

A Living Document

By Ram Madhav

The writer is President of “India Foundation”.

The suggestion to junk the Constitution is premature. An examination of its various facets, from time to time, is necessary.

SOON WE ARE going to move into the new Parliament building. The iconic old building was where 299 members of the Constituent Assembly of India toiled for over two years and 293 days to give us an excellent Constitution.

It may be an ironic coincidence that as we vacate the building that gave us the Constitution, a debate is raging over the future of the Constitution too. Fundamental questions like whether we should continue to call ourselves India or change our name to Bharat, whether the word “socialist” in the Preamble is still relevant, whether India is a nation or just a “Union of States” and whether the so-called “Basic Structure” argument is still tenable are being raised by important sections.

Our Constitution, the world’s largest with 448 articles and 12 schedules, has served our country in an efficient manner for the last seven decades. It is a sacred document, a product of great diligence and discussion. Those who were involved in its making, like B R Ambedkar, Alladi Krishnaswami Ayyar, K M Munshi, Gopalaswami Ayyangar, and others, were political stalwarts. BN Rau, advisor of the drafting committee, and S N Mukherjee, its chief draftsman deserve a mention for their extraordinary contributions. Leaders like Jawaharlal Nehru, Vallabh bhai Patel, Rajendra Prasad and Syama Prasad Mookerjee too made significant contributions. There were great debaters like H V Kamath, P S Deshmukh, R K Sidhva, Shibban Lal Saxena, Thakur Das Bhargava, KT Shah and Hriday Nath Kunzru who enriched its content. Ambedkar paid tribute to all of them while presenting the final draft of the Constitution in November 1949.

The saga of our Constitution, including the debates, is most inspiring. The suggestion to junk it is premature. Countries do not replace constitutions at the drop of the hat.

However, for a large and diverse country like Bharat, a re-examination of various facets of the Constitution from time to time is important. Talking about it doesn’t make one anti-Ambedkar, as the Opposition says. Except for the Canadian constitution, all constitutions in the world allow amendments. The Indian Constitution has already been amended 106 times.

Quoting the great American statesman Thomas Jefferson, Ambedkar himself argued that no generation has the right to impose its will on future generations. Jefferson had said that “we may consider each generation as a distinct nation, with a right, by the will of the majority, to bind themselves, but none to bind the succeeding generation.” Endorsing Jefferson, Ambedkar stated that he was not “putting a seal of finality and infallibility up on this Constitution”.

In fact, participating in a debate in the Rajya Sabha in 1953 over an amendment to the Constitution, Ambedkar said that he would be the first person to “burn” it. “I was a hack. What I was asked to do, I did much against my will,” he said indignantly to the members who pointed out that he was the author.

During the golden jubilee of our Republic, in February 2000, the Atal Bihari Vajpayee government constituted a commission led by the eminent jurist MN Venkatachaliah to look into the functioning of the Constitution. At the time of the appointment, the government talked about a fixed term for Parliament and legislatures, the abolition of the no-confidence motion and the introduction of “constructive vote of confidence”.

However, the “Basic Structure” argument came in the way of implementing the commission’s recommendations at that time. In the famous Kesavananda Bharati judgment in 1973, the Supreme Court ruled that the basic features of the Constitution cannot be altered through amendments. This opinion was reiterated time and again by different benches subsequently.

As the Republic reaches its platinum jubilee, a relook into aspects of the Constitution, including the “Basic Structure” argument, is natural.

So far there is no clear definition about what constitutes Basic Structure. In general, it is argued that the Preamble, Article 1 and Part 3, which deals with Fundamental Rights, are inviolate parts of the Constitution. Unfortunately, it is these parts that face major scrutiny today.

The Preamble begins with the statement, ‘We, the people of India, that is Bharat’. India is thus defined as the ‘people’. Article 1 calls India a ‘Union of States’. In both cases, and for that matter, in the entire Constitution, India is not described as a nation. Some leaders of the Opposition argue on that basis that India is only a Union of States.

Ambedkar had argued against calling India a nation because Indians were more caste-conscious than nation-conscious. After seven decades, that argument can certainly be revisited. But on the “Union of States” question, Ambedkar was categorical that the “federal” nature of the Constitution was limited to the independence of the Legislature and Executive of the Union and the States. They are not two equal power centres. For that matter, the Indian Constitution doesn’t even use the word “federal”.

No constitution in the world is perfect. Although the US constitution came into existence in 1789, it took 130 years for women to get voting rights and 175 years for the Black Americans to get full civil rights. At least five times in the past, candidates who secured the highest votes were denied presidency due to the electoral college system. The Upper House in the American Congress, the Senate, is technically an undemocratic body in which Wyoming, with a population of half a million, has the same representation as California, which is 90 times bigger.

Yet, the country runs on a constitution that has just seven articles and 21 sections. In 230 years, it was amended only 27 times. Countries like the UK and Israel do not have a constitution at all. They function on rules and conventions.

Ultimately, the Constitution is only a statement of intent. The constitutionalism - acting in its spirit - of those who man- age it is critical. We must always remember the American Supreme Court Justice Joseph Story’s caution: “Republics are created by the virtue, public spirit, and intelligence of the citizens. They fall, when the wise are banished from the public councils, because they dare to be honest, and the profligate are rewarded.”

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Stagecraft And Statecraft

By Brahma Chellaney

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It is well known that China has the world's largest navy and coast guard – the result of a tenfold increase in military spending since 1995 – which it uses to advance its pugnacious revisionism. But there are also numerous lesser-known – indeed, highly opaque – policies, projects, and activities that are supporting Chinese expansionism and placing the entire world at risk.

China has a long record of expanding its strategic footprint through stealthy manoeuvres that it brazenly denies. For example, in 2017, it established its first overseas military base in Djibouti – a tiny country on the Horn of Africa, which also happens to be deeply in debt to China – while insisting that it had no such plan.

Today, China is building a naval base in Cambodia, which has leased to China one-fifth of its coastline and some islets. The almost-complete pier at the Chinese-financed Ream Naval Base appears conspicuously similar in size and design to a pier at China's Djibouti base. China admits to investing in the base but claims that only Cambodia's navy will have access to it.

Realistically, however, it seems likely that China's navy will use the facility at least for military logistics. This would further strengthen China's position in the South China Sea, where it has already built seven artificial islands as forward military bases, giving it effective control of this critical corridor between the Pacific and Indian Oceans.

China also takes a highly secretive approach to its massive dam projects on international rivers flowing to other countries from the Chinese-annexed Tibetan Plateau. While the world knows that the rubber-stamp National People's Congress approved the construction of the world's largest dam near China's heavily militarized frontier with India in 2021, there have been no public updates on the project since.

The dam is supposed to generate three times as much electricity as the Three Gorges Dam, currently the world's largest hydropower plant, and China has built a new railroad and highway to transport heavy equipment, materials, and workers to the remote project site. We will find out more only when construction is far enough along that the dam can no longer be hidden from commercially available satellite imagery. At that point, it will be a fait accompli.

China has used this strategy to build 11 giant dams on the Mekong, not only gaining geopolitical leverage over its neighbours, but also wreaking environmental havoc. China is now the world's most dammed country, with more large dams in operation than the rest of the world combined, and it is constructing or planning at least eight more dams on the Mekong alone.

Opacity has also been a defining feature of the lending binge that has made China the world's largest sovereign creditor to developing countries. Almost every Chinese loan issued in the last decade has included a sweeping confidentiality clause compelling the borrowing country not to disclose the loan's terms. Many African, Asian, and Latin American countries have become ensnared in a debt trap, leaving them highly vulnerable to Chinese pressure to pursue policies that advance China's economic and geopolitical interests. According to one study, the loan contracts give China "broad latitude to cancel loans or accelerate repayment if it disagrees with a borrower's policies."

But there can be no better illustration of the global costs of Chinese secrecy than the COVID-19 pandemic. Had China's government responded quickly to evidence that a deadly new coronavirus had emerged in Wuhan, warning the public and implementing control measures, the damage could have been contained.

Instead, the Communist Party of China (CPC) rushed to suppress and discredit information about the outbreak, paving the way for a raging worldwide pandemic that killed almost seven million people and disrupted countless lives and livelihoods. To this day, Chinese obfuscation has prevented scientists from confirming the true origins of COVID-19, which, lest we forget, emerged in China's main hub for research on super-viruses.

China's willingness to violate international laws, rules, and norms compounds the opacity problem. The Chinese government has repeatedly reneged on its international commitments, including promises to safeguard the autonomy of Hong Kong and not to militarize features in the South China Sea. It was China's furtive violation of its commitment not to alter unilaterally the status quo of its disputed Himalayan border with India that triggered a three-year (and counting) military standoff between the two countries.

There is no reason to expect China to abandon its rule-breaking, its debt-based coercion, or its other malign activities any time soon. Chinese President Xi Jinping – who has strengthened the CPC's control over information, cutting off outside analysts' access even to economic data – is now on track to hold power for life, and remains eager to reshape the international order to China's benefit.

Ominously, Xi's appetite for risk appears to be growing. This partly reflects time pressure: Xi seems to believe that China has a narrow window of opportunity to achieve global pre-eminence before unfavourable demographic, economic, and geopolitical trends catch up with it. But Xi has also been emboldened by the international community's utter failure to impose meaningful consequences on China for its bad behaviour.

Whereas Russia launched a full-scale invasion of Ukraine, China prefers incrementalism, enabled by stealth and deception, to advance its revisionist agenda. This, together with tremendous economic clout, shields it from a decisive Western response. That is why, barring a major strategic blunder by Xi, China's salami-slicing expansionism is likely to persist.

Courtesy - Stagecraft and Statecraft

Cyber Security Researchers Are Targets!

By Sanjay Sahay, IPS

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Cyber security researchers being targets themselves would certainly be an eyeopener for the world, which keeps on patting itself, as if some bland laws and ineffective investigation would change anything. We live in a cyber ripped world where ignorance has for the first time become real bliss. A recent report elaborates the way North Korean hackers have exploited zero-day bug to target cyber security researchers. They continue to target the cyber security community “using a zero-day bug in an unspecified software over past several weeks to infiltrate their machines.”

The reliability of it comes from the fact that the findings come from Google's Threat Analysis Group, which found their fake accounts on social media platforms like X and Mastodon. This was being done with the purpose of forging false relationships and build trust with the potential targets. They have gone to the extent of months long conversation with a security researcher on topics of mutual interest. The initial contact happened over X and they moved to the encrypted messaging apps. This fascinating social engineering exercise ultimately paved the way to conduct the real task. It was a malicious file containing at least one zero day in a popular software package.

What does the payload do? It performs a number of anti-virtual machine checks. Then the critical information is transmitted, with screenshot, to an attacker-controlled server. The account in question was active at least since Oct 2022. The threat actor even went on to the extent of releasing proof-of-concept (PoC) “exploit code for high-severity privilege escalation flaws in the Windows Kernel.” Not strangely, this is not the first time North Korean hackers “leveraged collaboration-themed lures to infect victims.” In a similar manner in July 2023 GitHub had disclosed details of an npm campaign. The target was invited by the threat actor to collaborate on a GitHub repository. He also convinced the “target to clone and execute its contents.”

Google TAG also found a tool named “GetSymbol” developed by attackers hosted on GitHub. It was hosted as a potential secondary infection vector. It has been forked 23 times. For the North Korean hackers this is not all, they have become participants in war. The one in question in this report is North Korean nation state actor known as ScarCruft. This hacking outfit “is leveraging LNK file lures in phishing emails to deliver a backdoor capable of harvesting sensitive data and executing malicious instructions. To believe none of this is happening in India for lack of focused research in this area is like living in the wonderland.

IN A HYPER CONNECTED WORLD IS INDIA AN ISLAND OF CYBER PEACE?

G 20- With A Hope And Prayer

By Javed Naqvi

The Author is Dawn’s correspondent in Delhi.

The inveterate Hindu in him spurred the British prime minister to take time off from the G20 summit to offer prayers at Delhi’s riverside Akshardham temple. In so doing, he picked up a politically handy applause from the hosts even if the trade pact both eyed has apparently hit the doldrums.

Rishi Sunak could have more usefully nudged his Catholic friend from the US to attend the Sunday mass at Delhi’s British-era Sacred Heart Cathedral Church. After all, according to a worrying new survey last week, two-thirds of the polled Democrats don’t want Joe Biden as their presidential candidate next year. It could be his age, the fumbling in Vietnam, or his son’s legal troubles.

More astutely, it could be the war in Ukraine he has invested so much in. He can’t not be aware that his probable would-be rival is promising the geographically blinkered American electorate an end to the brutal conflict with the snap of his fingers. Clearly, Biden was in greater need of divine help if anyone was among the leaders gathered in Delhi. Whatever his reasons for flaunting his religious preference, Rishi Sunak bucked a quaint trend in his country where more and more people are turning away from religion, that too without excessively troubling the Anglican Church.

Where seeking divine help is concerned, Narendra Modi would perhaps need to work harder on propitiating the divine hand. Merely hoping to inaugurate the Ram temple before the May 2024 general elections could become tricky, the many pats on the back for hosting a powerful summit notwithstanding.

A clutch of by-polls in key states, crucially including Uttar Pradesh, found the prime minister’s party trailing behind the newly minted ‘INDIA’ alliance. Of the seven seats up for grabs, four were wrested by the alliance while only three remained with the BJP.

In the multicultural jamboree the G20 was, the crown prince of Saudi Arabia played it spiritually safe. As the leaders were being escorted to a guided tour of Mahatma Gandhi’s shrine, Mohammed bin Salman it seems followed the rule of his forebears and dodged the Indian protocol

for visiting dignitaries. The late King Abdullah was the chief guest at Delhi's Republic Day military parade in 2006, after a diplomatic hiatus of 50 years, when he decided to forgo the mandatory visit to Gandhi Samadhi, citing religious reservations.

Fellow Muslim Pervez Musharraf had not quite seen it that way, so he visited the shrine in July 2001. It's another matter the overture did not eventually assure him success at the Agra summit. The Quaid though an ardent critic of Gandhi had grieved when he was killed by a Hindu assassin. Musharraf, by offering flowers at Gandhiji's shrine not only disagreed with the puritan view supported by the Saudis, but the act also critiqued Mr Modi's followers who revile Gandhi and hero-worship his killers.

That said, the two more visible issues that stood out at the G20 summit require a closer look. The inclusion of the African Union into the fold is laudable but needs discussion. And the concern expressed on the Ukraine war appeared to be acceptable to everyone except Ukraine. Let's examine both decisions closely. The quest to include the African Union as a G20 member found Mr Modi positioning himself as the voice for the Global South.

A few weeks earlier, the BRICS summit in South Africa had also extended the membership to a wider representation of Africa.

While Mr Modi moved to reinvent the wheel, his claim of inclusiveness was the way Jawaharlal Nehru had always positioned India's foreign policy. Nehru saw Kenneth Kaunda, Julius Nyerere and Gamal Abdel Nasser among the revered African leaders as India's close comrades.

The Non-Aligned Movement was conceived by these leaders as a platform to not only reject big power loyalties; it also opposed the continued exploitation of their countries by the industrial West, their former colonisers.

Nehru did one better. He saw Asia as the lynchpin of his embrace of the Third World, and it saw him flying ace pilot Biju Patnaik to secretly rescue Indonesian president Sukarno from the colonial plot that toppled him. He saw South Asia as an oasis of fellowship of postcolonial societies, and he spoke of a South Asian confederation ahead of the EU.

Mr Modi, on the other hand, has single-handedly subverted the fellowship by undermining Saarc, mostly, it is suspected, to pander to his narrow political constituency at home. One can be certain that G77, which was founded in 1964 as a club of developing nations and currently includes 130 adherents, continues to represent members from Africa, Latin America, and a host of Asian nations. The G77 members are having their summit in Cuba on Sept 15-16. That's where Brazilian President Lula was headed after taking the G20 gavel from Mr Modi.

However, that's not the priority for the Modi administration evidently. The Indian foreign minister backed out from the Cuba meeting at the last minute. According to reports, a special session of the Indian parliament starting on Sept 18 was given as the reason for India not to send the foreign minister to Havana. The undisclosed agenda has kept the foreign minister from travelling to a Global South event.

This leads to a different understanding of the Delhi summit. Remember that the Davos Economic Forum was a platform for global capitalism and spoke generally for G7 countries. Its critics set up the World Social Forum that prescribed an equitable and sustainable economic order that shared little with private profit. G20 seeks to blur the contradiction with G77.

As for the Ukraine war, the G20's acceptance of the compromise was anticipated by analysts well ahead of the summit. Among them, former Indian diplomat M.K. Bhadrakumar pointed this out in an analysis for NewsClick on Sept 8. It was titled, 'Ice-cracking sounds on frozen lake of US-Russia relations. Prayers are in order.

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India is Proud of: Asif Sheikh

The Man Who Has Gifted New Life to Over 31 thousand Manual Scavengers.



Even in this age of rapid urbanisation and technological advancement, the heinous practice of manual scavenging exists in extensive parts of rural India. What is worse is that the people associated with this shockingly degrading profession are treated as social outcasts and are often denied their fundamental human rights. Though the Manual Scavenging Act of 2013 has abolished this derogatory practice by law, many Dalit women are still subjected to carry out manual scavenging.

“It is a matter of national shame as long as even one manual scavenger exists in India”, says Mr Ashif Shaikh, founder of the Jan Sahas Organisation, who has been working tirelessly for over 16 years towards liberating the manual scavengers and other bonded labourers. Rescued bonded labourers.

So far, his organisation has successfully rehabilitated around 31 thousand manual scavengers and bonded labourers and protected them from socio-economic discrimination. Having worked in 200 districts across 18 Indian states, Jan Sahas has also brought the victims into the mainstream of the society – ensuring their financial independence as well. Village gatherings held by liberated victims.

Mr Ashif Shaikh believes that being born in a Dalit Muslim family; he faced marginalisation in every step of life. This nourished his determination to fight caste-based atrocities. As a student, he started the Sahasi Ekta Group to encourage the involvement of the student community in social development and societal problem-solving. This later paved the way for the foundation of Jan Sahas in 2000.

“The manual scavengers are untouchables within the untouchables”, Mr Shaikh adds, “Caste is not a practice, but a mindset.”

Jan Sahas initiated their work from Bhaurasa in Madhya Pradesh, where in one year they convinced 26 women to give up manual scavenging. The children played a huge role by narrating their experiences of harassment and convincing their mothers against it. “The women burned their baskets as a symbol to boycott the ill practice”, recalls Mr. Shaikh.

The core strategy of Jan Sahas has been community empowerment, as devised once by Dr B.R. Ambedkar, the pioneer in the fight against caste and casteism. The first group of liberated women were trained to be community leaders who travelled to adjacent villages creating awareness among other forced labourers. They were treated as role models by the next group of villagers. Today, the group has grown into an active organisation that is doing remarkable work towards abolishing social discrimination and gender disparity. Providing alternate employment opportunities Their working methods are unique. For example, when a group of volunteers comprising liberated victims reach a village, they invite every villager for a gathering. Sharing snacks and listening to the caste-challenging ideas, the community is made to realise their plight in bondage. They can free themselves from this inhuman norm only when they understand that they are victims of social evil.

In 2013, Jan Sahas embarked on a cross-country march covering 230 districts, led by former manual scavengers. They mobilised other non-profit entities to follow a similar model to bring an end to the menace of manual scavenging. Another milestone of success came through the “barefoot paralegals”. About 65% of the former victims emerging from the very bottom have been meticulously trained to become advocates who communicate with the other victims and represent them to ensure justice. As a matter of fact, due to efforts of the “barefoot paralegals”, the rate of conviction in sexual crimes against Dalit women have risen from 2% to 38% within a few years. Jan Sahas also ties up with Government schemes or private sector organisations to teach the children, to train the victims in skill development programs and also educate them about their rights and privileges.

The Dalits today are a subject of political agenda by different parties, especially due to the controversy on the reservation system. Mr. Shaikh ensures that his movement strictly focuses on their socio-economic well-being and does not get entangled in the political power struggle.

Jan Sahas has successfully rehabilitated many survivors of rape and gender-based violence. Another hurdle was the denial by the State or Central Government regarding the existence of manual scavengers – which sometimes delayed their campaigns. Mr. Ashif Shaikh’s message “We need to clarify our basic understanding of equality”, Mr. Ashif Shaikh insists. He feels that the rest of the society ignores the problem of caste discrimination considering that this issue concerns only the Dalit community. “Everybody needs to value the fundamental rights to equality as depicted in the Indian Constitution”, he adds. When the entire society joins hand in hand and takes up a firm stance against such practices, only then we can dream of a better India.

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