which 'torture often uses sexual means' (p. 36). *Dalit* women are prey to patriarchy in such wider sense, albeit not being husband-worshippers. If they face familial violence, they would most probably fight back. The dowry death 'type of systematised family violence occurs much less among backward castes and *Dalits*, unless they have become economically prosperous and try to imitate upper caste values, which is very rare' (Pp. 73-74). This piquant commentary by the author reveals aptly the hypocrisy of the so-called civilised values of the better-off upper castes, as well as the helplessness of their women who are utterly unequipped to deal with the situation in spite of their education.

Nevertheless, *Dalit* women, chiefly from the rural areas, are constantly under the threat of

collective violence, gangrape, sexual assaults and other inhuman atrocities meted out to them by caste Hindus. For, control over the women of a community is an integral part of establishing superiority. Neither they themselves nor their men are in a position to protect them, and the police inaction in such situations is notorious. Worse, because of the prevailing patriarchal values, these physical assaults are either considered as a 'normal' occurrence and suppressed, at the most cheaply compensated, or they are perceived as a part of the collective weakness and accordingly utilised for other purposes, such as furthering caste interests, political benefits, etc. None, including the *Dalit* leaders and women's movements, has so far attended to this peculiar vulnerability of *Dalit* women. It is augmented by their poverty, which is, as a rule, absolute and chronic. This crystal-clear analysis of the position of *Dalit* women is well-illustrated with actual happenings of caste confrontation in Tamil Nadu.

In addition, the author analyses various conceptualisations underlying casteism and patriarchy, their historical roots, whether subjugation of women preceded caste system or the contrary, impact of transition from matrilineal to patrilineal systems, etc.

Ecology, Culture, Development and Women

Dietrich is not at all fascinated about the Western model of development, based on science, technology and free enterprise. The history of its export to the Third World from the 1960s, the international development decade, and its ramifications are studied in brief, and the alternatives are evaluated in the sixth and seventh chapters of the compendium. The author opines that it is very biased to classify countries with a per capita income of less than one-tenth of that of the USA as under-developed, and thus to equate mass poverty with 'under-development' and to place 70 per cent of the world population in under-developed countries. Nor does she believe that the stupendous task of developing these countries can be achieved by the Western model of development, where 'substantial parts of our resources go into the production of means of destruction, and other substantial parts into the production of

consumer goods which are superfluous to the substance of life, wasteful of energy and natural resources and thus, harmful to the environment' (p. 101). Yet this technocratic Western model of development, where 'head-labour controls hand-labour', appealed to the post-Independence Indian leadership, because, she argues, the compartmentalised Brahmin mind has a natural affinity to the reductionist Western mind, (p. 111). She perceives in this type of development the resultant grave hazards- ecological destruction, the moral and cultural crises and the disempowerment and marginalisation of women. The daily reports of droughts and floods, poisoning through pesticides and chemical industries, soil salinity and waterlogging, as well as of dowry deaths, communal riots and caste clashes confirm, to a great extent, her fears of ecological devastation and moral and cultural degradation due to uncontrolled consumerism. Dietrich considers that such technocratic, capital-intensive and labour-saving development 'by its very nature secures privileges only to an elite, while the survival needs of the masses and long-term needs to nature are not met' (p. 103). Perpetuation of poverty is inevitable in this growth without justice, i.e., growth of the upper crust and some marginal welfare measures for the rest (p. 118). For, the production process is here geared to exchange value and maximisation of profits, rather than to use value and satisfaction of basic human needs. It invariably leads to production of luxury goods at the cost of basic needs. Today, Coca Cola, Cardin and cars are given preference over staple food items and indispensable medicines, in order to attract investment, to promote employment. The author, using Kurien's terminology, stresses the absolute exigency of strengthening the N-circuit, i.e., production for basic, limited human *needs* with parallel curtailing of the W-circuit, i.e., production for unlimited *wants* and for profit, if human survival and survival of nature is to be safeguarded (p. 122).

Again, Dietrich finds that women have been affected more adversely than men by these crises of development- the ecological crisis has lengthened their working day due to scarcity of water, fuel and fodder, while new technologies in

agriculture, artisanal manufactures, marketing, etc., have made their traditional skills and vital experiences redundant. Concurrent with the destruction of subsistence economy, emerged in the West the twin spectacles of 'housewifization' and consumerism; 'housewifization in the Third World takes the form of capitalist exploitation of household-based production in the informal sector' (p. 101). Similarly, women have been the victims of violence in the moral and cultural crises. Her solution to reverse the situation, to create a counter-culture and to go beyond victimisation, comprises creating 'a mode of production which does not depend on the exploitation of nature and labour power but which, in harmony with nature, provides for the survival needs of all' (p. 94). She demands a viable, sustainable system that recognises the 'invisible subsistence production of women and the labour of nature as well'. She quotes Karl Marx in her support: 'Labour is *not* the source of all wealth. Nature is as much the source of use values (and it is surely of such, that material wealth consists!) as labour, which itself is only the manifestation of a force of nature, human labour power' (p. 103). Labour of nature can only be sustained if human labour is utilised not for dominating and controlling nature but in synergy with mother earth and other forces of nature. Finally, Dietrich compares the *National Perspective Plan for Women: 1988-2000 A.D.* (NPP) of 1988 and the *Shram Shakti* report by the National Commission on Self-Employed Women and Women in the Informal Sector, also of 1988. Although both emphasise decentralisation and a sectoral approach which would include a woman's component in all industrial and agricultural policies, the former aims at 'mainstreaming' women, which means *inter alia*, (i) carrying forward the ideology of sexual division of labour, of women as supplementary earners; (ii) full and equal integration of women into the so-called social production, i.e., wage labour and profit-oriented cash economy, with primacy to want-based production over need-based production, in the long run; and in the meanwhile crude exploitation of women in the informal sector, in which more than 90 per cent of Indian women are employed. The latter, on the other hand, takes into account

women's invisible labour as well as their priorities and the need to create political and social will for the success of any reform.

Conclusion

One may not agree with all the observations of the author. For example, her views on science and technology seem prejudiced. They have certainly mechanised and simplified much back-breaking household drudgery, and thereby eased the burden of women and allowed them free leisure to pursue some other interests, especially intellectual pursuits. Secondly, science provides the insights to comprehend nature, which is required even for working in affinity with her. Of course, her recommendation that technology should be appropriate and adapted to local conditions and not imported and adopted, is to be widely appreciated. Yet, women's traditional, time-tested skills and knowledge that she speaks of need to be documented, scrutinised and institutionalised; they should not be mystic family secrets, handed down from grandmothers to granddaughters or daughters-in-law. That the mind-set of our women has to be analytical, scientific and modern is nowhere mentioned. That would really empower them.

Similarly, the fact, that economic growth cannot be measured merely in terms of gross domestic product and improved balance of trade position, has been stressed by many not only in our country but most of the newly expanding Asian economies. It is today well-established that power plants, highways, communicational and other infrastructural facilities cannot be reckoned as ends in themselves; yet they are means to social transformation, which has to be the goal of economic growth. It is beyond doubt that development must be defined in terms of advancement in the standard of living, and surely, not of a fortunate few. It must also ensure the greatest good of the greatest numbers. How to accomplish such development? The author admits that 'new answers are difficult to find' after opting out of the dominant development concept (p. 132). She has identified a few movements and campaigns working along the lines of democratic access to resources and expects that such concerted efforts

and alliance of women's movements, ecological movements, unions in the unorganised sector and movements of the *Dalits* and *Adivasis* would surely take the struggle to restructure our society on the right path. No doubt, these movements would positively help to maintain the developmental process on the right lines, to distribute the fruits of development equitably, but will they bring about development itself on their own?

Incidentally, it may be noted that inclusion of a well-classified index in the volume would have

positively made its contents more accessible for ready reference.

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BOOK REVIEWS

Akhileshwar Pathak - *Contested Domains: The State, Peasants and Forests in Contemporary India*, Sage Publications, New Delhi, 1994, Pp. 172, Price Rs 110 (HB).

This book is a lucid exposition of the relationship between peasants and the state in the context of forests as seen by the author. The emphasis is on an analysis of both this relationship and the forest problem, but more on the latter. For this purpose, the book draws partly from the author's experience with the forest dwelling communities living in Mathwad forest range in Jhabua district of Madhya Pradesh. But this is only to illustrate his general arguments and validate his perceptions. There is no detailed and systematic documentation of the struggles and historical analysis of the forest problem in the area, unlike some of the previous studies which have done so for other areas [e.g., Guha, 1989; Nadkarni *et al.*, 1989]. The book also makes a good use of some of the earlier literature on the forest problem, though of course the author's own experience must have given the insights and inspiration to him to write the book, in the first instance.

The relationship between the state and the peasants as it comes out in the book is essentially one of conflict, as their interests and perceptions differ crucially in the forest problem. The nature of interests of the state have undergone a transition, but this has not reduced the scope for conflict with peasants' interests according to the author. Earlier, the state acted mainly on behalf of the market to meet the demands of timber and raise revenue from forest products. This led the state to assert its property rights over forests to the exclusion of local communities, who were of course given certain concessions and privileges but not as a matter of right. This led to protracted movements like the well-known Chipko movement by local peasants to assert their rights.

The author observes that the perception of the state underwent a remarkable change after the Stockholm Conference in 1972, and forests were seen as crucial for environmental protection. Their conservation rather than exploitation began to receive greater emphasis. But this did not reduce the conflict with local interests, because the state perceived its role as a protector of the environment against local people. The forest had

to be protected against unrestricted grazing, unauthorised lopping, and illegal encroachments for cultivation either on a permanent or shifting basis. The author's emphasis is mainly on shifting cultivation, which, he argues, is ecologically sustainable and is essential for the subsistence of the forest dwellers.

A conflict arises between the locals and the state in the matter of wild life protection too, which creates problems for cultivation in the forest areas and increases risks to the lives and livelihood of the locals. The solution of the state for this problem is shifting the forest dwelling cultivators from the forests and rehabilitating them elsewhere. This is deeply resented by the people, as it tears them apart from the forests which they have always known and depended upon.

As the author quite insightfully explains: 'The relationship between the state and peasants is not a macro-micro duality but a spectrum of linkages running down from the state and the industrial-urban complex to the forest dwelling communities. The state finds its extension in the elites of the stratified peasant society. This elite strata is characterised by a Janus-faced contradictory character : it is an outpost of the state and a part of the village community' (p. 14).

The state tries to mitigate or resolve its conflict with the local people through developmental activities. As the author states: 'If the state deprives the peasants of their subsistence cultivation, it also appears benevolent through its developmental activities. The state maintains a duality by culturally legitimising that the state is good, just and compassionate; if it does not appear to be so, it is due to the inefficiency of lower officials. Like the state, the ruled also maintain two traditions of interaction with the state. The forest dwellers organise the state in their mind in two parts - the real state (or the way it appears in concrete terms) and the other - Sarkar - an abstract unapproachable entity. The abstract state is honoured and respected. The state, in its concrete manifestation, is dealt in concrete terms : pragmatically make claims where possible, sabotage if there is an opportunity, and succumb, if nothing works' (p. 15).

The author rightly observes that in the presence and accentuation of conflicts of local interests

with the state interests, forests cannot be protected. The necessity for the peasants to continue with their subsistence practices has undermined government policies and initiatives. Forests cannot be preserved by striking at the roots - of being peasants. The futility of such attempts is illustrated amusingly by the fact that the very people who act as wage labourers and dig trenches to keep away cattle, plug them later to let the cattle in. Solutions like stall feeding of cattle cannot work because they either demand too much labour or are uneconomical for the locals. Instead of protecting the forests, the adversely hit people regard them as a symbol of state dominance to be subverted.

The author presents a critical account of social forestry which was meant to convert afforestation into a people's programme meeting their biomass needs by raising trees on village common lands. The afforestation on common lands had to involve people's participation since the Forest Department did not have the necessary manpower, nor capital, to look after small scattered plantations. Moreover, such forests could be looked after only if people considered them as their own. This was a tall order. The Forest Department found in farm forestry programmes what it considered to be an easy short cut. Farm forestry soon became a part of social forestry programme as farmers were encouraged to raise quick growing commercial trees on their own lands. Farm forestry even sidelined social forestry on community lands. Making the programme market oriented produced its own contradictions by producing a glut and making the prices unremunerative [Saxena, 1990]. Farm forestry did not play the expected environmental role as it succeeded, as the author observes, more on plain agricultural lands than in hilly terrains. Social forestry on common lands could not take off on a significant scale not only because of diversion of attention to farm forestry, but also because these lands were used for free grazing, and enclosures of them for raising plantations deprived the villagers of their grazing facility. The author feels that while the bulk of villagers preferred common lands for grazing, the village elites did not need them and were willing to raise plantations that benefited them. Lands under social forestry had thus to be protected

against local people by trenches, hedges or fencing which needed huge investments. Even if the trees could bring benefits to the local people, there was a long gestation period which was not attractive. The author is equally pessimistic about the new initiatives in the form of Joint Forest Management, which also, he feels, may find support only from the village elites rather than from people at large (p. 157).

The author offers no solutions to the problem. On the other hand, he concludes that 'the state and forest dwellers are likely to continue on their divergent trajectories. The nature of the state's project and the equation of the people is such that except for islands of vegetation which will be under pressure, resources will continue to degrade'. In the same breath, however, the author continues: 'This, however, does not mean that forest resources are going to be completely degraded. There will be localised efforts by peasants to protect forests and rear trees on land. However, this will not be to appease forest lovers but an adaptation of the subsistence project of the forest dwellers' (p. 158).

Therein lies the clue to the solution of the forest problem. If forests can meet the subsistence needs of the people they can survive, as people will then have a stake in them. This may involve some compromises. For example, instead of emphasising only on tree cultivation, there will have to be some scope for rotational grazing and by making grazing lands more productive of grasses. Some amount of shifting cultivation also may have to be tolerated and patches of cultivated land surrounded by trees in forest areas may have to be allowed on a limited scale in forests where forest dwellers depend on cultivation. They may have to raise some foodgrains, at least to meet their subsistence needs, if not for the market. It can be argued that if forest areas under cultivation are brought under horticulture and if forests can be made to yield minor forest produce to a significant extent by reorienting forestry programmes, this will be not only ecologically more sustainable but can also raise the cash income of forest dwellers with which they may be willing to buy foodgrains. But there is a risk in making the forest dwellers too dependent on the market even

to meet their subsistence requirement of food-grains, since the minor forest produce has to be ultimately sold in the market which may not necessarily offer remunerative prices always. This is not to argue against making forestry oriented towards minor forest produce, but only to point out the limitations of going too far with this.

It has also to be realised, however, that pressures on forests for cultivation result not merely from forest dwellers but also from more distant people who do not have dependable sources of livelihood in the nonfarm sector and look upon cultivation as a source of hope. The village elite also try to corner for themselves common lands and forests and expand their holdings. The state governments have been regularising encroachments from time to time, though this is discouraged by the central government. Any way, there is a need to check indiscriminate expansion of cultivation into forests and common land as the process has gone too far already. (Barring Bangladesh, India has the highest proportion of geographical area under cultivation in the world). But this has to be done in a way which does not hurt the subsistence peasants who have been traditionally cultivating, while new encroachments have to be prevented. The problem is not easy because expansion of employment opportunities in the nonfarm sector, which could have relieved the pressure on forests, has been tardy.

The book makes a very interesting reading and is rich in perception and insights. One only hopes that with an improved understanding of the forest problem, we find a satisfactory solution for it.

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Samaddar, Ranabir, *Workers and Automation: The Impact of New Technology in the Newspaper Industry*, Sage Publications, New Delhi, 1994, Pp. 265, Price Rs. 285/-.

The effect of machine on men at work has raised a debate that has now lasted for centuries. The productivity enhancing argument favouring a greater use of machines has constantly faced a vigorous counter-argument; focusing on degradation of work through constant deskilling entailing actual or potential redundancy of labour.

Despite his euphoric experiences with nascent industrial capitalism, even Adam Smith could not overlook the degrading effect of machines over men.

The divide over opinions regarding the empowering or impoverishing consequences of a new machine process on labour has only enriched over time. Neoclassicists have devised neat concepts to measure labour absorbing, labour displacing or 'neutral' effects of capital on labour. Radical political economists, on the other hand, attempt to unearth the power implication preceding and following the process of technological change.

The present work attempts to enlighten its readers about the events that have caused automation in the newspaper industry in India and its effects on the labour process and the valorization process (p. 13).

The Argument:

The central argument of the book is that while unions in the newspaper industry could succeed in institutionalising their protests in the past, the very process has induced technological change especially after the Palekar Award, causing deunionisation, which muted its voice before it could articulate its arguments regarding desired pace of technological change. In dealing with 'Why Automation Enters the Newspaper Industry' (Chapter 3), the writer does consider a variety of reasons like existence of monopolies, total obsolescence of over-used Indian printing machinery, tax rebates on modernisation, growing competition of front magazines and international competition, as well as the demonstration

effect. Yet he feels compelled to comment that automation is management's answer to the Palekar award.

As a consequence, the post-Palekar regime witnesses debates on issues like wage hikes with respect to productivity, pension, medical benefits, etc., but carefully ignores the issue of whether a unilateral decision of technological change by the management should go without a protest. This reticence on the part of unions is resignation, according to the author, which disturbs him because of the future power implications.

Chapter 1 gives a profile of the All India Newspaper Employees' Federation. The story is about a long-drawn struggle which eventually led to the setting up of a wage board under the chairmanship of the retired justice D.G. Palekar. However it took a few more legal battles from the employers' side, and some token strikes by the employees, before the verdict was handed down.

The package of benefits the award carried for the employees, induced the employers to go for labour saving technology, leading to a loss of 54,000 jobs in 1978 in the printing trade (p. 18). This baffled the union leaders, who were obviously unable to anticipate the managerial response when they struggled single-mindedly for a wage board. Efforts to seek clarity through discussions on appropriate technology, as against indiscriminate use of high technology, by the Bombay Union of Journalists, for instance, were only marginal, and confusion reigned by and large. Unions were unable to decide whether to treat this as a fresh battle-ground or accept the new technology as inevitable. This allowed employers to surge ahead with automation which transformed drastically the labour process and decimated the union strength. By the time the Bachhawat award came, attention had completely shifted to pay revisions, health facilities, etc., with no articulation of technology agreement of any kind. Employers had thus obtained their prerogative once again.

Further, as multiple jobs get efficiently handled by fewer and fewer people ('The journalist then becomes almost like a typist of the hot metal composing days' with VDT and CPU (Pp. 41-42). The new labour process is sold as an enriching one, catering to that 'mysterious thing called job

satisfaction' (p. 122). Arguing thus makes it easier for the employers to avoid the responsibility of arranging social security toward technological unemployment.

This is the essential argument of the book, which one expects to unfold as one notices carefully chosen titles of the chapters.

Unfulfilling Experience:

The expectation seems largely misplaced, in one or two cases. For instance, chapter II gives a sound description of hot printing and cold printing technology and how the work flow changes between the two. This is followed by a description of how computerisation metamorphoses the work beyond recognition. Among the reasons given in 'Why Automation Enters Newspaper Industry', some of which have been mentioned earlier, are the rise of the middle class and the changing look of newspaper which makes an interesting reading. Again, the author makes a valuable comment in the same chapter in stating that the limit to modernisation in the Indian Newspaper industry is set by the poor literacy rate.

Apart from these cases, the rest of the chapters display only one characteristic - a narrative style, which is at once a strength as well as a weakness of the book. The mesh of anecdotes, quotations from veterans like Braverman, Burawoy and of course Marx and Engels and the writer's own comments occasionally bordering on quips may appear exciting in the first reading but they also force him to keep going back and forth several times to complete a given argument. The result is that we get frequent recapitulations and or promises of 'more details later', which may not be kept. To take only one example, the writer says 'I shall discuss the question of (occupational) health (in the wake of automation) later (brackets mine, p. 127), which remains unfulfilled. Much later, we get some mention of health considerations in the recommendations of Dilsukh Ram's Report (Pp. 154-55). But by now, the author is preoccupied with his regret about the power situation, eg., recommendation of limited number of hours on the VDT is interpreted as 'surrender'

to new labour process (p. 156), and hence has little to do with the 'promise' made earlier. It is difficult to judge if this is a memory lapse or an intentional omission, considering that a 'cleaner environment' following automation is a well-accepted fact.

There are also instances of implicit contradictions, undersubstantiated statements and incorrect comparisons. The observation that 'computer revolution will modernise only the top and it is difficult to see any percolation effect' (p. 69), does not quite apply to the case of *Amar Ujala* of Agra with a total circulation of 35,000 in 1980 (p. 102). [which falls in the last group of significant newspapers, the range being 15,001 - 50,000, Table 3.1, p. 77] which experienced an increase in circulation to 90,000 after computerisation in 1984-85. This should have made it an interesting case, but here it acquires only anecdotal value, rounded up with the author's judgement about the owner as a benevolent patriarch who is guilty of introducing new technology in stages (p. 103).

In comparing his work with that of Braverman, the author blames Braverman for ignoring 'subjectivity of labour process' where he expects to score over him (p. 245). However, in establishing the deskilling effect of new technology through Tayloristic organisation of labour process, Braverman has quoted passages from Taylor's personal diary, showing how he "selected" his prototypes in standardising a "fair day's work", after a careful analysis of personality traits of his guinea-pigs [Braverman, 1974, p. 94]. This should more than adequately take care of the "subjectivity" of which there is little analysis in the present book.

The process of deunionisation consequent upon automation remains under-substantiated. What is deunionisation? Is it decline in industrial unionism? If decline of industrial unionism is accompanied by a rise in craft unionism, should it still be called deunionisation? A quantifiable indicator of unionisation is the union density, viz., ratio of unionised workers to the total work force. Instead of using such norms, the author prefers to express deunionisation in terms of what he calls 'aggressive attitude of management towards

labour' and 'retreat of union' (p. 195). Clearly these are subjective judgements which cry for better substantiation. 'Fizzling out of strike' has also been interpreted as deunionisation which is erroneous (p. 203).

The worst instance of confusion, however, is in the statement of the objective of the study itself. On page 13, the task of the book is stated as enquiring into '... the elementary structures of industrial relations marked by three processes the process of valorisation, the process of labour and the process of unionisation'. Much later, on page 64, we find that the work is an enquiry into three questions which are: 'What is the role of exogenously determined technology on endogenously determined structure? Is the growth of electronics in the newspaper industry a case of Schumpeterian enterprise? How does a "near technology" get transformed into a "becoming technology"? Though each of these questions is important and inspiring, it has very little to do with the task defined before. Worse still, one can not say with much conviction as to whether any one of them has been pursued to its logical end.

As regards valorisation, there are only inferred and unfocused observations, e.g., the job losses and cut down in manufacturing costs on the one hand and growing profits on the other, when put together throw light on the relationship between technological change and the valorisation. But this inference is left to be worked out by the reader.

Again one can raise questions regarding when technology is exogenous. According to Paul Romer, any intentional choice makes the technology endogenous. So that, only when a technology is adopted due to the technology policy of the government or international standard requirements, etc., in short, an extraneous force, a change is exogenous. Hence when a choice is made, for instance to cut down the costs, it remains endogenous.

In reading this book, one is reminded of neater works in this field with well-substantiated claims like Cornfield's [1987] which is a compilation of empirical works in various industries in the U.S.A., including the newspaper industry.

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Shanta, N, *Growth of Firms in Indian Manufacturing Industry*, Centre for Development Studies, Trivandrum 1994, Pp. 228, Price Rs. 250/-.

The study explores empirically whether some definite statements can be made on the existence of a systematic relation between; (a) Size and profitability (b) Size and growth and (c) Profitability and growth.

Regarding the first item, questions like the trends in profitability, their stability over time and the extent of variability between and within different size classes of firms are sought to be examined. The study also seeks to examine the reasons behind variations in profit rates through an analysis of determinants like profit margins and capital turnover (*sic*).

To establish the relation between size and growth, the trends in growth rates and their stability over time, the variability of growth in different size classes are examined.

The relationship between profitability and growth is analysed by regressing growth on profitability through a simple linear equation and by regressing it on other financial factors like retention, long term borrowings, etc. Finally the determinants of growth are looked at in an integrated way by multiple regression analysis.

Apart from an aggregate analysis of the private corporate sector the study covers six specific industries, viz., cement, paper cotton spinning and weaving, sugar, chemicals and engineering. The analysis is confined to the period 1960-80.

Some of the conclusions of the study are as follows:

'The observed variations on the size-profitability-growth relationship at different levels of disaggregation is amenable to the logic of a controlled economy. To elaborate the point, the thrust of economic policy in India since Independence has been to direct the available resources to priority sectors and to control and regulate economic activity in line with certain stated objectives of policy. The use of controls is formalized and both "promotional" controls (for channelling resources according to plan priorities) and "corrective" controls (to correct imbalances between supply and demand) and controls imposed to meet short term exigencies have all come to stay. This has resulted in different industries being subject to different types of controls covering investment, production, distribution price, stockholding, and controls over exports and imports, etc. It is within the framework of such state interventions (imperfections) in the market system that the firms in India have to grow and since this has implications both for the size profitability relationship as well as for the growth of firms, any analysis of the relationship between size, profitability and growth of firms in India has essentially to be a firm level industry analysis' (p. 56).

'To conclude, factors that respond to market forces such as prices, capacity expansion, distribution, etc., are regulated in the cement industry. Therefore, the observed results on the relationship between size, profitability and growth of firms may be considered to be more a reflection of the operation of controls (promotional and restrictive) than the market forces as postulated in theory' (p. 96).

'Our study suggests that there is no relationship between size and profitability, and size and variability in profit rates. The results also suggest that small firms grow and large firms do not, (p. 116). 'Examination of the policies followed in this industry (paper) clearly bring out that government followed a deliberate policy of protecting small firms' (p. 118).

'An examination of the relationship between size and profitability, and size and growth gives no significant results for the period as a whole ... the regulations imposed in this industry (Cotton Spinning & Weaving) would have seriously affected the performance of firms in this industry ... The combined effect of restrictions on expansion, modernisation and product pattern is reflected in the failure to obtain any precise relationship between size and profitability and size and growth' (Pp. 140-141).

'It is possible that the controls and other government policies imposed by the government on the sugar industry affects the size and pattern of profit rates and growth rates in this industry. It would be more fruitful to analyse the observed relationships in this industry for specified periods due to the swings in the policy between control, decontrol and partial control' (p. 162).

'The chemical industry deals with a heterogeneous product group, and each of them is subject to multifarious controls, whose effects may even be conflicting with each other. This is perhaps one reason why it has not been possible to establish any clear statistical relationship between size,

profitability and growth of firms in this growing industry' (p. 186).

'... We find the growth of firms being moulded by institutional rather than market factors ... Given this, it becomes difficult to exactly pinpoint the determinants of a firm's growth in a regulated economy on the basis of extant theories' (p. 212).

It is disheartening to find a skilled researcher like Ms. Shanta spending so much energy and time on establishing market based relationships when the whole objective of the policy of development and regulation of industry was to avoid the outcome of market forces and reach socially optimal results through a policy of licensing, MRTP, FERA and controls on prices and production. Or was she indirectly testing how effective the regulatory regime was?

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Management and Research, Madras.

BOOKS RECEIVED

Currently, a large number of books are being published on Indian economic, political and social problems and developments. We give below a list of books we have received with a request for a review. For want of editorial resources, it is not possible to review all of them though many deserve a critical review. Interested readers are requested to write to the editor indicating which of the following books he would like to review or write a full review article on. We shall be glad to do the needful. Readers are also welcome to review books recently published, but not appearing in the following list. As the contributors to this Journal are aware, all contributions published here are adequately remunerated.

Balasubramanian, K., S. Mulay, S. Kulkarni, T. Kanitkar, P. Govindasamy and R. Retherford, (i) *National Family Health Survey (MCH and Family Planning): Maharashtra- 1992-93*, and (ii) *National Family Health Survey (MCH and Family Planning): Maharashtra- 1992-93, Summary Report*, Population Research Centre, Gokhale Institute of Politics and Economics, Pune, and International Institute for Population Sciences, Bombay, 1994, Pp. xxvi+298 and 26, respectively.

The National Family Health Survey (NFHS) conducted in Maharashtra between Nov. 23, 1992 and March 18, 1993 covers 4,106 ever married women in the age group 13-49 and their 2,127 children up to four years age from 4,063 households. The survey findings are presented separately in the report for urban and rural areas and for the state as a whole; where necessary comparisons between Maharashtra and the whole of India are provided. In addition to data on the basic demographic indicators, background information is collected on a number of socio-economic characteristics of the population of Maharashtra. The *Summary Report* incorporates minimum statistics on fertility and marriage, family planning, maternal and child health, knowledge of AIDS, and also a few conclusions.

Centre for Research and Development, *Socio-Economic Review of Greater Bombay: 1993-94*, Centre for Research and Development, Bombay, 1994, Pp. (ii)+135.

This Review is the first of its kind compiled for any mega-city in India. It presents sizable, relevant, ward-wise information about the socio-

economic conditions in Greater Bombay. The aspects covered are demographic features, education, health, housing, transport and communication, employment and income statistics, industry, trade and tourism, banking and financial institutions, law and order situation, etc., Various governmental departments- both state and central-, autonomous bodies and standard publications are the source for the basic statistical data.

Chadha, G.K., *Employment, Earnings and Poverty: A Study of Rural India and Indonesia*, Indo-Dutch Studies on Development Alternatives Series, No. 13, Sage Publications, New Delhi, Pp. 294.

The book explores the changing structure of employment and earnings, among the weaker sections of two highly populous and developing countries of Asia, viz., India and Indonesia. The process of development is divided into three scenarios- general economic backwardness, fairly developed agriculture but where non-agricultural avenues of employment are scarce, and a well-developed agricultural sector combined with a diversified network of other avenues of employment. The results of a field survey covering over 1,091 households in three states in India are compared with the situation in Indonesia, assessed through published literature. Among the major conclusions of the study are that a crucial role is played by non-farm employment in poverty alleviation, that it is futile to simply increase employment opportunities, without paying attention to productivity, and that the trickle-down effect actually works in practice.

Industrial Credit and Investment Corporation of India, *Capacity Utilization in the Private Corporate Sector: 1991-92 and 1992-93*, ICICI, Bombay, 1994, Pp. (ii)+22.

The study is based on capacity utilisation analysis of 463 ICICI-assisted companies which, together produced 1,071 products during the years 1991-92 and 1992-93. The study is divided into four chapters- (i) analysis of the performance of the Indian economy during 1992-93, at the macro level, to obtain an indication about the nation's capacity to produce and its actual production; (ii) analysis of the capacity utilisation rate for various goods-basic, capital, intermediate and consumer goods; (iii) estimate of the loss in production attributable to under-utilisation of capacity in the private corporate sector; and (iv) analysis of the relationship between capacity utilisation and profitability. The assumptions and methods used for the analysis and their suitability and limitations are discussed in the last chapter.

Kanitkar, Tara, B.M. Ramesh, T.K. Roy, F. Arnold and R.D. Retherford, *National Family Health Survey (MCH and Family Planning): India- 1992-93, Introductory Report*, International Institute for Population Sciences, Bombay, 1994, Pp. xv+91.

The National Family Health Survey (NFHS) is a component of the Project to Strengthen the Survey Research Capabilities of the Population Research Centres, launched by the Ministry of Health and Family Welfare, Government of India, in 1991. The NFHS is a nationwide survey covering 99 per cent of the population in 24 states and the former Union Territory of Delhi. The data collection was carried out in three phases from April 1992 to September 1993. Three uniform questionnaires- for households, women and villages- as well as uniform sample designs and field procedures were used. In all, 88,562 households were covered, while the women's questionnaire used to collect information from eligible women covered 89,777 ever married women in the age group of 13-49. The report

contains basic information on fertility, fertility preferences, family planning, maternal care, immunisation of children, childhood diarrhoea, infant feeding practices, infant and child mortality and knowledge of AIDS.

Mallik, R.M., *Economic Structure and Farm Viability: A Study with Reference to Two Villages in Orissa*, Commonwealth Publishers, New Delhi, Pp. xxii+448.

The monograph presents the findings of an empirical study of the determinants of economic viability of peasant holdings in two villages in Orissa, where a high degree of inequality in the distribution of land and other means of production in the agrarian sector prevails. The study is divided into two parts- (i) analysis of the agrarian structure of Orissa in a historical perspective and of the changes in agrarian relations in the process of development; and (ii) documentation of the field study carried out in the two sample villages, and discussion on its results. The author argues that the highly disproportionate initial endowment of resources, both land and non-land, is a determinant of operational efficiency and economic viability of farms. The need for improving the resource base of small and poor peasants through organisational innovations in terms of community/ cooperative investment in irrigation and other infrastructural inputs requiring formidable capital investment is stressed, so that their productivity performance is strengthened.

Mukherjee, Amitava, *Structural Adjustment Programme and Food Security: Hunger and Poverty in India*, Avebury, Aldershot, England, 1994, Pp. xiv+366.

The Structural Adjustment Programme (SAP) consisting of the World Bank-IMF policies and prescriptions refers to both stabilisation and structural lending. The present volume studies its impact upon food security and through food security upon environment. The SAP implementing countries, where an overwhelming

majority of the world's population lives, are also the most food insecure and environmentally the most endangered areas. Of the nine chapters, the first traces the historical roots and the theoretical base of SAP. Chapter 2 reviews the literature on the issues discussed in the volume as well as the experiences of the countries who have already attempted implementing the SAP. The connotations of the terms and expressions used are identified in Chapter 3. In Chapter 4, the analysis of the SAP *vis-a-vis* food security is discussed, particularly cuts in subsidy to food and inputs for food production, cut in government expenditure on investments in agriculture, reduction in the provision of credit for farmers, procurement prices, devaluation and effect of inequity in access to land assets. Chapters 5 and 6 elaborate on environmental issues- the nexus between food security and environment, land distribution, internationalisation of domestic agriculture and environmental degradation due to extensification and intensification of agriculture. Chapter 7 provides multidimensional primary evidence about how the SAP has affected the common villager in Uttar Pradesh with regard to food consumption and use of chemical fertilisers. In Chapter 8, the SAP is elucidated in the light of the Directive Principles of State Policy of the Constitution, while the last chapter (9) is devoted to findings and policy implications.

Nair, P.R. Gopinathan and P. Mohanan Pillai, *Impact of External Transfers on the Regional Economy of Kerala: Project Report*, Centre for Development Studies, Trivandrum, 1994, Pp. 36.

This report is the first section of a larger study on the *Impact of External Transfers on the Regional Economy of Kerala, India, and the Atlantic Provinces of Canada*, conducted jointly by the Centre for Development Studies, Trivandrum, and the Atlantic Provinces Economic

Council, Halifax, Canada. Atlantic Canada and Kerala have many common economic features, in spite of different levels of economic development and different social and cultural environments. The study probes one such common feature shared by both the regions, viz., their dependence on transfers, and a common challenge to use those transfers in a productive way. It concludes that the impact of external remittances on both the economies has significant similarities. They have raised consumption level, expanded trade sector, increased demand for social services, health and education, influenced demographic structure, but done little to lower unemployment. Also common to both the regions are expenditure on goods imported from outside the region and transfer of savings out of the regions. Planning for efficient utilisation of remittances should ensure that (i) the forward and backward linkage effects of increased expenditure on goods do not leak out of the region; and (ii) savings are invested for productive activities within the region to facilitate regional economic growth and employment opportunities.

National Dairy Research Institute, Papers presented at *Seminar on Livestock for Sustainable Rural Employment and Income Generation*, Division of Dairy Economics, Statistics and Management, National Dairy Research Institute, Karnal, 1994, Pp. iv+A-198+B13+C-25+10.

This seminar, sponsored by the Indian Society of Agricultural Economics, was held on April 6-7, 1994, at Karnal, to discuss the following three major issues: (i) sustainability of rural employment and income with the current status of livestock enterprise; (ii) constraints in livestock development; and (iii) changing economic and technological scenario and livestock development.

Ruttan, Vernon W., (Ed.), *Health and Sustainable Agricultural Development: Perspectives on Growth and Constraints*, Westview Press, Boulder, 1994, Pp. xv+170.

Agricultural research priorities in developed and developing countries *vis-a-vis* the global change imminent in the twenty-first century, were appraised by prominent agricultural, environmental, health and social scientists at a series of consultations held at the Hubert H. Humphrey Institute of Public Affairs, University of Minnesota. One of the subject areas they were involved in was the role of health in sustainable agricultural development. Their discussions, held during the summer of 1990 and taped and transcript, are compiled in this book.

The conversations reproduced in this book are structured around five themes- (i) health policy and the failure to organise health services for health maintenance rather than sickness recovery; (ii) current status and understanding of disease in the tropics, particularly parasite diseases, infectious diseases, AIDS, etc., and the likely emergence of a global health crisis sometime in the early decade of the twenty-first century; (iii) interaction between nutrition and disease and environmental threats to health; (iv) relationships between health, population growth, and agricultural development; especially issues like disease-induced population collapse, child survival and birth rate decline, health as a constraint on agricultural development in the developing countries, etc.; and (v) tropical disease and work. The need of utilising more effectively knowledge, technology and materials resulted from agricultural and health research is stressed.

Ruttan, Vernon W., (Ed.), *Why Food Aid?*, John Hopkins University Press, Baltimore, Pp. vii+281.

The book is a collection of essays on the U.S. food aid policy, particularly on subjects such as the objectives and need of food aid to developing countries like India, its implications for them, the passage of various U.S. food aid legislations, (PL

480) from 1954 to 1990, the politics of food aid, the options available while determining the food aid policy, the European food aid policy and programme, international food stamps, food aid and the Structural Adjustment Programme, future perspectives of food aid, etc.

Sathe, Vasant, *Tax without Tears for Economic Independence and National Integration*, Wiley Eastern, Ltd., New Delhi, 1994, Pp. x+101.

The author contemplates a new and revolutionary method of levying direct tax- Expenditure-Based-Income Tax (EBIT)- known as the presumptive tax on estimated income. Under this system, incomes are estimated on the basis of standard items of recognisable expenditure and consumption, such as electricity, telephone, two-wheelers, four-wheelers, domestic gas (LPG), market rent, ostentatious luxuries, conspicuous expenditure at marriage and other functions, etc. This direct tax reform would enable the state to reach at least 20 per cent of the population as against the present 0.4 per cent. The tax-rate could be small, between 5 and 25 per cent. This would ensure additional revenue as well as relief to the corporate sector and the individual tax-payer.

Visaria, Pravin and Rakesh Basant, (Eds.), *Non-agricultural Employment in India: Trends and Prospects*, Sage Publications, New Delhi, Pp. 370.

The volume contains nine papers presented at a seminar on 'Non-agricultural Employment in India: Trends and Prospects', during March 29-31, 1989, at Ahmedabad, with an introduction by the editors. The papers cover issues of sectoral distribution of the work-force in India, nature and trends, especially seasonality and secondary employment, in rural non-agricultural activities, socio-economic characteristics of non-agricultural workers, determinants of rural non-agricultural employment, correlates of changes and spatial and temporal variations in rural non-agricultural employment at various levels-

state, region, district, village and household levels. The methodological issues involved in studying economic diversification at various levels of spatial disaggregation are also reviewed.

Zachariah, K.C. and others, *Demographic Transition in Kerala in the 1980s*, Centre for Development Studies, Trivandrum, 1994, Pp. xxxii+305.

This work comprises the results of a research project undertaken jointly by the Centre for Development Studies, Trivandrum, and the Gujarat Institute of Development Research, Ahmedabad. The project is a follow-up of an earlier 1980 study, which was instituted to determine the fertility decline of more than 35 per cent during 1968-78 in Kerala, and its causes. A series of socio-economic changes, like increase in age at marriage, necessitated upgradation of the

quality of one's children in terms of health, nutrition and education. These changes and the official policies and programmes for family planning were the main determinants of this significant demographic change. The present study, using the experience of the 1980 survey, analyses in greater depth the unexpected acceleration in fertility and mortality decline in the next decade- 1978-88. It evaluates marriage, preferences in family size and in gender, maternal and child health care, infant mortality, family planning methods, and also certain additional factors responsible for the demographic transition, like the universal immunization programme, the universal literacy drive, the World Bank Project in the backward districts of Kerala and the stepped-up Gulf migration. The study demonstrates that the demographic transition in Kerala in the 1980s turned out to be more dynamic than that in the 1970s.

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Maital, S., 1973; 'Public Goods and Income Distribution', *Econometrica*, Vol. XLI, May, 1973.

Chakravarty, S. 1987; *Development Planning: The Indian Experience*, Clarendon Press, Oxford, 1987.

If a Reference is cited in a Note, the Note may use the shortened reference form:

4. For a critique of recent industrial policy proposals, see Marshall [Marshall, 1983, pp. 281-98].

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