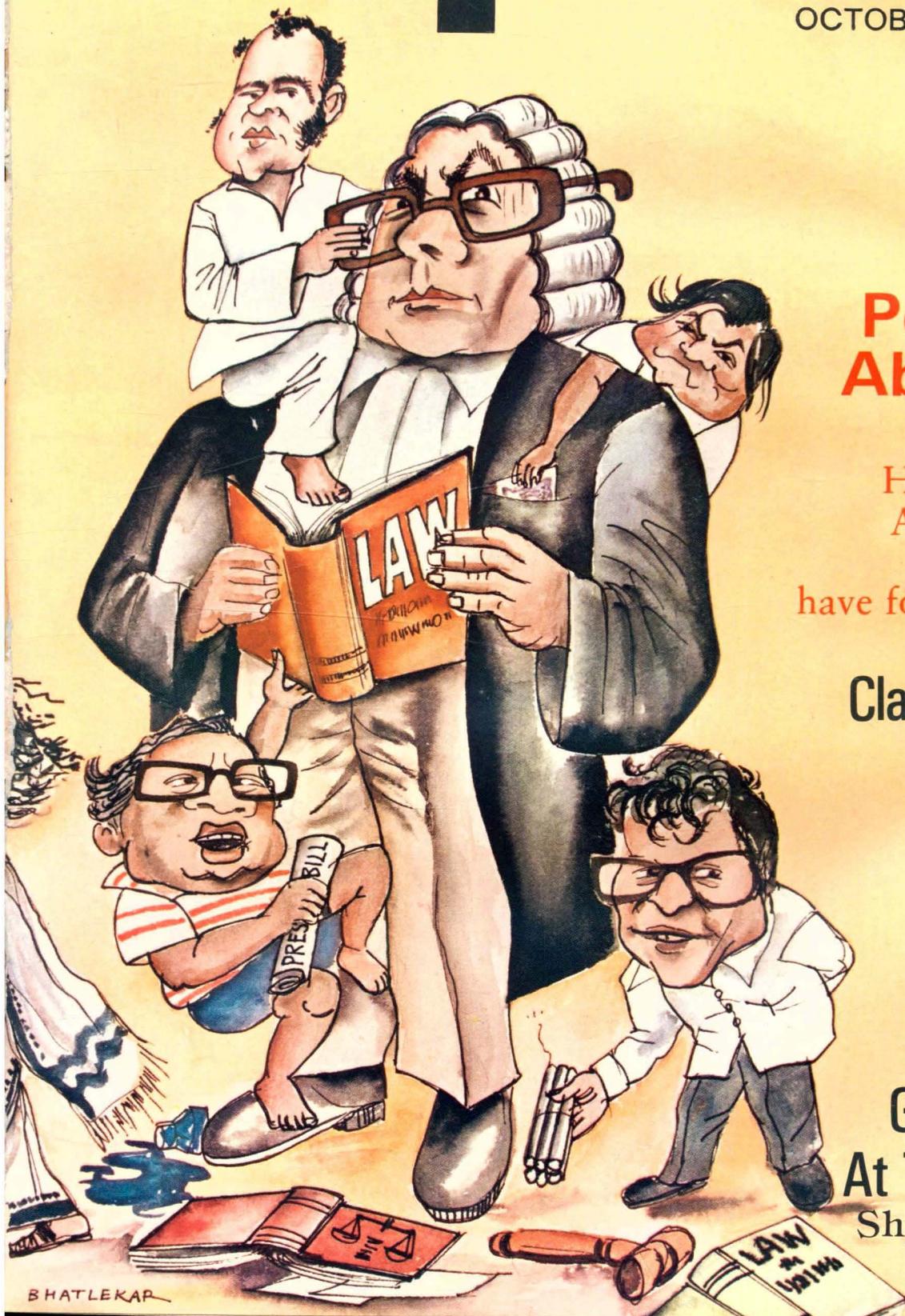


Darryl D'Monte On The Press • Bharat Dabholkar On Advertising

Fiction By Manohar Malgonkar

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OCTOBER 1983 • Rs 4



Are Politicians Above The Law?

How Jagannath, Antulay, Sanjay and the rest have foiled the courts

Clashes In The PUCL

Heroin Smuggling: The Indian Connection

Getting Back At Their Critics: Shyam Benegal, Dom Moraes and others

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The feel of velvet, a glow of pearls for your walls

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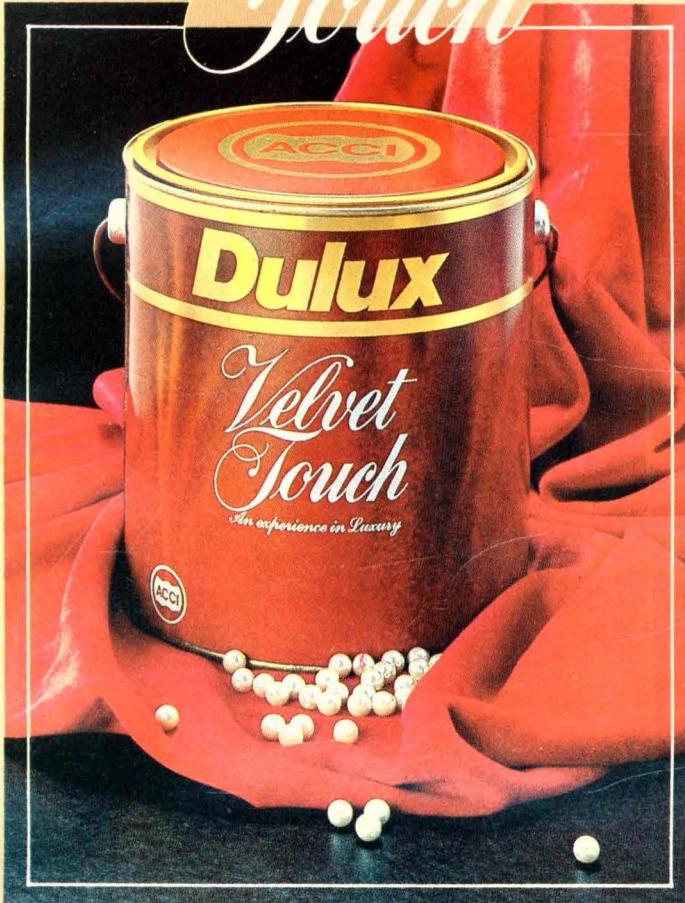
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on the marquee

AS THE ARMS RACE between the countries of the world escalated from the late '40s, making the waging of wars between nations almost inevitable, people everywhere began to accept the armed conflicts which ensued as just that, inevitable.

You do not have to be old today to have lived through the war in Korea, the war in Vietnam, the war in Cambodia, the war between India and Pakistan, the war between China and India, the wars between Egypt and Israel, the many wars between the Arabs and the Jews, the war between Pakistan (W) and Pakistan (E). So used are we to wars all around us that one has to be physically shaken up these days to be reminded that there is a suicidal war going on for more than three years between Iran and Iraq which has claimed nearly 500,000 casualties and over US \$100 billion in cost. There is war in Afghanistan, a war in Chad, a war in Lebanon, wars in Africa, many wars in Central and Latin America.

One reason why we have learnt to live with war and 'we' includes those unfortunate to be directly involved, is the ever-present fear of a super-power war. At least *that* war is being avoided, is the soothing reasoning. The well-publicised James Bond-like briefcase which follows the US President, the aircraft load of communications gear which followed Brezhnev's forays abroad, the deliberate leaks from Washington and Moscow, from London and Paris about how very securely secure the nuclear button is, have helped keep sanity in a bellicose world full of nuclear weapons ready on their mounts and capable of destroying the world a hundred times over in less than an hour. The media have helped too, with their 'balance of power' tranquilliser.

But suddenly, Moscow has revealed that the Kremlin button is not all that secure...

Let us accept the less sinister Soviet version of their shooting down of the Korean Boeing 747. From their own account, it is obvious that they had difficulty in locating the strayed aircraft in *their* airspace.

Question: How efficient is Soviet surveillance? How reliable is the Soviet equipment?

From their own account, it is clear they did not think it was a civilian airliner. In fact, the 'full and correct' version the Russians have delivered to their own people carries a veiled hint that the Soviet security forces feared that the plane was carrying something sinister and was secretly, almost defiantly flying over the Soviet Union's most sensitive nuclear weapons-testing site and towards an even more sinister goal or target.

Question: If the Russians thought the plane was carrying the unmentionable* or was on an Israeli-raid-on-Baghdad kind of destroy mission**, was shooting down the aircraft over their own territory, thus risking a fall out, the only means of stopping the mission? The Kremlin says the decision to stop the flight was taken by commanders in the Soviet Far East and the Kremlin was informed at the 'appropriate time'. God help us!

The straying of the Boeing 747 deep into Soviet airspace, the failure of the Russians in tracking it for a long time, the failure of the Americans and the Japanese to warn the Boeing that it was off course and finally, the shooting down of the plane by the Russians, demolishes the finely-tuned 'balance of terror' theory. What is to be universally feared now is the terror of error. And the inevitable can only be avoided by total, world-wide banning of nuclear weapons.

R.V. Pandit

* The Russians have claimed and the Americans have not denied, that nuclear weapons-armed aircraft of Strategic Air Command of the United States Air Force routinely fly close to Soviet borders.

** An option many countries have discussed in their strategic thinking.

Nalanda

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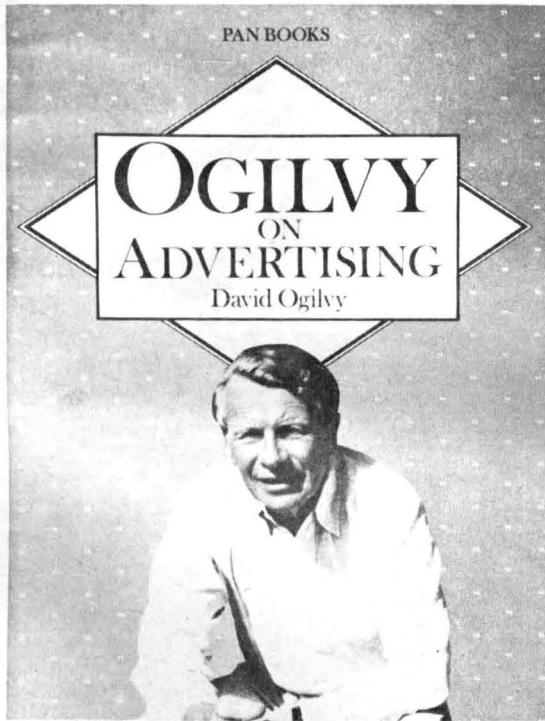
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Published in 1983 by Pan Books, London, **OGILVY ON ADVERTISING** by David Ogilvy consists of 224 pages. It is lavishly illustrated (many in colour), is 9-3/4" x 7-1/4" in size, and has soft covers. Price: Rs.113.30 (subject to change without notice). Carriage Rs.15 will be extra where applicable.

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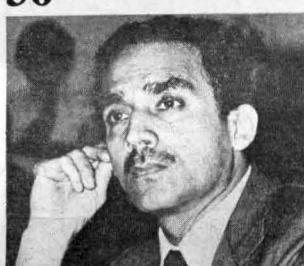
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correspondence:

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Business Press Private Limited
Maker Tower 'E', 18th Floor
Cuffe Parade, Bombay 400 005
Tel: 212825/215350/211752

IMPRINT is a Business Press monthly publication with the publishing office located at Surya Mahal, 5 Burjorji Bharucha Marg, Bombay 400 023, India. IMPRINT is registered with the Registrar of Newspapers for India under No RN 6178/61. Copyright © 1983 Business Press Private Limited. Reproduction in any manner, in whole or part, English or any other language is strictly prohibited. IMPRINT does not accept responsibility for unsolicited contributions.

For change of address and circulation enquiries write to: IMPRINT, Business Press Private Limited, Surya Mahal, 5 Burjorji Bharucha Marg, Bombay 400 023, at least 30 days before the change of address takes effect. Both the old and the new address should be given. When writing to us enclose a recent mailing label showing the subscription number. IMPRINT is distributed by INDIA BOOK HOUSE.

LETTERS



The Morarji-Sanjiva Feud

The Morarji Papers (August 1983) has been the first scoop in recent months to be published in your magazine and I enjoyed it very much.

While your article conclusively proves that Reddy acted very ambitiously, I do not understand why Arun Gandhi should hold Mr Desai beyond reproach. Reddy's letters clearly say that there was enough reason for doing so.

John M Jacob
Hyderabad

Your excellent report on the relationship of Morarji Desai and Reddy was informative as well as investigative.

I believe that Morarji would have done far better as a Prime Minister if he had a co-operative President. I really appreciate the justice you have done Morarji Desai by publishing this article.

Hiren Pathak
Sarigam - Gujarat

Your article on *The Morarji Papers* albeit well delved into, maligned the image of Mr Desai. Compared to the manipulations taking place at the highest bureaucracy today and to what took place before the Janata government, this will prove to be a drop in the ocean.

Prakash Chandra Jha
Giridih - I.

The Morarji Papers is interesting not because it exposes some top secrets which, in normal course should have been added to the piled-up dustbin of our political history, but because it brings to light some grandiose projects of our ex-president.

If the things written are correct, Mr Reddy should give a public explanation for his calculated plot. The entire episode gives us one more proof that the Janata could not stand its term not merely because of its own infighting. Every self-proclaimed Gandhian holds

under his cap plans detrimental to the interests of democracy.

US Iyer
Madras -2



Koestler On Gandhi

Congratulations for reprinting Koestler's candid article on Mahatma Gandhi, all the more necessary at a time when the Mahatma cult is spreading in India and abroad. Gandhism is recommended by many as a panacea for all economic, political and social evils. Arthur Koestler's article should make us take a rational view of Gandhiji's teachings.

MS Ajaonkar
Bombay -66

With regard to truth and perspective it is very difficult to disagree with Koestler. If only Gandhi had listened to Dr Margaret Sanger and urged the people to take to family planning, India might have been a great nation today.

Jaganmoy Mitra
Calcutta-31.

Apropos Koestler's feature, I find it necessary to mention that his statement that Nirmal Kumar Bose's book, *My Days With Gandhi*, was manoeuvred out of circulation, is untrue. When I first read of it in 1970 in Koestler's own book *The Lotus And The Robot*, I was curious to read it. I found the book in the unrestricted loan section of the Central State Library at New Delhi, owned and managed by the Government of India.

What's more, the book had been acquired in 1954 and lent 74 times till the date of my borrowing it. I have found it necessary to bring these facts to the notice of the reading public to dispel the canard that the book was

weeded out of circulation.

PN Duda
New Delhi -69

Koestler's *The Yogi And The Commissar* (August 1983), is the first truly balanced article I have come across about the Mahatma.

One should appreciate and revere Gandhi only for giving us the concept of truth, non-violence and self-respect. *Brahmacharya*, uncalled-for-fasting (which is being largely abused now) and his obstinacy should be accepted only as idiosyncracies.

Samir Sahu
Muzaffarpur -1.

India's Top Columnists

Dhiren Bhagat's assessment of India's top columnists (August 1983) successfully highlights the truth that once a writer 'arrives' in Indian journalism even the nonsense he churns out gets published. Behram Contractor and Dom Moraes are prime examples. It is time our editors did something about this. As Bhagat says, bright new columnists must be soon discovered. But how far is Bhagat different from the Reigning Dozen?

Bhagat gives us good, clean prose and purely as a stylist he is a pleasure to read. But he badly needs to cultivate tolerance towards persons and things he disagrees with. In *The Sunday Observer* (August 14, 1983), for instance, he calls his reader 'an idiot', the *Sunday* magazine 'a political rag' and former Justice Krishna Iyer a 'celebrated windbag'. If he is able to restrain the tendency towards intellectual exhibitionism and outgrow his puerile cocksureness he will soon be a force to reckon with. Else he will only meet, perhaps prematurely, the fate of the very writers whom he has so correctly assessed.

CG Pradeep Kumar
Bombay-69

The article by Dhiren Bhagat is an eye-opener to Bhagat's fans. By criticising such infamous journalists of India he has impressed a few but has annoyed the readers largely.

VK Ganti
Bhopal

Bhagat On Shourie

Dhiren Bhagat's review on Arun Shourie's book *Mrs Gandhi's Second Reign* is merely a rehash of the same

old arguments. Some months ago, I wrote to the *Sunday Observer* and called Bhagat a fool: not as an abusive term but because his arguments were foolish.

Bhagat asks Shourie to stick to what he is good at. What may I ask is Bhagat good at? Certainly not at talking on Arun Shourie. This requires more than being a Sai Baba devotee and a hack.

C Anthony Louis
Bombay

Shourie has never called himself a political philosopher or an investigative journalist. He writes because of his genuine concern for declining standards in India.

Let me come to the point. Everybody knows that the problem in Assam is genuine. It is only because of the foolish handling of the situation by Mrs Gandhi that economic and political considerations led to communalism.

Shourie merely questioned the wisdom of holding elections at such a time. There was no question of defending or attacking the RSS.

K Bhaskar
Karur



Adventures At The Weekly

Mr Kamath's article (July 1983) should have been titled *Agony At The Weekly*. He has tried to defend himself and goes on to claim that he was a success as editor, but not many will agree.

While in office he was haunted by the shadow of his predecessor and now needs to abuse him. Some of his claims are questionable while his comparisons are debatable.

S Choudhary
Bombay

The popularity of the *Weekly* during Khushwant Singh's editorship was not due to the 'bare breasts and buttocks' journalism as Kamath claims, but due to the spice and substance it contained which catered to a wide group of readers.

The fact that Khushwant Singh's column *With Malice Towards One And All* is still syndicated in three leading newspapers is a testament to his popularity.

George S Coelho
Bombay

Kamath seems to have turned into a megalomaniac!

MS Basu
Bombay

I recently renewed my *Imprint* subscription for three years. After reading Kamath's article, I consider it a wise investment!

N Gupta
Farakka

It was time that MV Kamath set the record straight. For too long has his tenure at the *Weekly* been unfairly criticised.

V Mishra
Cuttack

I never read the *Weekly* when Khushwant Singh was editor. After Kamath took over, I began to glance at it.

It was not a great magazine, but it was what Kamath says it was—simple, decent and sincere.

T Pillai
Madras

The Punjabi culture of people like Khushwant Singh is, it seems, missing from the pages of your magazine.

It was refreshing to read the views of a good man like MV Kamath who brought taste and decency back to the *Weekly*.

AD Joglekar
Poona

Reading MV Kamath's article it is clear that a talented and highly qualified person gets rejected but a man who can please the bosses by unfair means gets all facilities and betterment in service. The unfair treatment accorded to Kamath is shocking.

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FOLLOW-UP

BY MALAVIKA SANGHVI

THE NETWORK IN ACTION

Old Doon School buddies gang up against Swraj Paul.

WHAT DO THE following have in common: Rajiv Gandhi, Arun Singh, Arun Bharat Ram, Vivek Bharat Ram, Rajan Nanda, Prem Shankar Jha and Swaminathan S Aiyer?

If your answer is that all of the above were involved in the Swraj Paul take-over affair, then you are partly right. The two Bharat Rams are sons of Dr Bharat Ram, Chairman of DCM while Rajan Nanda is Managing Director of Escorts. And as everybody knows by now, DCM and Escorts were the two companies that Mr Paul wanted to take over.

Rajiv Gandhi, MP and his close associate Arun Singh were the two men that the Escorts and DCM managements turned to when it seemed that Mr Paul's bid might succeed. And sure enough, Rajiv Gandhi then made a speech in the Lok Sabha in which he said that overseas Indians should not be allowed to take over Indian companies.

Swaminathan S Aiyer is a distinguished economics writer who ran the first series (in the *Indian Express*) on take-overs and came out against the Paul bid. Prem Shankar Jha is Senior Assistant Editor of *The Times of India* and a vociferous critic of both Swraj Paul and non-resident take-overs. When Mr Paul was asked what he thought of the criticisms of Jha and Aiyer, his reply was unprintable.

So, all of these people were involved in the Paul affair and yes, they were all opposed to Mr Paul's take-overs.

But there is another, more subtle, connection. In May 1983, *Imprint* ran a cover story on the Doon School



Network. "Every Doon School student," the story claimed, "is a member of a network so strong yet so invisible that its workings are often insidious and intriguing." And by some remarkable coincidence, all of these people happen to have been at Doon during the '50s. Rajiv Gandhi was there from 1955-60, the same years as Arun Singh. Of the Bharat Rams, Arun was a couple of years senior but Vivek was there from 1955-61, as well. Swaminathan Aiyer was at Doon from 1953-59 while his fellow journalist Prem Shankar Jha spent the years 1950-54 there. And Rajan Nanda joined the year Jha left (1954) and left in 1960 along with Rajiv Gandhi and Arun Singh.

The Doon School network in action?

Well, yes and no. It is unlikely that a journalist like Jha was motivated solely by the fact that he was at school with the sons of the families who had the most to lose if Mr Paul's take-overs went through. The same is true of Aiyer, though perhaps, the similarity of their backgrounds (both went on to read Politics, Philosophy and Economics at Magdalen College Oxford) might explain some of the similarities in their views.

On the other hand, it seems fairly clear that the Bharat Rams and Rajan Nanda lost no time in getting in touch with those Doon School boys who now occupy positions of influence in Delhi. It is widely believed that Rajiv's Lok Sabha statement asking for a ceiling on foreign shareholdings was prompted by requests from his Doon School buddies.

Of course there are other factors to be considered. It is entirely possible that because of his brilliant analytical ability and his well-known intuitive grasp of economics, Rajiv Gandhi may have come to the same conclusions even if somebody hadn't told him what to say. And, it is also possible that Nanda and the Bharat Rams may have dashed off to 1, Safdarjang Road to plead their cases simply in their capacities as citizens of India.

But, if one is to be realistic, then there can be no denying that the Doon School connection worked once again. In assuming that his millions and his vociferous support of Mrs Gandhi gave him exclusive access to the PM's House, Swraj Paul forgot that among the Indian elite, there are subtler and deeper loyalties.

And in the end, he was nearly beaten by an old school tie.

Malavika Sanghvi wrote the Doon School Network, Imprint's cover story in May 1983. She is a Bombay-based freelance writer.

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NEPAL'S POWDER KEG

The idyllic Himalayan Kingdom seems set to explode.

IN ANCIENT TIMES, so the story goes, the exquisite 14-square-mile Kathmandu valley was a huge lake. The *Vipaswa* Buddha, wishing to behold its magnificence, decided to visit. Finding it extraordinarily beautiful, he threw a lotus seed into the lake, which bloomed into a multi-coloured 'Lotus of Light'.

Several centuries later, Manjushri, the great Manchurian Buddhist saint, passed the spot and saw the wonderful lotus. Stunned by its scenic beauty, he wanted to make the spot accessible to pilgrims, so he took his sword, cut a gap in the surrounding Himalayan mountains and drained the lake.

Back in 410 AD King Prachandra Deva recognised a goldmine when he saw one. He built a stupa around the 'Lotus of Light' in order to protect it. That marked the beginning of Nepal's tourist industry! And it has continued to grow ever since.

Unfortunately, little else seems to have progressed. If King Prachandra Deva returned today to visit his erstwhile subjects and ignored a few scattered buildings like the King's new palace, the hotels Soaltee Oberoi or Everest Sheraton, he would feel quite at home.

Much of Nepal's charm to the non-Indian outsider lies in its very primitiveness and unchangeability. (The Indian mainly goes to snap up forbidden foreign goods!) And that doesn't seem to have altered much over the centuries.

In the late '60s, when it was the



undisputed 'hippie capital' of the world and one went to whiff the drug scene and hopefully ravish some hapless, western woman, Kathmandu looked pretty and sleepy—when the filth was not noticeable. Since then, Delhi, Bombay or Bangalore have changed radically. But not Kathmandu or Nepal.

The all-powerful King rules with an iron hand, there is no industry worth the name, the people are still miserably poor and most kids have ballooning bellies full of worms. The only jobs outside government seem to be in the tourism industry, which tragically results in bright university graduates becoming tourist guides (if they are lucky).

With that kind of future, the

innate friendliness, gentleness and courtesy of the Nepalese is under some strain. The resentment against a system so weighted against the mass of its people is undoubtedly growing. In the absence of any safety valve like periodic democratic elections, it seems a matter of time before the volcano begins to rumble.

* * * * *

FIVE HUNDRED AND thirty kilometres east of Kathmandu, at the end of a harrowing 14-hour overnight bus ride on a winding, hilly and uneven track, is the Nepalese border town of Kakarvitta. Though approached through spectacular, lush forest with the Himalayas silhouetted in the background, Kakarvitta would have remained yet another sleepy little foothill town in the normal course of things. But it happens to border Naxalbari, Bagdogra, Siliguri and on to Darjeeling 50 miles away. So in a sense its strategic importance is assured.

The first thing which occurs on alighting dog-tired and unwashed from the smelly, much-abused Tata 'Deluxe' bus is a virtual gherao. A horde of young men warns you of the perils of confronting the Indian customs on the other side, with even something as harmless as a foreign-made umbrella. Of course in the same breath they offer to immediately deliver anything to you on the other side for a small fee.

All they do is walk a couple of hundred yards down the unmanned border and cross with all those foreign goodies intact. Naturally international trade at that point—mainly outside government concurrence—has always been considerable.

Now Darjeeling district is largely populated by Indian Nepalese. Tradi-

Arun Chacko is Associate Editor of Boston's The World Paper. He is based in Delhi and writes frequently on sub-continental affairs.

For the most part Nepal has been hospitable to Indians. But that era might end.

tionally huge numbers from both sides (including a lot of Indian traders) freely crossed the border without any travel documents. Suddenly in late August some bloody-minded Indian officials at Kakarvitta were provoked into first, sending back and later arresting, 33 Nepalese for lacking Indian permission to enter the area.

Admittedly, some places along the Sino-Indian border including Darjeeling district were declared restricted areas in September 1976, but the recent action can only be put down to official perversity. For good reason, the rule was never permanently enforced for Nepalese. Surely India has enough problems with its neighbours, not to want to add to them.

* * * *

FOR THE MOST part Nepal has been extremely hospitable to Indians. The huge Indian population permanently living there has, on its own admission, little cause to complain. But that era might be coming to a close.

That almost every second shopkeeper in Kathmandu is Indian tells its own story. And Indian labourers are everywhere. But few people were ready for a horrifying statistic being bandied about in the increasingly hostile Nepalese press. It says that of the kingdom's 15 million people, all of five million are Indian.

Not only are they reportedly taking a lot of jobs away from the increasingly indigent local people, it claimed, fully 60 per cent have Nepalese citizenship. (Shades of Sri Lanka?) This has already led to demands for work permits for foreigners.

It's impossible to assess the extent of Indian immigrant control on the Nepalese economy, though a recent claim of roughly 80 per cent would appear to be on the high side. However, it could well be anything between 30 and 50 per cent, which still is a lot.

In any case several million Indian livelihoods are involved. There are hundreds of thousand Indians making

a living selling Indian goods in Nepal, shuttling backwards and forwards each week.

Indo-Nepalese relations might not be quite teetering on the brink. But there are plenty of irritants and the Chinese influence is considerable. India cannot afford relations getting worse. If they do, Sri Lanka's Tamil problem will look like a minor inconvenience in comparison.

* * *

THE HIPPIE 'HURRICANE' which swept the west's youth in the late '60s had more or less exhausted itself in the Kathmandu valley (and Goa's beaches) by the early '70s. Most of those young people returned home—many of them to become conventional pillars of society, highly successful stockbrokers, lawyers, businessmen and the like. But just as every invasion results in a few permanent settlers, this was no different.

Several hundred of them are still in Kathmandu, a lost generation, now approaching middle age. Some still into spiritualism, others drug addicts. Many of them are bright and articulate, unable to really justify their current existence, but equally unable to return home and pick up the broken threads of their long disrupted lives.

But not everyone is a drug addict or a spiritual dilettante. Quite a few have become serious, well-respected Buddhist *bhikshus* and others tantrics of one kind or another.

However, none of them have the spiritual eminence of a 14-year-old American boy—formerly Ossian Kennard now Sangye Nyenpa Rimpoche—who has been training to be a Buddhist monk for ten years and now speaks better Tibetan than English. He is believed to be a reincarnation of the great Manjushri himself and, according to the Kargyupa sect of Tibetan Buddhism, is the sixth highest ranking lama in the world. That apart, he is the most serious, well-spoken and charming teenager I've ever met. ♦

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BY DARRYL D'MONTE

A CREDIBILITY PROBLEM?

Who would you rather believe—AIR or the Times of India?

ONE OF THE most startling findings of the *Imprint: PATHFINDERS* media poll (Cover story, *Imprint*, September 1983) is that even privately-owned newspapers and magazines have poor credibility. Only 24 per cent of respondents said they 'fully believe' newspapers and only 15 per cent said they 'fully believe' magazines. An overwhelming majority (about 70 per cent) said they 'partly believe' what they read. In comparison 40 per cent of the same respondents said they 'fully believe' the news on Doordarshan and 34 per cent said the same of news on AIR.

Of course the credibility ratings of the state-run media cannot be simplistically compared with those of privately-owned newspapers and magazines. Firstly the standards of 'credibility' applied to the private media are arguably quite different from those applied to the state media. (Only Mrs Gandhi and the extremely naive would argue that AIR is, more credible than, say, India Today.) Secondly the questionnaire did not mention any particular newspapers or magazines—it covered the entire gamut of the Indian press from the Times Of India and India Today to Sun and Current.

Nevertheless, it is safe to assume that a great majority of readers perceive the Indian press to be far less accurate and objective than they expect it to be. A senior journalist analyses this phenomenon:

* * *

ABOUT A DECADE ago, I received an interview with a woman who was

Darryl D'Monte, a former Resident Editor of the Indian Express, is currently a Homi Bhabha Fellow. He is media columnist for Sunday.



supposed to be a faith-healer from a small town in Andhra. I was looking after the Sunday Magazine of *The Times Of India* then and I published the piece, taking care to insert the word 'claimed' in the introduction. In my innocence, I thought that would be sufficient to put the woman's alleged powers in the correct perspective.

I must have received about 600 letters, asking for her address in Andhra. I was shocked—this was perhaps the real 'power of the media'! I consigned all the letters to the wastepaper basket till they stopped altogether. A little while later, however, an officer from the *Times* advertising department came and asked me for the address, mentioning that his

off so badly in the opinion poll. There's a huge gap in credibility, for instance, between the *Times* and *Daily* in Bombay. Perhaps those who were interviewed for the poll in this big metropolis thought of those massive, and very often misleading, headlines when they were asked to comment about newspapers.

The four big national dailies and the *Hindu* enjoy a reputation for credibility because they take more pains to report accurately. Some of them, particularly the *Times*, can be treated as newspapers of record. And a newspaper like the *Hindu*, however drab and unenterprising, becomes an institution in its own right, which is why people want to know what it says.

They can all be faulted, though,

wife had been paralysed for 12 years and he wanted to take her to Andhra.

"You surely don't believe all that?" I asked incredulously. His response was even more shocking: "But it's published in *The Times of India*!" If I, who had carried the piece, couldn't convince someone who worked in the very same office, what about thousands of other readers?

I cite the anecdote because to my mind it shows two things. In a poor and semi-literate country like India, the printed word itself carried a great deal of weight—much more than we journalists imagine. More significantly—and that is of greater concern in this article—the medium is as important as the message when it comes to credibility. Could you picture the same person saying, for example, "But it's published in *The Free Press Journal*?"

I suspect it's because all the newspapers have been lumped together that they, as a homogenous group, come off so badly in the opinion poll. There's a huge gap in credibility, for instance, between the *Times* and *Daily* in Bombay. Perhaps those who were interviewed for the poll in this big metropolis thought of those massive, and very often misleading, headlines when they were asked to comment about newspapers.

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Quality and credibility are not necessarily linked as the Statesman-Telegraph battle shows.

for sins of omission rather than commission. Content to subsist on hand-outs for most of the time and not prepared to run any risks, they err on the side of sobriety, not sensationalism. The readers know what they are looking at every morning isn't the whole truth, but it is nevertheless very largely part of the truth. The trouble with less professionally-run dailies is that even a hand-out can be misreported!

There is also a difference between what people actually *read* and what they *trust*. While tabloids like the *Daily* and *Mid-Day* are thriving in a city like Bombay, it is a mistake to imagine that their believability is very high. People read them for a variety of reasons—because they're physically easier to handle, especially in a city with a huge commuting population; because they're much more exciting than the staid big dailies. But when it comes to anything vital—starting with births, deaths and marriages!—they will inevitably turn to a paper of repute.

This brings us to what the pollsters say about magazines: how come they're rated even poorer than the newspapers, assuming the findings are correct? It's the same principle all over again: they are booming because they are bolder, brasher, with more pictures and better lay-outs. I'm referring more specifically to the glossies, which people buy much as they do an ice-cream (they cost about the same!)—for pure enjoyment and little else! (I think the best expression for them is the celebrated cry of Bombay's *channawala*: "Time pass, Time pass!") They mushroomed after the emergency and they've never looked back.

The newsmagazines do try and sneak between the lines, as it were. Only *India Today* and *Sunday* succeed in doing so and their credibility is very high indeed. Time was when these magazines dutifully followed up a stray item in a newspaper: the days aren't far off when the reverse will happen—that is if the editors of daily

newspapers allow their more enterprising reporters the freedom to chase as chase can. In any case, the most energetic newsmen are fast being snapped up by magazines.

I think the argument has been most neatly illustrated by the case of *The Telegraph* which MJ Akbar has now been running for a year in Calcutta for the Ananda Bazar Patrika group. Although the object of the whole exercise was to take on that old fuddy-duddy, *The Statesman*, it simply hasn't set the Hoogly on fire. The reason? *The Telegraph*, however much it may look like a brown sahib's version of the London *Times* (typographically, that is) is more of a magazine than a newspaper. People, and especially the *bhadralok* of the country's former capital, still expect certain things in a daily—almost as if they want to be bored! And even the editorials, which *The Telegraph* restricts to a solitary performance instead of the threesome which is the daily diet of the rest, are apparently so badly missed that the readers of the *Statesman* can't be coaxed to switch. Full-page feature articles, on the lines of what the *Guardian* in London used to call 'extra', are also deterring readers. Which is the better paper? *The Telegraph*. Which has more credibility? *The Statesman*.

And so the final point which the opinion poll makes: the alleged superiority of the electronic media over both newspapers and magazines. I think this finding is highly suspect. Since Mrs Gandhi has been very cautious not to restrict the freedom of the press ever since she burnt her fingers during the emergency, only the gullible would state that radio and TV present a more accurate picture of the state of the nation. As a matter of fact, it would probably be true to say that the press has never enjoyed more freedom in post-independence India than it does today. One has only to read the avid give-and-take over Shourie's exposés of newsmen in

Kashmir themselves, which were endorsed by the Editors' Guild, to realise this.

The only explanation for this finding that I can possibly trot out, if I try hard enough, is that the electronic media—like established dailies—are believed to be more accurate because they report such banalities that they are inevitably correct. True journalism lies not in parroting pronouncements by all and sundry on the most mundane of subjects—all of which are entirely faithful reproductions of what was actually said!—but in uncovering the truth behind these platitudes. The fact that in any crisis—even something as down-to-earth as a police riot in Bombay—people are let down by the state-owned media (which is all they can turn to for immediate information) speaks for itself. Last year, the BBC reported actual localities in which trouble had erupted in this city within hours of their occurrence.

I'm hardly surprised, therefore, that the BBC comes off so well. The figures of its audiences throughout the world are truly revealing. Last year, a record 100 million people—one out of 45 in the entire globe—tuned in to the overseas service. No fewer than 35 million adults hear the Hindi service regularly, which contrasts sharply with the reception accorded to the propaganda unleashed by Radio Moscow (five million Hindi listeners) and the Voice Of America (3.5 million).

I don't know how many here tune in to AIR and switch on their TV sets for the news every day. The figures will be higher, I'm sure, but there's not the slightest doubt that what Auntie BBC says is taken far more seriously than anything that voice of All Indira Radio may be droning, day in and day out. It would be interesting for a Pakistani pollster, if at all the breed does exist in that beleaguered country, to find out how many of his countrymen are tuning in to the BBC news religiously every morning these days... ♦

UNCONVENTIONAL WISDOM

BY TRAVESH SINHA

THE CASE AGAINST HANGING

How can a Liberal support the death penalty?

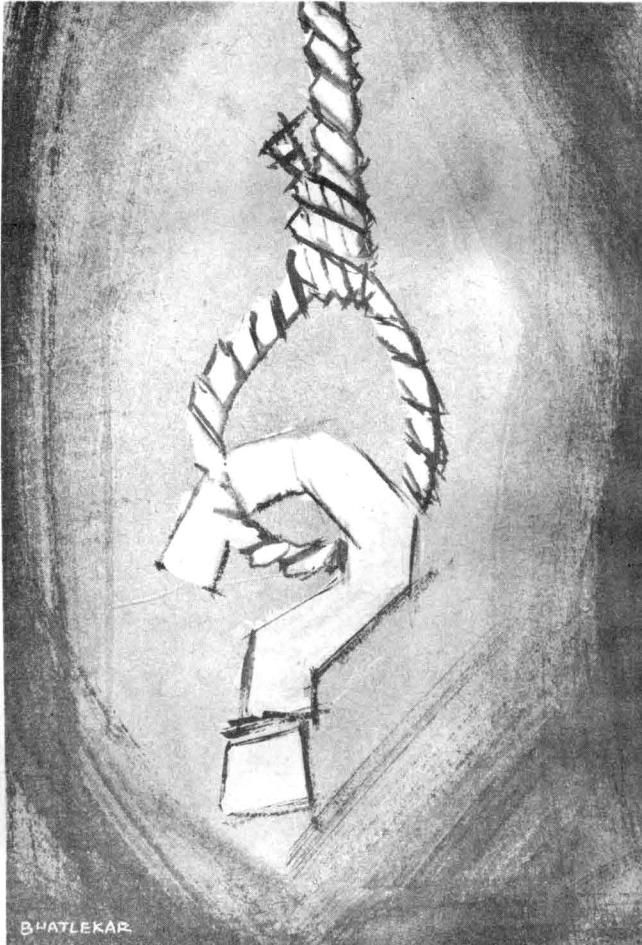
IN A SENSE, hanging and affluence are linked. As countries get richer, they tend to abolish the death penalty. Today, there are only three significant industrialised nations that still use the death penalty in peacetime: Russia, South Africa and the United States.

The Russians shoot around 400 people a year (excluding those in civilian airliners, of course) for such offences as speculation, selling for profit or dealing in shoddy goods. South Africa executes a 100 people a year—only ten are white. In the United States, the death penalty was brought back in 38 states after a Supreme Court ruling in 1976. Since then only seven people have been executed and there are moves to have capital punishment struck off the statute books.

Elsewhere, the death penalty is the sort of punishment that neo-fascists and intolerant bigots advocate. The only two Western European states to retain it are Ireland and the Isle of Man and it has been 20 years since anyone was hanged in either of those countries. There is no death penalty in any Latin American state and there is no clamour to re-introduce it.

Among poor countries, hanging is more popular. In Pakistan they've been known to hang former Prime Ministers. But as nations become more affluent, they begin to have second thoughts. Hanging remains on the statute books in Singapore and the Caribbean countries but there are strong abolitionist movements. And in Japan, there is now only one hanging a year.

In some ways, India is an inter-



BHATEKAR

national curiosity. Despite being a poor country, we pride ourselves on our liberal values. We allow free speech, guarantee equality before the laws and try and protect our minorities. But when it comes to the death penalty, we are curiously illiberal.

It is probably fair to say that there is no widespread feeling against hanging. Most Indians are in favour of capital punishment and so is a large section of the legal establishment. The lawyers who recently tried to get the Supreme Court to strike down the death penalty, are probably in the minority.

Moreover, many distinguished legal personages are firm believers in hanging them high. They see no contradiction in, on the one hand, opposing pre-

ventive detention, fighting for human rights and asserting the inalienable right of slum dwellers to make their homes on the pavement; and on the other, lending intellectual weight to the case for judicial murder.

Of course, we have our fair share of nuts. One notable lawyer told me that it was justifiable to hang people because prisons were overcrowded and we had to get rid of convicts somehow. He was not joking. Others argue without reference to reason. They talk about the horrors of bride burning, the murders committed by the likes of Billa and insist that there must be retribution.

I have no quarrel with people who believe that the function of punishment is revenge, pure and simple. Or with those who would solve our overcrowding problems by killing people off. They would not call themselves liberals, would not subscribe to the basic values of liberal society and there is therefore, no basis for discussion.

My quarrel is with those who do call themselves liberals and claim that support for hanging is entirely consistent with their other liberal beliefs. Such people have always struck me as being essentially confused. To justify a rather primitive desire for revenge, they tend to misuse liberal arguments.

Let us consider 'liberal' justifications for hanging. The case is usually based on three grounds. Firstly, all punishment is a deterrent. Hanging is the ultimate deterrent, so it is justified. Secondly, punishment must fit the scale of the crime; hanging is the appropriate punishment for murder. And thirdly, that in a democracy, even if some squeamish people oppose hanging, the fact that the majority supports

Travesh Sinha, a long-time opponent of the death penalty last wrote about it in *Imprint*, April 1982.

We are repelled by blinding criminals but approve of breaking their necks.

it is justification enough.

To take the deterrence argument first. The liberal justification for punishment is that we do not jail a man simply to get even, but to make society safe. Not only is society protected from that individual criminal, but the treatment meted out to him serves as an example to other would-be criminals and deters them from breaking the law.

As a justification for punishment in general, deterrence is logical and reasonable. But is there any evidence that the death penalty acts as a greater deterrent? Most murders are committed in the heat of the moment and the question of retribution does not really enter the murderer's head.

There is also statistical evidence. In countries where the death penalty has been abolished, the murder rate has not gone up as a result. In other words, the absence of this alleged deterrent has made no difference. Moreover, those states of America with the death penalty do not have fewer murders than those without. In fact, there is no evidence at all that the death penalty functions as a deterrent.

On the contrary, there is a likelihood that the death penalty encourages some murderers. Psychopaths like Gary Gilmour actually want to end their lives in a blaze of glory: even now there are convicted men in America who are fighting for the right to die. Terrorists welcome martyrdom. In Northern Ireland's Maze prison, IRA men fast till death, just so that they can be said to have died for their cause.

Once it is shown that capital punishment is not a great deterrent, it becomes difficult for liberals to support it. They can fall back on the 'punishment-must-fit-the-crime' justification, but this lacks weight. Of course, the scale of the punishment must match the scale of the crime—the penalty for armed robbery must be greater than that for ticketless travel. But we do already draw a line at certain kinds of punishment. When the

Saudis chop off the hands of thieves, we do not call the punishment 'an appropriate one'. Instead, we term it barbaric. When somebody suggests blinding criminals, we are repelled.

Our reactions suggest that intuitively, we do draw the line at any kind of irreversible physical chastisement. Even those of us who are not revolted by societies that flog offenders, are appalled by those that mutilate them. But surely, it is inconsistent to regard a society that cuts off a man's fingers or pours acid in his eyes as 'barbaric', if we regard breaking a man's neck and killing him as 'civilised'?

It is also absurd to justify the death penalty by reference to the majority principle. A liberal society is not just a democratic one. Taken to its logical extension, the majority principle would allow 51 per cent of the population to kill the other 49 per cent. A liberal society must grant all citizens protection from the tyranny of the majority. Hitler probably had majority support, Ayatollah Khomeini certainly does. So though a majority of the population may favour killing certain people, a liberal cannot really be swayed by the intolerance of the majority.

Can there be any other liberal justifications for the death penalty? I've heard it said that by killing somebody, an individual 'loses his right to life'. This is hardly a liberal argument. Society does not grant people the right to live and it has no business deciding when certain individuals have forfeited it. Others say that murderers of the Billa-Ranga class must be kept away from society for they would corrupt other prisoners. Even if this is true, all it suggests is that they should be kept in solitary confinement for life.

So why then are so many Indians in favour of hanging? My feeling is that we have not thought enough about the subject and that we tend to be swept away by emotion. Otherwise, we would follow most civilised, liberal societies and stop using murder as a means of upholding law and order. ♦



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THE PUNJAB INJUSTICE

A sympathetic view of the Punjab agitation.

WITHIN A YEAR after Independence, Punjab was to be betrayed and discriminated against, on the linguistic issue, while all the remaining states of India were poised for their constitutional right to their language and their linguistic state. I may quote Pandit Nehru's remark in 1948, "... there is no question of rectification of Punjab's boundaries. . . . whatever the merits of such a proposal might be" While Nehru was known for his flexibility, on the Punjab issue he remained stubbornly dogmatic and negative. This became the future policy. Nehru stuck to it for 16 years. Shastri continued the same; and Indira Gandhi has made no departure.

After denying this fundamental linguistic right for many years, Prime Minister Shastri appointed a Parliamentary Committee, in October/November 1965, under my chairmanship, to prepare a report on Punjabi Suba issue. This was done in accordance with the fresh promises made to the Sikhs during the September 1965 war with Pakistan. The intention of the Government then was to use me against my community, secure an adverse report and then reject the demand even after 18 long years of deliberate, frustrating delays. When my report was nearly ready Mrs Indira Gandhi went to Mr YB Chavan and said she had heard that Sardar Hukum Singh was going to give a report in favour of Punjabi Suba and that he should be stopped.

Lal Bahadur Shastri continued the policy of Jawaharlal Nehru and was



The late Sardar Hukum Singh was a Speaker of the Lok Sabha and Governor of Punjab.

undermine its importance. Why the Government had been so strongly against the Parliamentary Committee making a report in favour of Punjabi Suba, and why Mrs Gandhi had tried to stop Hukum Singh, has been explained by Mrs Gandhi. She says that she did not want to let down Hindu support in Punjabi Suba. Does this mean that because of Hindu votes in Punjab the Congress has to do injustice to the Sikhs?

The Parliamentary Committee had come to these conclusions: (1) The present State of Punjab be reorganised on a linguistic basis; (2) The Punjabi region specified in the First Schedule to the Punjab Regional Committee Order, 1957, should form a unilingual Punjabi State. The Government bypassed the Committee and forestalled its report. The subsequent reference to the Shah Commission was loaded heavily against Punjab. Making the 1961 Census as the basis and the *tehsil* (instead of village) as

dead against the demand of Punjabi Suba, as was Nehru. So, when he was urged by Mrs Gandhi to stop Hukum Singh, he did not waste any time. Mr Shastri called Mr Gulzari Lal Nanda, then Home Minister, to his residence and conveyed to him his concern about the 'feared' report. Every effort was made by Mrs Gandhi, Mr Shastri, and Mr Nanda to stop me from making my report. But when nothing succeeded, the Congress forestalled the Parliamentary Committee while the committee report was signed on March 15, 1966, a week later. So it is not a fact that the recommendations of the Parliamentary Committee were accepted, as stated by Indira Gandhi on November 26, 1982. It was a deliberate attempt to bypass this Committee and

the unit, was a deliberate design to punish the Sikhs. Since the language returns in the 1961 Census were on communal lines, hence Punjabi-speaking demarcation had also to be on a communal rather than on a linguistic basis. Consequently merit was again ignored and justice denied. Naturally tensions between the two communities increased. If Punjabi Suba had been demarcated simply on a linguistic basis and not on the false returns of 1961, there would not have been any extremist movement. Tension between Hindus and Sikhs in Punjab is certain to continue unless the communal section of Hindus see the light and retrace their steps by acknowledging Punjabi as their mother tongue.

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INSOLENCE BEFORE JUSTICE

India's corrupt politicians are beyond the purview of the law

By A G Noorani

"Depthless cowardice before power and limitless insolence before justice are the constants of the political behaviour of the Indian people."

—Nirad C Chaudhuri, *Hindustan Standard*, October 13, 1969.

IMPLICIT IN THIS STATEMENT is a telling comment on the failure of the Indian legal system as well. It has dismally failed to check abuse of power by the powerful. Worse, it has allowed them to get away with impudent insults to the judicial system. There are some fine instances of courageous judgements. But the Indian legal system as a whole, holds few terrors for the power-drunk politician.

"With us every official, from the Prime Minister down to a constable or a Collector of taxes, is under the same legal responsibility for every act done without legal justification as any other citizen," Dicey wrote of the English legal system. "The Law Reports abound with cases in which officials

have been brought before the courts and made, in their personal capacity, liable to punishment or to the payment of damages, for acts done in their official character but in excess of their lawful authority."

Can we say this of our legal system in actual practice? There have been Commissions of Inquiry galore. But they can only expose, they cannot punish. There is not one instance of a politician whose career was terminated as a result of a Commission's censure; none whatever of a politician being made to suffer imprisonment for the misdeeds thus exposed. The labyrinths of the law do not exactly ease the course of a citizen who pursues a public wrongdoer. There are, besides, the famous cases of withdrawals of cases. And if the Governor of Haryana can pardon a mere Deputy Superintendent of Police, Parmanand, who was convicted and sentenced to three month's imprisonment and a fine of Rs 500 for beating up processionists—a sentence confirmed by the Supreme Court—who can be sure that this power will not be used to pardon politicians of

consequence to the ruling party?

THE ANTULAY CASE PROVIDES an excellent instance of the frustrating obstacles which beset anyone who tries to bring to book a politician who is reasonably suspected of having committed grave offences.

Two years ago—on September 11, 1981 to be exact—Ramdas Nayak filed a criminal complaint in the Court of the Chief Metropolitan Magistrate accusing AR Antulay of carrying out, in conspiracy with others, 'a scheme of self-aggrandisement involving obtaining of funds from the members of the public' through the medium of the trusts he created and controlled and by abuse of his powers as Chief Minister in respect of certain matters: allotment of cement, industrial alcohol, liquor licence, permission to construct buildings and let out premises and fixing the price of sugarcane and sugar manufactured by the co-operatives. Under each of these heads, the complainant set out the full details of pay-

ments—dates, amounts and cheque numbers—as also the facts regarding the creation of the trusts.

Antulay was accused of committing various offences under the Penal Code, Section (S) 161 (public servant taking gratification other than legal remuneration in respect of an official act); S 165 (public servant obtaining valuable thing without consideration, from persons concerned in the official business transacted by him); S 384 (extortion) and S 420 (cheating), as also 'criminal misconduct', an offence under S 5 of the Prevention of Corruption Act, 1947. That includes habitual acceptance of illegal gratification as also obtaining any valuable thing by corrupt or illegal means or by abusing his position as a public servant. But, S 6 of the Act lays down that no court can take cognisance of an offence under S 5 or under S 161 and 165 of the Indian Penal Code (IPC) without the sanction, in the present case, 'of the authority competent to remove him (the public servant) from his office'.

The magistrate ruled that the complaint was, therefore, not maintainable in the absence of such sanction except insofar as it related to S 384 (extortion) and S 420 (cheating). Nayak challenged in the High Court the requirement of a prior sanction as being unconstitutional, while Antulay and the State Government contended not only that a sanction was imperative but that it could only be accorded by the State Government through its Law Minister, i.e. by the Chief Minister. (In effect—Indira Gandhi, the Prime Minister.)

Earlier, on January 12, 1982, Justice B Lentin of the Bombay High Court



Antulay: getting away.

had allowed a writ petition filed by PB Samant, Mrinal Gore and Kamal Desai challenging Antulay's methods of cement allocation. He held that cement allocations had been granted to builders as a *quid pro quo* for their donations to the Antulay trust.

Antulay resigned as Chief Minister but his successor Babasaheb Bhosale appointed him as Chairman of the Board of Directors of the State's Irrigation Development Corporation on January 25, 1982 in order to extend to him the protection the law affords to 'public servants' from accountability.

Antulay as well as the State Government appealed to the High Court against Justice Lentin's judgement. On June 10, 1982 a Division Bench, consisting of Justice SK Desai and Justice BJ Rele, dismissed the appeal. But the proceedings in the writ case were not taken into account by the other Division Bench, consisting of Justice BC

Antulay has gained two precious years and it remains to be seen if the case will be heard.

Gadgil and Justice Kotwal, which heard arguments on the necessity for prior sanction in the criminal case pending before the Magistrate.

On April 12, 1982 they ruled that the question of sanction can be decided only by one who is manifestly independent and unbiased; in the case of a Chief Minister, it can only be the Governor of the State acting 'in his individual discretion and without the aid and advice of the Council of Ministers'. Additionally, the court held that the Governor's refusal to accord sanction is open to judicial review.

Against these rulings Antulay appealed to the Supreme Court which admitted the appeals but refused to grant a stay of the criminal case. Meanwhile, following the Court's ruling, Governor IH Latif gave the sanction. Antulay resigned from the Chairmanship of the Corporation. But this did not make things much easier for the complainant, Ramdas Nayak, either.

(Forget the technical arguments about the appointment of a Special Judge to hear the case under the Prevention of Corruption Act.) Antulay argued that since he was a mere MLA now, the Governor's sanction did not matter. The sanction of the State's Legislative Assembly was required.

The Bombay Special Judge, RB Sule upheld this contention in July 1983 to the dismay of all. The Supreme Court has admitted for a full hearing Nayak's appeal. Sule's judgement in effect makes the ruling party the arbiter of whether one of its members should be prosecuted or not—with equal liberty, of course, to make a similar decision in regard to a member of an opposition party!

Antulay has gained two precious years and it remains to be seen whether Nayak's case will be heard and decided on the merits before the next general elections.

The sanction provisions are an anachronism. Besides S 6 of the Prevention of Corruption Act, there is another, wider provision. Section 197 of the Criminal Procedure Code, 1978, likewise makes a sanction of the appropriate Central or State Government necessary before a 'public servant' in its employment is prosecuted in respect of any 'offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty'.

Elsewhere in the country, another former Chief Minister has not been able to avail himself of the sanctions plea because he does not belong to the ruling party. On September 2, 1983, the Special Judge, Bhopal, ordered the attachment of all bank accounts and shares of companies in the name of former Janata Chief Minister VK Saklecha. The economic offences wing of the State Police had filed a charge-sheet against Saklecha in the court of the District and Sessions Judge, Bhopal, last February under S 5 of the Prevention of Corruption Act.

The police investigations had reportedly shown that there was a 'sudden and rapid' accumulation of assets by Saklecha and his family to the tune of Rs 35 lakhs between June 1977 and January 1980. The Saklecha family opened 28 new bank accounts in this period, while they had reportedly only eight bank accounts before he came to power.



Jagannath: scot-free.

Likewise, M Karunanidhi was sacked as Chief Minister of Tamil Nadu in January 1976. Five months later a First Information Report (FIR) was filed against him alleging various offences under the Penal Code (Sections 161, 468 and 471) and under the Prevention of Corruption Act. Two cases were registered. The Janata government refused to withdraw them though it withdrew the cases against PS Badal. Karunanidhi forged an alliance with Indira Gandhi on the eve of the January 1980 Lok Sabha election.

On May 13, 1981 the cases against Karunanidhi were withdrawn on the CBI's application. The background to the withdrawal shows that it was inspired by political motives. Soon after sacking Karunanidhi, Indira Gandhi had appointed a Commission of Inquiry, consisting of Justice RS Sarkaria of the Supreme Court, to inquire into the charges levelled against him way back in 1972. In June 1977 the Commission stated: "On November 17, 1970, Shri Karunanidhi abusing his official position, as the Chief Minister of the state of Tamil Nadu, accepted, through his Private Secretary, Vaithialingam, a sum of Rs 25,000 as illegal gratification, from HP Rao, Managing Director of Pushpaka Aviation (Private) Limited, Bombay, as a motive or reward for awarding to the said company spraying contract during the year 1970-71 in respect of an acreage of 1.5 lakhs at the rate of nine rupees per acre, a rate which was in excess of what that Company itself had originally quoted." The details of other payments are set out in the Report. All in all, 'the actual amount paid to the Chief Minister through

Vaithialingam was Rs 1,42,273'.

The Commission also held that Karunanidhi and his colleague Anbil Dharmalingam had 'attempted to stall, thwart and frustrate the investigation' of the case which the CBI had registered against them for these offences on April 5, 1973. Justice Sarkaria held that the charges had been proved 'by cogent, convincing and reliable evidence'.

On May 13, 1981, the CBI successfully sought from the Court the withdrawal of this very case and another in which Karunanidhi was charged with accepting a bribe of Rs 3.5 lakhs from wheat dealers 'as the first instalment'.

The Supreme Court will hopefully review the law relating to the withdrawal of criminal cases. On January 28 this year the Court admitted an appeal against the withdrawal of prosecutions against Nandini Satpathy, former Chief Minister of Orissa, on charges of corruption. The appeal has



Karunanidhi: all cases withdrawn.

draw cases launched 'out of political vendetta'. On February 25, 1981 the Secretary to the Bihar government informed the District Magistrate, Patna, of the decision to withdraw the cases against Mishra. A new Public Prosecutor, LP Sinha, had been appointed only the day before and he formally applied for withdrawal of the case on June 17, 1981. The Special Judge gave his consent. The High Court in revision confirmed the order. The Supreme Court, by a majority of two (Baharul Islam and RB Misra JJ) to one (VD Tulzapurkar J) upheld the High Court's order. Not long after the judgement was delivered, Baharul Islam resigned from the Supreme Court to become a Cong (I) candidate in the Assam elections.

The Supreme Court itself is responsible for the present unsatisfactory state of the law on the subject. In 1980 it lumped the Baroda dynamite case with the cases against Bansi Lal and upheld the withdrawal of both in a single judgement. The two cases were basically dissimilar. The first, as the Court recognised, concerned a political offence. The other was palpably devoid of any political complexion. It concerned the demolition of a building out of sheer private vendetta because the owner, Manohar Lal, had refused to sell land to Bansi Lal's son and a relative.

The withdrawal of the Baroda dynamite case was upheld because the very order sanctioning the prosecution itself showed that the object of the accused was *exclusively* political—'to arouse resistance against the said, emergency'. 'Political offences' are a well-recognised legal concept. No such

Justice Baharul Islam upheld the withdrawal of cases against Jagannath and then joined the Congress(I).

been referred to a larger Bench comprising at least five judges. The Supreme Court has also allowed a review petition against its majority judgement delivered last December in the Jagannath Mishra case upholding the withdrawal of a case against him and others.

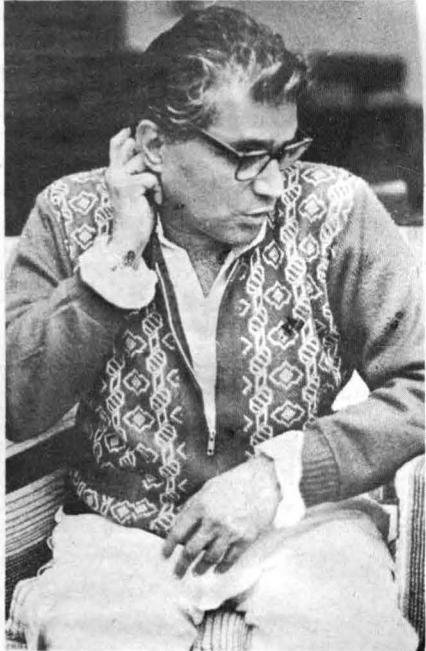
In February 1979 a charge-sheet had been filed against Dr Mishra, Nawal Kishore Sinha and four others after obtaining the Governor's sanction. AK Datta was appointed Special Public Prosecutor. The accused were charged with grave offences like forgery, cheating, conspiracy. Dr J Mishra was additionally charged with criminal misconduct under the Prevention of Corruption Act for abusing his position as a public servant to subvert a criminal prosecution and thereby obtain pecuniary advantage for himself or others.

No sooner did Dr Mishra return to power in June 1980 than a policy decision was taken by his Cabinet to with-

question arose in Bansi Lal's case, of course. There was nothing political about the destruction of Manohar Lal's properties. The motive imputed to Bansi Lal was mere private vendetta.

The Supreme Court, nonetheless, upheld the Public Prosecutor's action in withdrawing the Bansi Lal case 'in view of two outstanding circumstances'. One was that the State Government had decided to withdraw only four out of 25 cases against Bansi Lal and others. The other was that the complainant had received his land back and also compensation for the demolition.

The judgement was delivered on May 2, 1980. By then a few other cases too had been ordered to be withdrawn—eight cases on February 1 and 11 on April 3. As for payment of com-



Fernandes: lumped with Bansi Lal.

pensation for the demolitions, the Supreme Court overlooked the clear findings of the Jaganmohan Reddy Commission of Inquiry: "On the evidence, it appears clear that the destruction and demolition of shops, residential houses, temples, *samadhis* and other properties in Bhiwani of Shri Manohar Lal and his sons was not at the instance of the Bhiwani Improvement Trust.

"The demolitions were, however, at the instance of Shri Bansi Lal who, as Chief Minister and subsequently as Defence Minister, being frustrated at not obtaining the properties of Shri Manohar and his sons for his son, Shri Surinder Singh, and his brother Shri Raghbir Singh, to build a five-star

tourist hotel and an air-conditioned cinema by them respectively at a throwaway price, abused his position as a person in authority and with vindictiveness, malice and cussedness, had the properties demolished through Shri Surinder Singh." Can the owner's compromise with the Trust absolve Bansi Lal and Surinder Singh of a criminal offence?

INDIRA GANDHI'S GOVERNMENT lost little time in launching a veritable 'operation withdrawal' as soon as it assumed power in January 1980. The Kapoor Commission's report notwithstanding, the Rewasa murder cases against Surinder Singh, son of Bansi Lal, were withdrawn on May 17 and 23, 1980. So too, despite the Shah Commission's report, were the cases concerning the Turkman Gate and Arjun Nagar demolitions, on June 28, 1980.

On May 24, 1980, the Additional

Dhirendra was accused of embezzling and illegally importing cars and a plane.

Chief Metropolitan Magistrate, SM Aggarwal, dropped the proceedings against Indira Gandhi, RK Dhawan and PS Bhinder in the Sachar detention case. He said, "When the prosecution in the instant case is itself not interested in launching criminal prosecution and is not able to ensure the success, it would be just futile for the court to direct the prosecution to file the charge-sheet for taking cognisance of the alleged offences and order a trial which in all probability is likely to be protracted and agonising." Surely, the Court could have ordered the police to investigate the offences or at least *censured* the prosecution.

The court refused to hear two of the detainees concerned who wished to oppose the CBI's application. It opined, "Prima facie, sufficient material, both on facts and law, warranting taking cognisance is not disclosed." The Shah Commission's report documents the charge to the hilt on the basis,

among others, of the evidence of District Magistrate Sushil Kumar.

On the same day, May 24, 1980, the cases in respect of the detention of opposition leaders on trumped-up charges were also dropped. The Shah Commission had censured these arrests. The worst in the series was the withdrawal on June 7, 1980 of the cases against Sanjay Gandhi which were a sequel to the Report on Maruti Ltd, made by a sitting judge of the Supreme Court, Justice AC Gupta.

Cases against Dhirendra Brahmachari, in which the charges ranged from embezzlement of government funds to illegal import of two Mercedes Benz cars and an aircraft from the US, were withdrawn. Sundry officials too went scot-free. The Youth Congress (I) workers, Devendra Pandey and Bhopal



Satpathy: getting away.

Pandey, who had hijacked a plane, had been rewarded with tickets for the State Assembly. Later, in November 1980 the cases against them were withdrawn.

What does this record of withdrawal of cases and partisanship in prosecutions speak for our system of criminal justice? The damage it has suffered in recent years is incalculable, possibly irreparable. For this, it is the judges who are largely to blame, as the tortuous course of the *Kissa Kursi Ka* case clearly illustrates (See box).

ONLY ONE ENDOWED with phenomenal industry and with the patience of Job can keep abreast of the myriad Commissions of Inquiry set up

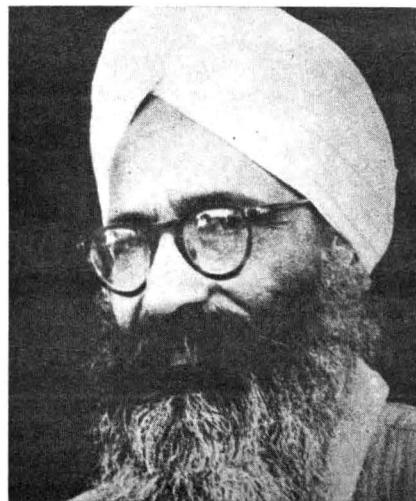
since Independence. The Judges who served on them have acquitted themselves creditably. It is the Government and the people who have failed. Both have ignored the Reports and their findings.

For long the Nehru government studiously refrained from instituting independent probes into charges of corruption. The most notorious case of such remissness was that of the Jeep Scandal involving VK Krishna Menon. Even the Report of the Congress Parliamentary Party's sub-committee indicting Menon was suppressed.

So was Justice SK Das's report on KD Malaviya's dealings with Serajuddin as a result of which he had to resign from the Union Cabinet in 1963.

The first Commission of Inquiry to probe into charges of misconduct against a Minister was the SR Das Commission in the Partap Singh Kairon case. It was submitted on June 11, 1964 just three days before Lal Bahadur Shastri was sworn in as Prime Minister. His first impulse was not to publish the Report but Kairon's conduct forced his hand. Published it was and Kairon had to quit.

The Ayyangar Commission was set up by the Sadiq government to bring to book a powerful political opponent, Bakshi Ghulam Mohammed. His misdeeds were as egregious as his opponents' opportunism. The Report, submitted on June 30, 1967, found Bakshi guilty of gross abuse of power and of corruption. In 1971 Mrs Gandhi handpicked him as the Congress candidate for the Lok Sabha Srinagar



Kairon: forced to quit.

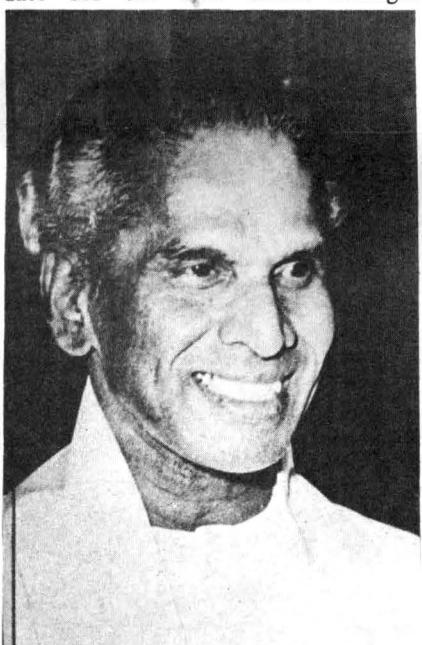
constituency where he went down to a deserved and humiliating defeat at the hands of the late Shamim Ahmed Shamim.

Similar opportunism had been displayed in the Biju Patnaik case by the

Biju Patnaik got away scot-free despite the serious charges against him.

Janata and the Lok Dal leaders and, not least, by MC Chagla. On November 15, 1964 the Director of CBI submitted a report which recommended 'further inquiry to come to a definite and clear conclusion'. The charges were not 'unfounded, unsubstantiated or untrue'. A Commission of Inquiry should have followed as a matter of course. Instead, a Cabinet sub-committee was set up which, while making subdued criticisms, advised *against* the setting up of a Commission of Inquiry. One of its members, the Education Minister, MC Chagla, was most vociferous in defending this course and, by implication, Patnaik—"I would not hang a dog on the basis of an *ex parte* statement like this."

True, Patnaik resigned from the only official position he then held—Chairman of the State Planning Board—and his Man Friday, Biren Mitra, from the Chief Ministership. But a full probe was deftly averted.



Menon: inquiry report suppressed.

On October 26, 1967 Justice HR Khanna was appointed as Commission of Inquiry by the Singh Deo Ministry in Orissa. Patnaik was found guilty of grave improprieties.

Justice Khanna deplored that Patnaik should have "allowed such a sway to the pecuniary and business interests of the companies, which had been started by him and with which his family members were associated, in dealings with the State Government, that within two or three years of his stewardship his public image became tarnished and the hopes which were built around him, were shattered to pieces."

The manner in which Biju Patnaik as Chief Minister, palmed off to the state's Industrial Development Corporation (IDC) his Low Shaft Furnace Plant which was uneconomical was only too well-known. Justice Khanna said, "The position, as it emerges in the final analysis, is that Mr Patnaik was able to get rid of and pass on to the IDC the Low Shaft Furnace Plant, which in his own words was uneconomical and retain for his Company the mining lease, for the retention of which he was so keen that he had to file a writ petition in the High Court, even though the mining lease and the Low Shaft Furnace Plant were admitted by him to be linked together." Other improprieties were also found by the Commission.

In March 1977, Morarji Desai brushed aside the findings of the Khanna Commission and made Biju Patnaik a

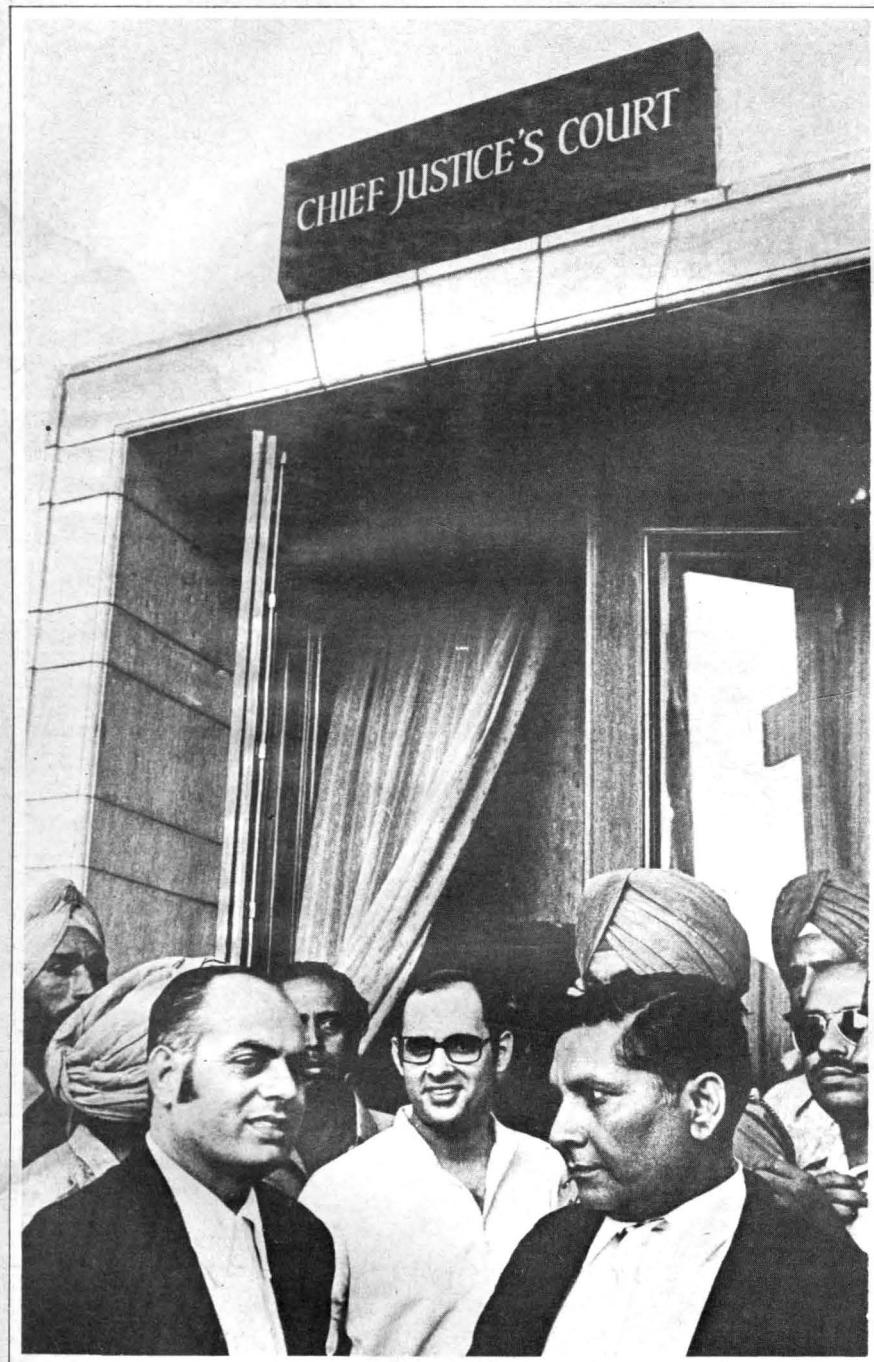
(continued on page 23)



Bakshi: egregious misdeeds.

SANJAY AND THE LAW

The Kissा Kursi Ka Saga



A sorry farce: Sanjay and his lawyers outside the court.

The tortuous course of the Kissा Kursi Ka case clearly illustrates that the damage the court has suffered in recent years is incalculable.

THE SUPREME COURT had to intervene twice during the trial of the *Kissa Kursi Ka* case. Sanjay Gandhi tried to stall the proceedings. Rejecting his petition for leave to cross-examine witnesses in the committing Magistrate's court, Justice Krishna Iyer observed, "No party to a criminal trial has a vested right in slow motion justice since the soul of social justice in this area of law is prompt trial followed by verdict of innocence or sentence."

On May 5, 1978 a three-member Bench of the Court, consisting of Chief Justice Chandrachud and S Murtaza Fazal Ali and PN Shinghal JJ, cancelled his bail for a period of one month and directed that Sanjay be taken into custody. He had been found guilty of tampering with prosecution witnesses.

On February 27, 1979 the District and Sessions Judge, Delhi, convicted Vidya Charan Shukla and Sanjay Gandhi of entering into a conspiracy to destroy during the emergency the film *Kissa Kursi Ka* produced by Amrit Nahata, MP and of committing various other offences in consequence. They were sentenced to two years' rigorous imprisonment each and fines of Rs 25,000 and Rs 10,000 respectively.

On November 26, 1979 a Bench of three Judges of the Supreme Court consisting of Murtaza Fazal Ali, Kaushal and Kailasham JJ began hearing Sanjay Gandhi and VC Shukla's appeal.

It was partly heard when Mrs Gandhi returned to power. The Special Public Prosecutor, Ram Jethmalani, was willing to continue but he was asked to return the brief which he correctly did. Mr JS Wasu was appointed in his place. Meanwhile on January 29, 1980, NK Singh, DIG of the CBI and the investigating officer in the case, was arrested on the basis of a complaint filed three years earlier.

When the appeal reached hearing on February 21, 1980, VM Tarkunde appeared for NK Singh and sought leave to intervene. The intervention, he argued, had become necessary as after the change of government 'the accused had merged with the State'.

Further, in the course of the hearing, the Judges had made serious remarks against NK Singh and his conduct of the investigation. He could not instruct the new counsel, Wasu. The Judges, however, declared that they did not intend to make any remarks against Singh in their judgement. In case they did, they would call upon him to argue the matter.

Wasu's performance is set out in the PTI report on the proceedings very eloquently. "Mr Wasu, who folded up his arguments within 15 minutes in reply to the arguments advanced by Mr Rajinder Singh, counsel for Mr VC Shukla and Mr KL Arora, counsel for Mr Sanjay Gandhi, over the last three months, told the court that he had nothing more than what was already on Court's record to substantiate his case. He could not over-elaborate the points already made by the prosecution in the trial court." Justice Kaushal put a specific query: could he answer the defence argument about Sanjay Gandhi's absence during the dates on which the burning of the film was said to have taken place? Wasu boldly replied: "The burning of the film is not supported by any evidence." (*The Statesman*, February 22, 1980). When Wasu sat down, the Court reserved judgement.

The very next day the former Special Prosecutor, Ram Jethmalani said in a statement to *Deccan Herald*: "From my knowledge of the case I can say that vital evidence was neither noticed by the Judges on their own



VC Shukla: case dismissed.

nor pointed out by counsel for the State. Every criticism of the evidence by the accused had a fair explanation which required judicial consideration. The judges have shut their eyes to light when light was available in plenty. A terrible blow has been dealt to the dignity of the Supreme Court, the consequences of which will be tragic in the extreme." Wasu, he said, "chose not to address the court or attempt a defence of the trial court judgement or attempt to answer the judges queries which lays him open to the charge of lack of professional ethics."

On April 11, 1980 the Court allowed the appeals and quashed the convictions. This writer analysed the judgement in detail shortly thereafter in an article in *Economic and Political Weekly* (June 14, 1980) and exposed its infirmities.

Two passages in the judgement alone suffice to show the Court's approach: "We have heard learned counsel for the parties at great length both on the constitutional points involved in the appeals and the facts (emphasis added) ... After having gone through the entire evidence, with the able assistance of Mr Rajinder Singh, learned Counsel for A-1 (Accused No 1, Shukla) and of learned counsel for the State..."

Both statements are a patently wrong description of Wasu's 15-minute performance. The record had run into 6,500 pages in 20 volumes. The trial Court's judgement was 300 pages long. The 44 pages of the Supreme Court's judgement make sorry reading. ♦



Above the law?: Sanjay

(continued from page 21)

member of his Cabinet which set up one Commission of Inquiry after another. Only in the case of his own son Kanti and himself was the demand for a Commission of Inquiry turned down.

Biju Patnaik still struts about as a *neta*. Nor was Dr Harekrushna Mahtab's political career much hampered by the Sarjoo Prasad Commission's finding that 'the acquisition of wealth by Shri Mahtab was much beyond his ostensible sources of income and must have been derived through unauthorised and illegal sources for which he has completely failed to account'. Mahtab was found guilty of accepting a bribe of Rs 2.5 lakhs in 1959 for showing favours to *kendu* leaf contractors.

Justice TL Venkatarama Aiyer found Mahesh Prasad Sinha, the strong man in KB Sahay's ministry in Bihar, guilty of the same charge. This was in two instances. In one he received a bribe of Rs one lakh, and in the other of Rs 75,000—both from the same contractor, MS Ramiah of Bangalore. Three contracts of works had been awarded to him in 1965. Sahay himself was found guilty of 'favouritism and abuse of power'.

The Commissions of Inquiry appointed by the Janata government were a varied lot. The Shah Commission was concerned with the emergency excesses. Three other Commissions dealt with charges against three Chief Ministers—Justice Jaganmohan Reddy on the doings of Bansi Lal; Justice AN Grover on those of Devraj Urs; and Justice JR Vimadalal on Vengal Rao. Of these, Vengal Rao emerged unscathed. The only findings against him were for using state machinery to accord a 'royal welcome' to Sanjay Gandhi.

Of Bansi Lal, Justice Reddy said. "The way in which Bansi Lal acted as Chief Minister leads one to examine how the whole elaborate machinery of administration can be subverted to suit the personal whims and objectives of a single person who is the head of the whole administration, viz. the Chief Minister." Several acts of gross abuse of power were proved. Devraj Urs was found guilty of favouritism and abuse of power.

But the ablest among the Commission of Inquiry reports is easily that of Justice AC Gupta of the Supreme Court on the Maruti scandal. He exclaimed, "What is remarkable is that Maruti Limited got away with every-

thing. From the interest taken in Maruti's progress by men from the Prime Minister's Secretariat and the way even matters connected with the country's defence were subordinated to the interest of Maruti Limited and the prevailing sense of fear that prompted implicit obedience, one is left in no doubt as to the origin of the power that made such a state of affairs possible. Shri Sanjay Gandhi exercised only a derivative power, its source was the authority of the Prime Minister."

No holds were barred, no rules left inviolate. The concluding chapter of the Report remarked, "The affairs of the Maruti concerns, described in the previous chapters, appear to have brought about a decline in the integrity of public life and sullied the purity of administration."

The exposure in the Report invited attention to other aspects which, Justice Gupta said, deserved a detailed probe. "Evidence has been adduced showing that shares of Maruti Limited were allotted to persons who knew nothing about the transaction." Further, "In February 1977 large sums of money were paid out to fictitious persons as refund of their dealership reservation money or deposits made by them along with their alleged applications for Maruti shares. All these indicate the presence of unaccounted money." The Commission recommended a detailed probe of the records—many more irregularities are likely to



Kanti: exonerated?

come to light'.

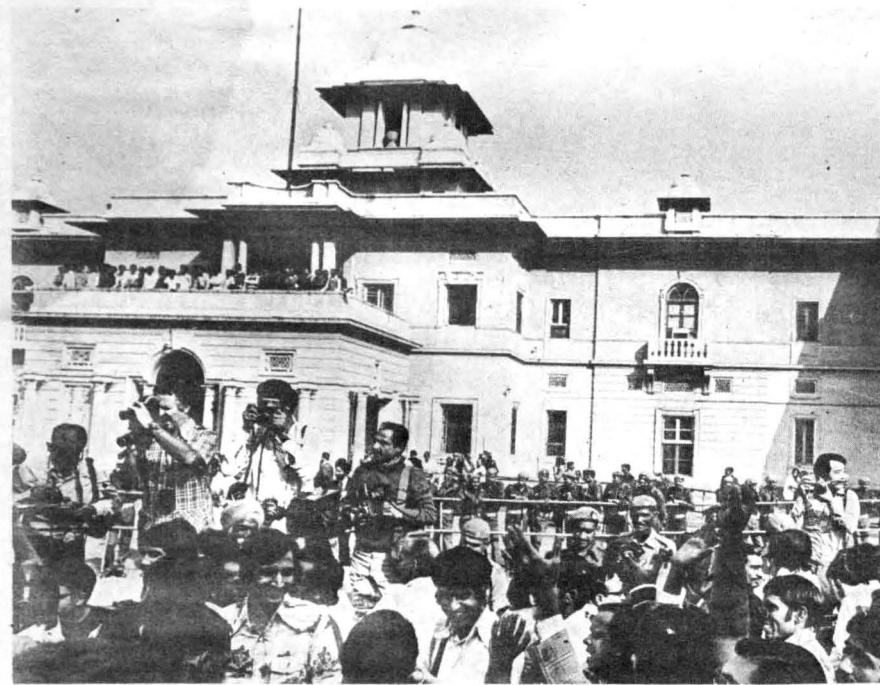
The aftermath is well-known. On October 14, 1980 President N Sanjiva Reddy promulgated the Maruti Limited (Acquisition and Transfer of Undertakings) Ordinance, 1980. Maruti Ltd was nationalised. A sum of Rs 4.34

**Vaidyalingam
exonerated Kanti but
Morarji was clearly
implicated.**

crores was to be paid to the Company as compensation.

CA Vaidyalingam did not operate under legal sanction. His concern, quaintly enough, was with the *members of the families* of Messrs Morarji Desai and Charan Singh, *not with the doings of these two stalwarts*. It was an absurd approach. Consider this instance alone. One of the charges was the reversal of the import policy on polyester filament yarn on August 22, 1977 and the removal of the relaxation 11 days later on September 2, 1977. Among the firms which benefited during the brief interlude was a company with which a friend of Kantilal Desai was connected and the relaxation, allegedly, was at his instance. The record, however, does not disclose a shred of evidence against Kantilal Desai.

What the Report discloses is something more serious: "The Commerce Minister on July 26, 1977 agrees with the Department in refusing the request of this Corporation for import of polyester filament yarn. The then Prime Minister, father of Shri Kantilal M Desai, specially pleads for this Corporation. The Commerce Minister expresses inability on July 28, 1977 relying on rules and policy of Government. The policy is changed and this Corporation gets licence. Later, they have also been granted licence in December 1977." But Vaidyalingam was concerned only with 'the part played by Kantilal M Desai by himself or through his father, the then Prime Minister' and recommended a probe. By any fair tests a probe against Kantilal Desai on this charge cannot be recommended since there is not a tittle of evidence to connect him. But *prima facie* evidence there clearly is against Morarji Desai against whom, however, a probe was not recommended.



A doomed mission: crowds outside the Shah Commission.

THE POST-1980 DOINGS OF politicians in power put the record of their predecessors in the shade. The doings have been relentlessly exposed in the press. But no libel suits have been filed although the law of libel in India is tilted in favour of the complainant. It is not enough in a criminal prosecution for libel to prove that the allegations are true. It is further necessary to establish that they are made for the public good. Truth by itself is no defence. Yet none of the exposures in the press have succeeded in inviting a single serious libel case.

On the other hand, the law is incredibly lax in matters of fund collection. There is no accountability worth the name.

Curiously, the framers of the Constitution completely overlooked S 124 of the Government of India Act, 1919 which defined certain acts on the part of 'any person holding office' under the Crown to be misdemeanours. One of them was 'oppression' by the Minister or Civil Servant 'in the exercise of his authority'. (This would have taken care of Mrs Gandhi's fraudulent proclamation of emergency. Another was 'wilful breach of the trust and duty of his office'. This provision could have been incorporated in our Constitution with suitable adaptation.

It is not too late in the day to do so. But, to begin with, the sanction provisions in the Criminal Procedure Code as well as the Prevention of Corruption Act must go. The citizen should have unimpeded access to the Courts of Law for complaints against holders of public office. The law is not powerless to deal with frivolous complaints and malicious complainants.

What the *proven* record reveals, from Reports of Commissions of Inquiry, is only the proverbial tip of the iceberg. It is hideous and terrifying enough. The malaise is far too deep to be tackled by existing laws. They need to be tightened up. Yet, it is only realistic to admit that the law alone is no deterrent. Public consciousness matters.

Forty years ago the Calcutta High Court delivered a judgement of great importance couched in excellent prose. The Court criticised the Chief Minister of Bengal, AK Fazlul Huq's misconduct in interfering in the trial of a criminal case by a District Magistrate. Chief Justice Derbyshire delivered this majestic censure:

"If the legitimate and proper transport of food can be interfered with and the malefactors protected by the Chief Minister of the province when they are brought before the Courts of law, there is an end of law and order in the province.

"The result is that instead of the orderly distribution of food there is a scramble for it in which the weakest suffer. Mr Fazlul Huq was Minister for the Home Department at the time this rice looting took place. The looted rice was intended for the Berhampore jail. The administration of jails is a matter with which the Home Department is



Mrs Gandhi: fraudulent Emergency.

charged. But neither the solemn oath nor public responsibility prevented him from doing this nefarious work.

"A person who takes an oath or makes an affirmation to tell the truth in a judicial proceeding and breaks it is guilty of perjury and may be punished at law by the Courts. A person, however, who on taking up an office is required by law to take an oath of office that he will faithfully perform the duties of that office takes what is called a promissory oath. The breach of a promissory oath, in the absence of a special provision of law to that effect, is not punishable at law. As far as I am aware there is no punishment in law for the breaking of the promissory oath taken by Mr Fazlul Huq when he assumed office as Chief Minister.

"But the clear violation of it brands a man as unfit for public office. If solemn promissory oaths by persons who take high office in the State are to be disregarded as mere formalities, there is no possibility of good government. Mr Huq is left to the contemplation and judgement of his fellowmen."

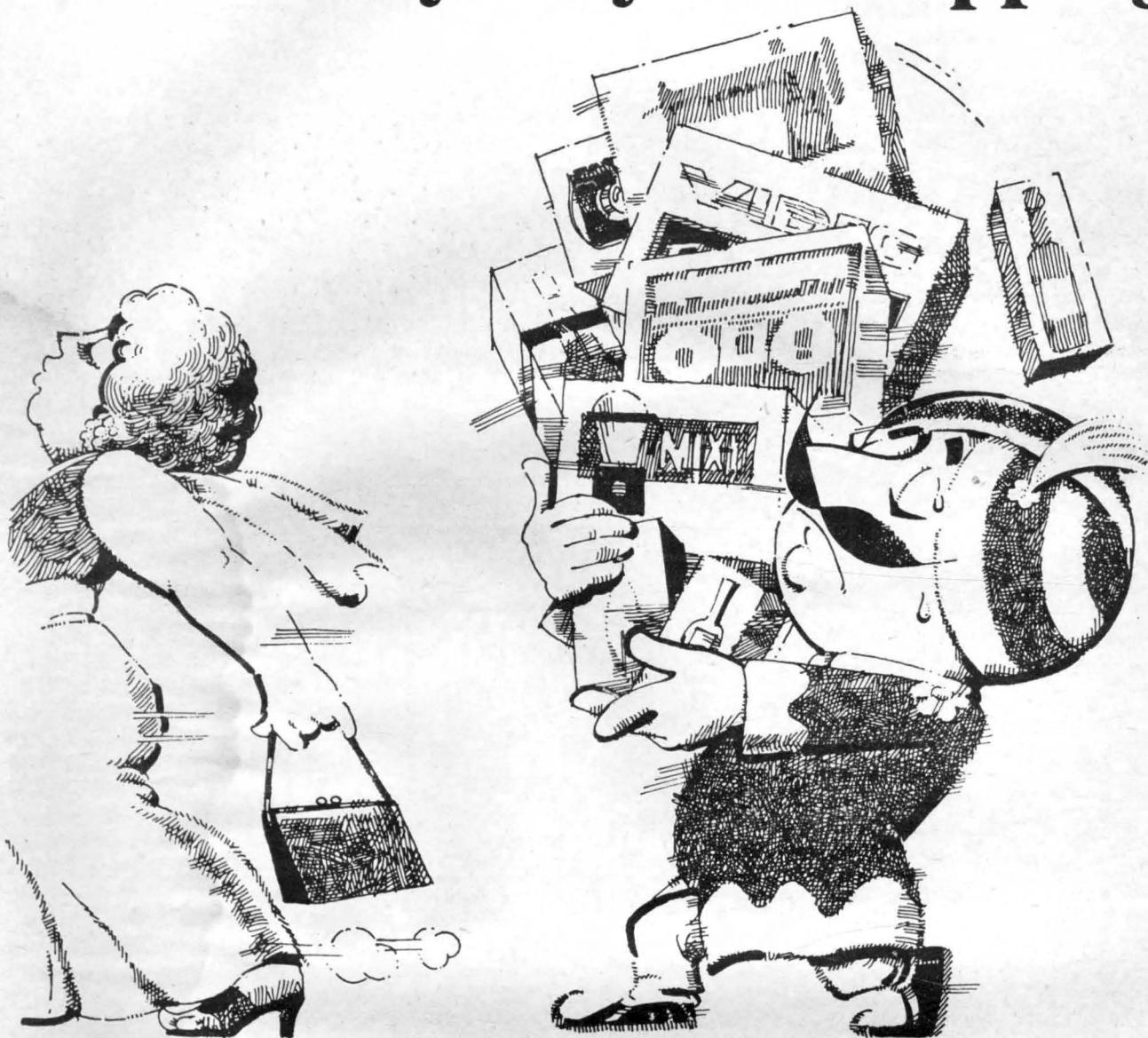
These damning words apply with greater force to the delinquents we have known in recent years.

But 'the contemplation' of the Indian citizen is the decisive factor. The question, therefore, brooks no evasion—do we really loathe public misconduct? ♦



Morarji: Vaidilingam recommended a probe against him.

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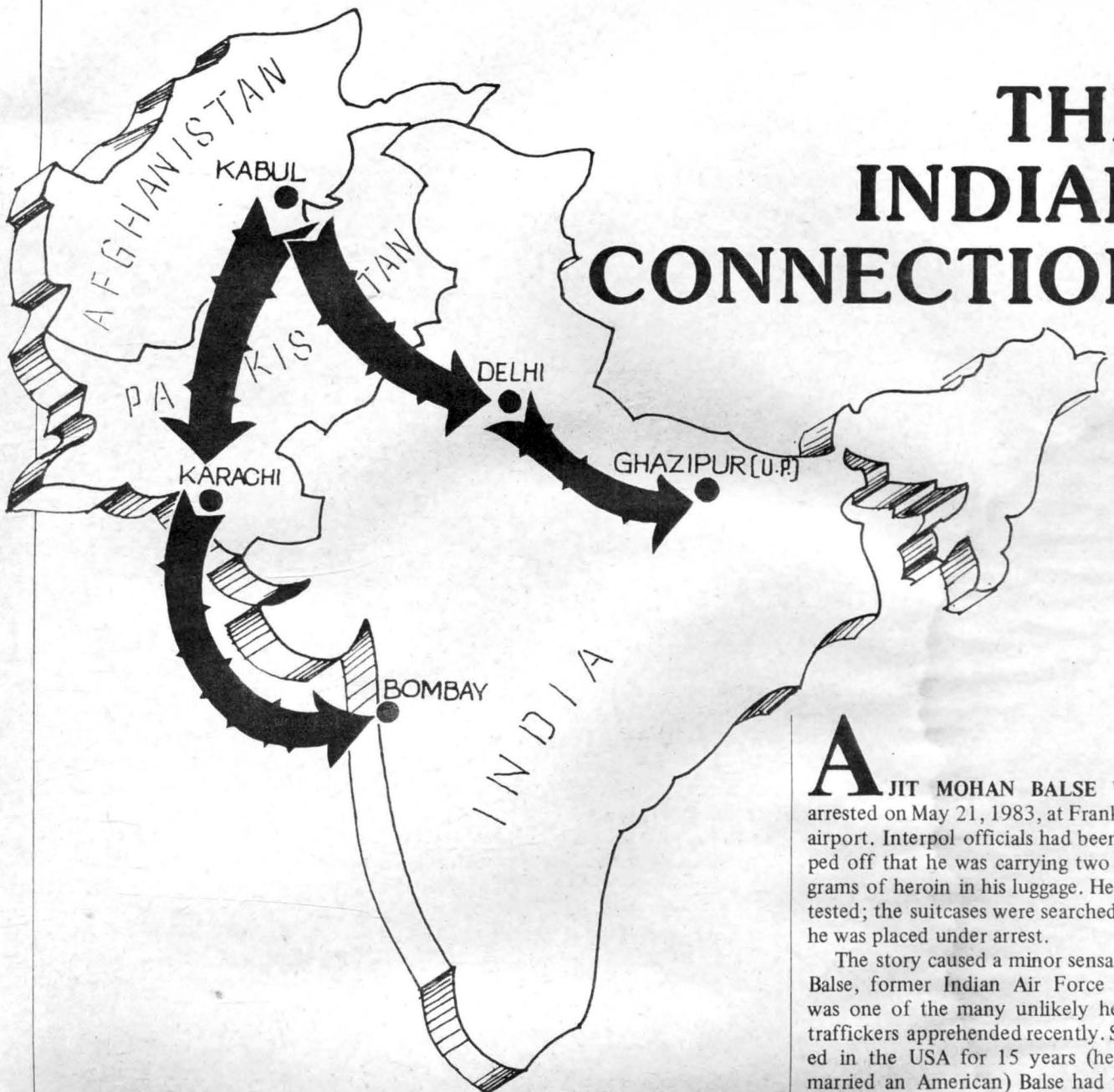
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THE INDIAN CONNECTION



Within the last two years, India has become the new centre of international drug smuggling.

By Shirin Mehta

AJIT MOHAN BALSE WAS arrested on May 21, 1983, at Frankfurt airport. Interpol officials had been tipped off that he was carrying two kilograms of heroin in his luggage. He protested; the suitcases were searched and he was placed under arrest.

The story caused a minor sensation. Balse, former Indian Air Force pilot was one of the many unlikely heroin traffickers apprehended recently. Settled in the USA for 15 years (he had married an American) Balse had turned to drug 'peddling'. On March 31, Mr Hill of the Drug Enforcement Agency (DEA) USA, posing as a 'mafia agent', along with another American accomplice, approached him for the real stuff—heroin.

A deal was carefully worked out. In order to prove his honesty Balse was to first smuggle out two kgs of the white sugar from India to the USA. Hill paid him an advance of \$50,000 against expenses. A close check was kept on Balse during his stay in Bombay; he was allowed to leave India unmolested and then arrested at Frankfurt.

Shirin Mehta is Assistant Editor of Imprint. Her last article was Best Sellers And The Dirty Business Of Double-Dealing.



TEN YEARS AGO the Golden Triangle was the place for underground drug activity. Today, India is increasingly caught up in it.

The case was dramatic and it was noticed. But Balse is just one of the hundreds of Indians and international drug peddlers who are caught in the whole sordid underground.

May 28: the Narcotics Branch of the CBI raided a posh hotel in Colaba and recovered 20 kgs of heroin valued at Rs two crores (\$US two million). April 16: charas worth Rs six lakhs was recovered from a couple at Yusuf Manzil, Mr Munir Sayyed Pathan and Mrs Mumtaz Pathan. April 8: customs officials arrested a 25-year-old Indian carrying 40 kgs of heroin valued at \$3.3 million. Attempts had been made to cover up the odour with strong-smelling seeds. April 4: 1.8 kgs of heroin were seized at Kennedy airport from an Air India employee, Manhar Barot, who arrived from Bombay with a false-bottom attaché case. March 3: three Sudanese nationals were caught at Sahar smuggling out 2.3 kgs of charas.

Says SS Sekhon, Assistant Collector of Customs (Preventive), "It is true that opium smuggling (that is, opium in the raw form) is not on the increase. But its derivatives like heroin and crude heroin are increasingly favoured by the west. It is also true that to a great extent the Golden Crescent countries—Pakistan, Afghanistan and Iran—have taken over."

THE WORDS ARE OMINOUS for they mark a change in the pattern of international heroin smuggling. And India is increasingly getting caught up



in the activity. Over the last five years, it has become one of the biggest bases for the smuggling of illicit drugs. Formerly the Golden Triangle—Thailand, Burma and Laos—was the main centre for illicit drug activity. Today it is the Golden Crescent and because of its proximity to Pakistan—India.

Consider the facts. Ten years ago the Golden Triangle was *the* place for all underground drug activity. The export of narcotics to the west was conducted through there. Some time ago the countries were cracked down upon in the biggest round-up of smugglers and the network was closed down.

The international smugglers behind the activity simply shifted base. They moved further west and made in Iran, Afghanistan and Pakistan the centres that they had built up in the Golden Triangle. The Golden Crescent countries (as they came to be called) all had the advantage of politically unsound backgrounds, lax rules and no real supervision. Illegal cultivation flourished. And the export of the narcotic was a breeze—no regulated intelligence or police control existed.

But in the late '70s all this changed. The Russian invasion of Afghanistan put an abrupt end to all clandestine exports and smuggling. The crop was still grown in abundance but an outlet was needed.

Couriers from Afghanistan would

carry the raw opium into Pakistan where it would be refined and exported. The system worked well for some years till Interpol started clamping down on Pakistan. The refineries are hard to detect and close down. But the smuggling at ports and airports was practically brought to a standstill. Carrying drugs out from Pakistan became a high-risk venture.

In keeping with the abrupt switches of location, international smuggling shifted to India. India has well-regulated opium cultivation—with very little illegal growth. In fact till narcotics smuggling shifted to the country it had a very high rating with Interpol and other international agencies, and was practically above suspicion.

This made it easier for the carriers. Heroin could be brought over the Indo-Pak border with little difficulty. Getting it from there to outlets like Bombay and Delhi was easy. And here, above the suspicions of Interpol and our CBI, they could work unchecked.

Afghan refugees played a great role in this courier service. And Pakistanis were always ready to peddle the drug. Swiftly, almost silently, India became the new base and as more locals got wind of it they were inducted into the activity.

The amounts trickling over the border have steadily increased. In 1977 when the opium network first



Eskay

developed a mere 11 kgs were seized. By 1980 nearly 460 kgs (worth Rs 552 lakhs) had entered India. And the amounts keep increasing. The recent flurry of hauls was not due to increased vigilance by the police and customs officials. By their own estimates trafficking has increased so much that they are managing to get more spectacular results simply because there are so many more carriers.

ALL THIS POINTS SOLIDLY to one fact. No matter what the country of origin, or the base from which it is exported, there is an international 'mafia' that organises and abets the trade. The careful operations, the long list of carriers employed to ensure secrecy—are all part of a highly-trained smuggling activity.

Often peddlers have been caught with quantities of heroin upto 42 kgs in their suitcase with no way of dumping it on the market. When questioned they can only reveal that they were going to be 'met' and the stuff taken from them. The mysterious contacts are never caught—the big-timers are practically unknown.

But for all in the business, from the highest to the lowest down, the common tie is money. The risks may be

great but the profits are fatter. Very often couriers are paid so handsomely—and assured of all help if they are caught—that it's not worth their while to talk to the police.

The crime is often seen on a petty scale with police officials refusing to divulge the magnitude of the amounts carried back and forth. For the police the problem is only the number of addicts that exist in the country. Mr MD Gupte, Assistant Commissioner of Police (ACP), says with total confidence: "Tell me how many people in India can be involved in drug addiction? Very few. A minuscule per cent of the population. It is really not such a serious problem at all."

The customs officials are however caught in at the deep end. All the illegal activity of smuggling and export falls within their jurisdiction and they see the problem as being much bigger. The consignments are not easy to nab, there is often no way to pin a case on the smugglers and the king-pins continue to operate undisturbed.

The facts are clear. In 1980, 470 kgs of heroin were seized on the Indo-Pak border. By 1981 the figure had shot up to 1.5 metric tonnes. In addition, 582 cases involving about four tonnes of opium were detected in India. And as the international trafficking continues, India pays the price in terms of couriers as well as addicts.

AS THE AMOUNTS trickling over the border steadily increased, Afghan refugees began to play a major role in this courier service.

The reasons are apparent for all to see. The profit margins jump by at least ten times at every stage. Ten kgs of raw opium, bought from a cultivator in UP or Kashmir, for Rs 5000 produces at least one kg of heroin with the wholesale price of three lakhs after a simple laboratory process. In Bandra or any other part of Bombay, this one kg of pure heroin would be worth Rs 25 lakhs. If the pure heroin finds its way successfully out of the country to the United States or Europe, it can fetch anything upto 30 times its price. Mr Sekhon claims: "The profits are enormous but if the person is caught in India the court takes a very lenient view for the price out here is only a few thousand rupees."

But how can so much heroin be shipped out of India and escape detection? For a start the methods are ingenious. An exporting firm in Cochin was caught canning heroin along with shrimps; an eight-kg heroin consignment was nabbed just as the last nails to a mango crate (meant for export) were being hammered in; Toshiba Anand battery cells were cunningly packed with the drug (later the firm disclaimed all responsibility); heroin is sometimes packed into tyres or concealed along with machinery spare parts.

"The main problem that the smugglers face is the smell of the drug," says Sekhon. "Heroin (even the low concentrate called brown sugar) has a very distinctive odour. By packing it into crates or machinery they hope to escape detection. Naturally this makes it even more difficult for us."



FOR ALL IN THE business the common tie is money. The risks may be great but the profits are fatter.

W

HAT IS BEING DONE about this? Are the police officials in any way managing to control the flow?

MD Gupte, ACP, is optimistic, "We can safely say that we have managed to curb a large percentage of all the illegal activity." But the police are only concerned with the local problem unlike the American DEA which is a multi-purpose organisation.

The whole existing system is geared towards a delay. Until recently the CBI had a narcotics branch which has been discontinued. The CBI and Customs partition the work between them: the CBI is authorised to grab hauls of narcotics wherever they are found and make arrests; Customs can make a capture only if the narcotic is found 'in preparation for export' or else at the airport. If Customs suspects anyone of having opium they have to contact the CBI who in turn raid the place.

In addition, there are no elaborate detection systems at our airports nor any special gadgets or trained dog-sniffers. Mr PK Kapoor, Collector of Customs (Preventive) says: "There are a few dogs being trained in Delhi to detect the stuff. But it will take almost a year before they can be brought out."

Most of the people caught are therefore through spot-checks, 'keen observation' and international assistance. In fact most of the intelligence work is done by Interpol—only when Indians are arrested in the USA and Europe is the assistance of the CBI taken, to dig into their backgrounds and corroborate

their evidence.

If the person is caught he can be tried under any of two procedures—the Customs Act of 1962 and COFEPOSA (Conservation of Foreign Exchange and Prevention of Smuggling Activities Act). Under the Customs Act the sentence can be stretched to three years. Under COFEPOSA the detained victim's case is heard by a panel and if found guilty he can be locked up. The case has to come up for a re-trial within a month—this time with a bench of retired judges acting as the panel.

"In the West," says Mr Sekhon, "even first-time offenders are given stiff fines and long sentences. The case here is always much weaker because the costs here are lower and it's not such a big-time offence."

Till the attitude that 'it's not such a big crime' continues and the CBI and Customs are divided in duties and responsibilities there can be no visible improvement in the situation. A lot more groundwork, breaking in on the refineries and other such activities are called for before opium smuggling can be contained—effectively—in this country.

T

HE FUTURE OF THE BUSINESS is uncertain. While the normal estimates envisage a higher and higher

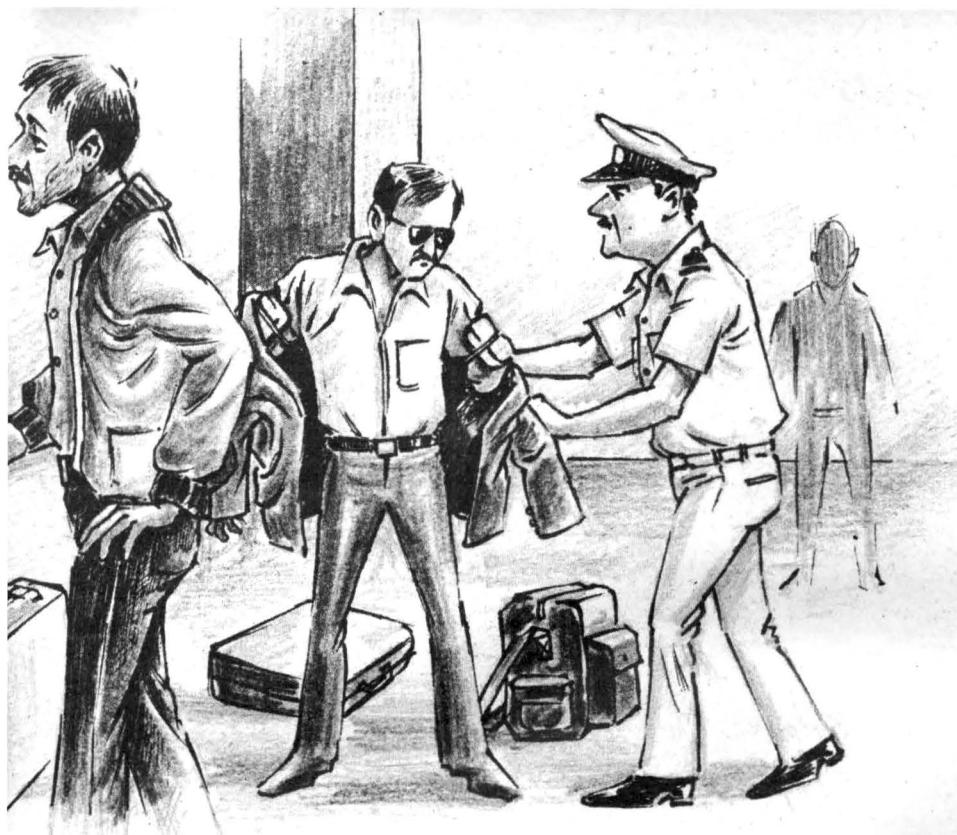
percentage of drug trafficking involvement, Mr Sekhon claims that the Punjab agitation may well put an end to it. Today the route taken by the couriers who come in from Pakistan is necessarily through Punjab. If the situation worsens it might not be worth their while to continue bringing the drug in.

What, however, is bound to happen is that local producers will enter the market. The strict narcotics enforcement can be easily cracked if cultivators took to growing illegal patches. "The plant's leaves are very similar to other plants," Mr Sekhon admits. "There is practically no way of knowing if illegal opium fields are kept. One has to be always alert, patrolling the area closely and even then an official can mistake it for something else. Clearly this sort of vigilance is not possible for a whole district."

The figures bear this out. The Government offers better pricing to cultivators who show a better yield. The current base price is Rs 130 per kg and if the yield is more than Rs 60 per hectare the cultivator gets Rs 300 per kg for additional growth. However this cannot compare with the smuggler's flat rate of Rs 600 per kg and it is in the cultivators' interest to grow at least *some* opium illegally.

But the more logical extensions show us going the way of all grower countries. A recent item in the papers





THE CUSTOMS
officials are caught
in at the deep end
for all the illegal
smuggling and
export falls within
their jurisdiction.

expressed horror that Pakistani youths are taking to heroin as more and more of it floods the streets from Afghanistan. Afghanistan's crop of 300 tonnes is enough to feed every heroin addict worldwide for a year. And as it is being dumped into Pakistani streets the level of addiction has shot up. Now heroin addiction in Pakistan affects 50,000 people; two years ago there was virtually none.

This example is not a stray case. Addiction shot up in Afghanistan when the Russians initially clamped down on all export activity and the drug was going a-begging. Today, addiction in Afghanistan is a well-known problem.

And in India too the situation is not far away. As more and more refineries try and make pure heroin for western consumption, a low grade derivative—brown sugar—is finding its way on to the Indian streets at incredibly low prices. Prices of brown sugar a year ago were Rs 120 per gram. Today a gram costs Rs 80 in Bombay's suburbs of Bandra and can be got in central Bombay's Sukhlaji Street for Rs 40. Brown sugar has practically flooded Bombay's Bandra and Colaba markets. And since it is going cheap more and more students are tempted to try it.

It is impossible to realistically estimate the number of addicts even in a

city like Bombay. Police estimates claim a figure of 10,000 for the city; people closer to the scene say 50,000. "For every person who sits in a joint and smokes," claims Uday, a former addict himself, "There must be at least three who just buy their weekly quota and disappear. There are many more people who buy it and smoke or chase in seclusion than there are visible addicts."

Whatever the figure it is bound to increase. With the recent surge of brown sugar sales and the lower costs of all hard drugs it may reach an all-time high in a few years. Or then again it may not. It seems to be a matter of chance.

A DOMESTIC ADDICTION
 problem is just one social effect. There is also the problem of would-be criminals in the middle classes.

Take the case of Pakistan. Till the heroin explosion hit that country in the mid-'70s, smuggling was not a middle class phenomenon. But soon heroin smugglers and middle class youths discovered a mutuality of interests.

The smugglers needed couriers. More specifically, they needed couriers who seemed like globe-trotters, whose

frequent travels would not seem unusual.

The middle classes were attracted by the easy money. The profits were phenomenal and the risks were relatively low: a cannister of heroin, packed in an old shoe; an empty jar of talcum powder refilled with a deadlier white stuffing; the odd polythene bag of narcotics squeezed into a hollowed-out hard cover book—the methods were easy to come by. And unless, customs had been tipped off, they were unlikely to examine the personal effects of a seemingly harmless passenger.

By the time, Interpol got wise to what was going on, it was too late. Some of Pakistan's brighter young men had turned to smuggling. Now, international customs authorities are being careful. Any male aged between 25-40 with a surname like Khan is almost certain to be thoroughly searched at Heathrow or Kennedy.

The arrests of men like Balse have led authorities to treat Indians with the same suspicion. And because Indian police don't waste their time with smugglers, several entrepreneurs are being attracted to the profession. Although the customs claims that drug export has decreased since last year, the arrest of Indian couriers is becoming increasingly frequent in the West. A sure indication that drug smuggling is not on the decline.

The mafia may move on once India becomes too hot for it. But a sad legacy of the heroin boom may be its social cost—both in terms of addicts and smugglers.

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DEFINING OFFICIAL SECRETS

The Official Secrets Act needs to be overhauled.

In August, Imprint printed the secret correspondence between the former President, N Sanjiva Reddy and the former Prime Minister, Morarji Desai. During the furore that followed the publication, Home Minister, PC Sethi told the Rajya Sabha, "The leakage of the letters, from whatever sources, may be a breach of the Official Secrets Act and the contravention of traditions which are normally followed in a parliamentary system."

The Official Secrets Act currently in operation was passed on April 2, 1923, and is therefore, considerably out of date. It has been repeatedly violated by investigative journalists and there is little doubt that it needs to be overhauled.

Some sections of the Act are fairly uncontroversial—Section three lays down penalties for spying. It provides that 'if any person for any purposes prejudicial to the safety or interests of the State approaches, inspects, passes over or is in the vicinity of, or enters, any prohibited place; or makes any sketch, plan, model or note which is circulated to be or might be or is intended to be directly or indirectly useful to an enemy' and then 'collects, records, publishes or communicates to any other person any secret official code or password or any sketch, plan, model, article or note or other

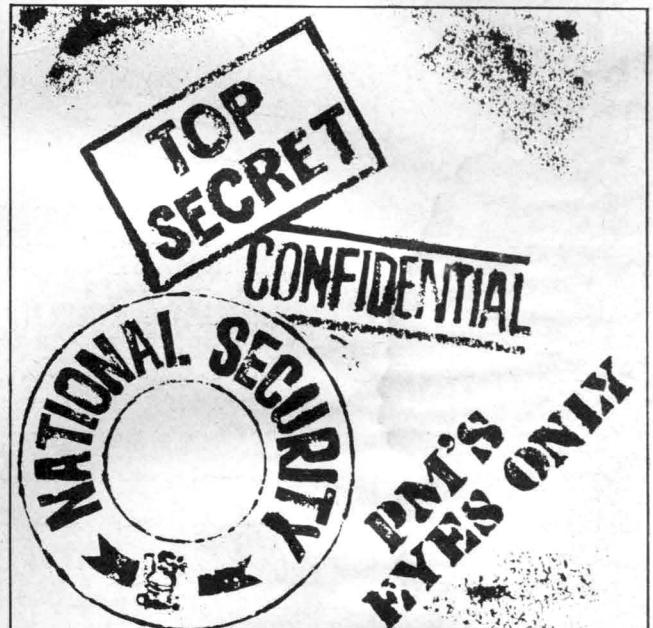
document which might be useful to the enemy, then he can be prosecuted and imprisoned if found guilty'.

Section four concerns communication with foreign agents. It says that for the purposes of a prosecution under Section three, the fact that a person has been in touch with a foreign agent will be relevant for proving that he was acting in a manner prejudicial to the interests of the State. There have been prosecutions under these sections before and they have been, largely non-controversial.

The most controversial Section of the Act is Section five, which gives wide discretion to officials in the classification of documents and behind which the government functionaries often seek protection even over matters which must come up for discussion before the public at large.

According to this section, it is not necessary for a person to act on behalf of a foreign power to contravene the Act. If he is in possession of, or publishes a 'classified document', that is enough for him to be guilty.

Ministers and civil servants are expressly forbidden from revealing information that they have had access to due to their official positions. Ministers swear an Oath of Secrecy which runs: "I will not directly or indirectly communicate or reveal to any person or persons any matter which shall



be brought under my consideration. . . ." Civil servants are even more restricted. Section 11 of the Central Civil Service (Conduct Rules) 1964 says: "No Government servant shall. . . communicate directly or indirectly, any official document or any part thereof or information to any government servant or any other person to whom he is not authorised to communicate such document or information. . . ."

It is also relatively easy for officials to have documents declared 'secret'. According to the Manual of Office Procedures, even the notes made on a file by a civil servant are 'confidential' and cannot be referred to any authority outside the Secretariat. The government is further protected by Sec-

tion 123 of the Indian Evidence Act of 1872 which says, "no one shall be permitted to give any evidence derived from unpublished official records relating to any affairs of State. . . ."

In effect, the Official Secrets Act has not greatly handicapped the judiciary. During the case of the State of Uttar Pradesh versus Raj Narain (1975) in the Supreme Court, the Court agreed that those documents pertaining to the protection of the Prime Minister when she was on tour were not really official secrets.

The Act has however, handicapped the Indian press. It is felt by sections of the press that the Act is used more to protect government officials from exposures of their inefficiency than to protect official

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secrets. The case of changing the provisions of the Act relating to communication of official documents rests on two grounds: (1) The State has now such wide powers and functions as to affect the entire gamut of a citizen's life and liberty that it is essential that its actions are subject to public debate and examination. (2) The colonial regime which framed the Act was neither responsive nor responsible to the people and for a democratic government to defend an Act that was passed in 1923, is absurd.

When the present Congress (I) government came to power, it said it was considering amending the Act. But on August 9, the Law Minister told the Lok Sabha that the Government 'has dropped the proposal to amend the Official Secrets Act'.

It is not difficult to see why Mrs Gandhi's govern-

ment has no desire to change the present state of affairs. The reports of enquiry commissions and committees are routinely marked 'secret' and hidden away. The Bihar government has been using 'secrecy' clauses to conceal CID reports on the Bhagalpur blindings. In 1981, Mrs Gandhi's government switched the consultancy contracts for the Thal Vaishet and Hazira fertilizer plants from a reputable US firm to a gaggle of European companies. When files, revealing this were leaked, the government invoked the Official Secrets Act.

Is there an alternative? One view was expressed by a leader-writer in the *Tribune* (Chandigarh): "The Press Council has proposed an amendment to Section five of the Official Secrets Act providing for safeguards to the Press while revealing classified information in the public interest. It has also

been suggested that no person or newspaper should be prosecuted without the sanction of a committee which includes the Attorney General of India and representatives from the Press Council and the Bar Council."

Similar views have been voiced by Justice AN Grover, the government-appointed Chairman of the Press Council. He told a seminar in Faridabad on August 20 that the Press Council had recommended drastic amendments in Section five of the Act which, he said, served more as an 'inhibitive damper than as a punitive machinery in actual practice'. He quoted approvingly Hugh Thomas' statement that 'if every occasion when the British Official Secrets Act is breached were to become the subject of proceedings in the Courts, a tenth of the working population might find them-

selves in jail'.

It seems unlikely that any prosecutions under the Official Secrets Act will be launched against Imprint and Arun Gandhi for printing the Morarji-Sanjiva correspondence. Apart from the fact that legal experts feel that the Courts would rule that the Act did not apply in such cases, this government has little to lose from any embarrassment caused to the former Janata ministers. And clearly, questions of national security are not involved.

But what if the correspondence had concerned Sanjiva and Mrs Gandhi and the allegations had been against Sanjay not Kanti? Would the government then have invoked the provisions of the Official Secrets Act? The question is hypothetical but the fact that it has been repeatedly raised suggests that Section five of the Act needs to be overhauled. ♦

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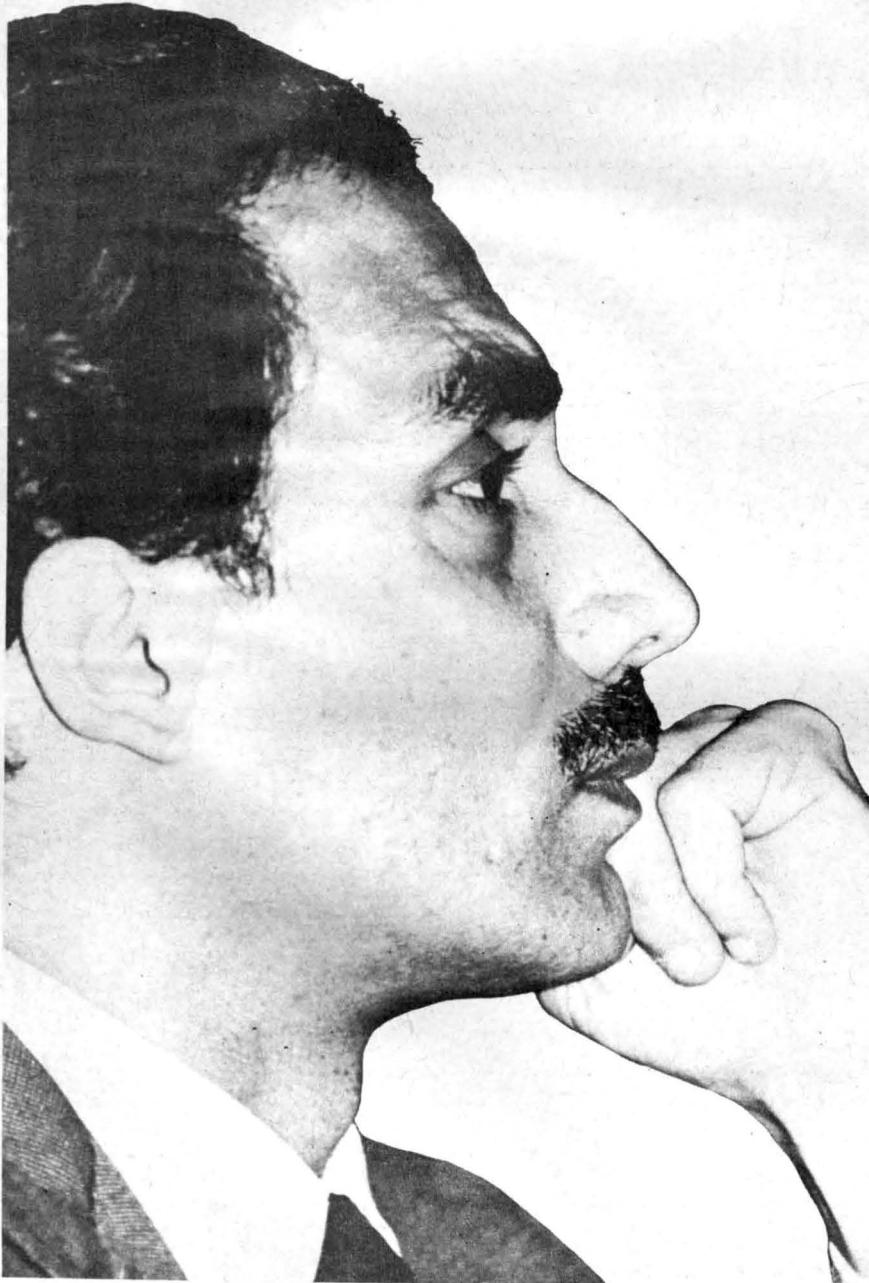
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Clashes In

*India's premier civil liberties organisation,
the People's Union for Civil Liberties,
is torn by internal strife.*



AN EFFECTIVE CIVIL LIBERTIES organisation is essential to any democratic society. In India, where overzealous bureaucrats and authoritarian regimes routinely trample over the civil liberties of citizens, many of whom are poor and illiterate, a civil liberties organisation has a particularly significant role to play. And yet the People's Union For Civil Liberties (PUCL), a strong, dynamic organisation made up of such luminaries as HM Seervai, Nani Palkhivala, Justice Tarkunde and Arun Shourie, has been adversely affected by internal strife. One of its Vice-Presidents, Durga Bhagwat, has resigned; Cho Ramaswamy, a noted member has walked out in anger and Claude Alvares, the noted Goan writer has attacked its President in print.

In part, the problems of the PUCL are the problems of an army in peace-time. The organisation was formed in 1976 (as the People's Union For Civil Liberties and Democratic Rights) out of Jayaprakash Narayan's 'Citizens For Democracy'. It was the period of the Emergency and the issue was clear : liberty versus tyranny. In 1980, after Mrs Gandhi's triumphant return to power, the PUCL emerged in its present avatar, as a broad-based membership organisation with an enthusiastic cadre of young volunteers. By September 1981, PUCL units had been opened in Maharashtra, Madhya Pradesh, Uttar Pradesh, Gujarat and West Bengal. Today, the organisation has 6,000 members scattered all over the country.

Whenever the issues have been straightforward civil liberties matters

The PUCL

By Amrita Shah

on which there exists a consensus, the PUCL has done laudable work. A committee under Justice Tarkunde, its President, exposed the systematic killings of dacoits by the police under the guise of 'encounters' and another committee under Justice Krishna Iyer compiled a new Prison Act and jail manual to improve conditions in India's jails. Investigations into police atrocities in Agra, the unlawful detention of people without trial and the repression of landless labourers in Bihar also earned the PUCL an impressive reputation. Its stand against the National Security Act and various other measures designed to re-introduce the spirit of the Emergency also pleased its diverse membership.

PUCL's troubles began when it tried to cope with issues that were less clear-cut, those on which no consensus had evolved. As long as the organisation concentrated on its old theme of liberty versus tyranny, it flourished, but in the absence of an Emergency, when it turned its attention to slightly more peripheral issues, the dissensions emerged. Like many armies, it has had trouble fighting the peace.

FROM THE EARLY DAYS OF the PUCL, there had been some disagreement over the organisation's attitude towards Naxalites. Was it right to extend the protection of the laws of a free society to those who, if they triumphed, would dismantle that free society? And should an essentially peaceful organisation be involving itself with those who advocated the use of violence? It was, it seems, decided that



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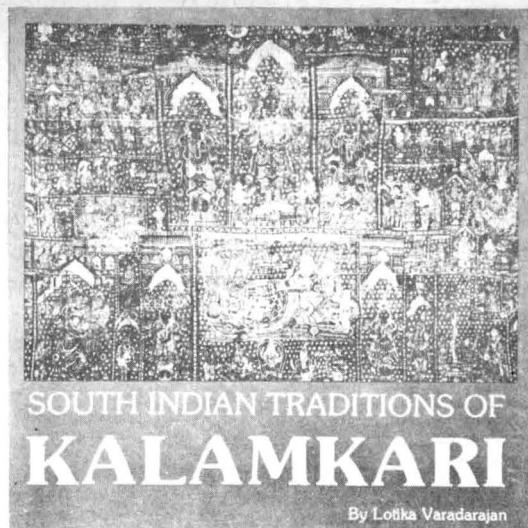
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**SOUTH INDIAN TRADITIONS OF
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By Lotika Varadarajan

the fight for liberty could not be a sectarian one, that anyone who lived in India was entitled to the protection of its laws. (There are precedents for this: the American Civil Liberties Union had defended Nazis, whose views it loathes, on precisely these grounds.)

In 1982, the issue was raised again by Cho Ramaswamy, the fiery, high-profile Tamil writer who was then President of the Tamil Nadu unit of PUCL. Ramaswamy felt that in Tamil Nadu at least, the PUCL had a reputation for being in sympathy with the Naxalites. At the National Conference of the PUCL in Madras in March 1982, he argued that only by condemning violence would the PUCL gain in credibility and tried to pass a resolution to this effect.

The resolution met with stiff opposition. Some members argued that the advocacy of violence by individuals or groups might well be undesirable but it was not a civil liberties issue and therefore, not really the concern of the Conference. "No," said Cho. "Any act which would paralyse a citizen from exercising his fundamental rights is a civil liberties issue and should concern the PUCL." Many members did not dispute this but insisted that as the PUCL had never advocated violence, it need not condemn it. A disillusioned Ramaswamy said, "The PUCL's persistent, systematic and mobilised refusal to condemn violence has shocked me." And with that, he resigned from the PUCL.

Six months after the storm, PUCL office bearers stick to their original stand. Says Navroz Seervai, Joint Secretary of the Bombay Unit: "It was pointed out to him (Ramaswamy) that the PUCL constitution itself states that it will fight for civil liberties by non-violent and peaceful means. Why should we gratuitously go out of our way to condemn groups that use violence? Besides, we have no right to condemn someone without knowing the full facts." Like many other PUCL members, Seervai echoes Tarkunde's explanation that the Naxalite situation had to be seen in the socio-economic context.

All of which does not really answer Cho's basic question: if the PUCL was against violence, then why was it so unwilling to condemn it publicly? PUCL's explanations tend to centre around priorities. Says Seervai: "When weighing priorities, it was unanimously accepted that the main fight is to be



Darshana Bhogilal claims there is enough land in Bombay to house 12 lakh huts.

waged in the public field opposing state action against individuals." The sentiment seemed to be that while nobody really approved of Naxalite terror, this was not the major issue. What was necessary was to band together, to fight state repression, not throw stones at other groups. There was also a feeling that Cho was out to antagonise the Marxists in the PUCL coalition and that this was, at least for the time being, neither advisable nor necessary.

It was the classic dilemma of an army in peacetime. Was it to spend its time preparing to fight the real enemy in the big battles that must inevitably, soon be fought? Or was it to turn on those within its general number who, while facing the same enemy, did not really fit in with the majority? Or as Cho might see it: expediency versus principle. The PUCL chose to remain a broad-based coalition and to sacrifice

relatively irrelevant statements of principle.

IN BOMBAY AT LEAST, Naxalites and violence were never really a major issue. PUCL hit the headlines only when it championed the cause of the pavement dwellers and took the case all the way to the Supreme Court. It was again a civil liberties issue but one which seemed peripheral to the central liberty versus tyranny axis. Inevitably, the organisation was criticised. One of its more celebrated members, Nani Palkhivala, seemed to disapprove of its stand in a newspaper interview and one of the Vice Presidents, Durga Bhagwat, resigned in protest.

In July 1981, during the monsoon,

AR Antulay, the then Maharashtra Chief Minister resolved to clear Bombay's pavements of the thousands of people who had made them their homes. Because, in the past, such clearances had been foiled by the tendency of the pavement dwellers to return to their footpaths once government fervour had cooled, Antulay also resolved to send them all out of Bombay to unknown destinations.

Two journalists went to see Darshana Bhogilal, a lawyer who is an active member of PUCL and informed her of Antulay's scheme. Bhogilal spoke to MA Rane, General Secretary of PUCL, Bombay and others. They decided that the organisation would move the courts to halt the implementation of Antulay's scheme. After several hearings and a personal visit to the sites of the demolitions by Justice Lentin, the Bombay High Court issued an order halting the clearance work till after the monsoon.

Predictably, there was some controversy over PUCL's involvement in the matter as this was not widely perceived as a civil liberties issue. Because journalist Olga Tellis, whose left-wing sympathies are well-known, had also filed a petition against the demolitions, the PUCL stance began to be seen in left-right terms. There had been widespread feeling against the pavement dwellings among Bombay's middle class and now, PUCL was seen as supporting the poor against the rich.

The PUCL lawyers insist that this was not true. Explains Ashok Desai who handled the case in its early stages: "We did not say that hutment dwellers have a right to encroach upon and occupy footpaths." The PUCL argument in the Supreme Court was three-fold. It claimed that by throwing them out of their homes, the government was depriving pavement dwellers of their right to life—by depriving them of their right to shelter and to employment, which was covered by this right. Further, the government appeared to be violating the Directive Principles. Article 41 directs the State to give assistance to people in want. But, said the PUCL lawyers, the government was actually depriving people in need, rather than helping them. And finally, argued the PUCL, the government was also trying to harass the slum dwellers so that they would leave without being deported.

The government had argued in its defence, that it had no land to provide



Durga Bhagwat congratulated the Municipal Commissioner and quit.

alternative accommodation to those pavement dwellers it was deporting. PUCL activists set out to prove it wrong. Says Darshana Bhogilal: "We got a list signed by the Additional and the Deputy Commissioner of Encroachment that in the three talukas of Borivali, Andheri and Kurla alone there was enough vacant land for 12 lakh huts."

The PUCL case for the resettlement of pavement dwellers is a closely argued one that takes into account the views of several experts on urban planning and is based on some of the government's own statistics. The Bombay Municipal Corporation does not, of course, agree with PUCL's conclusions, but many of the organisation's critics were not even sure that PUCL had any business getting involved in the issue.

Was it really the job of a civil liberties organisation to try and propound solutions to Bombay's housing problem? And wasn't the PUCL using an almost Marxist characterisation of liberty to include freedom from economic deprivation among its activities?

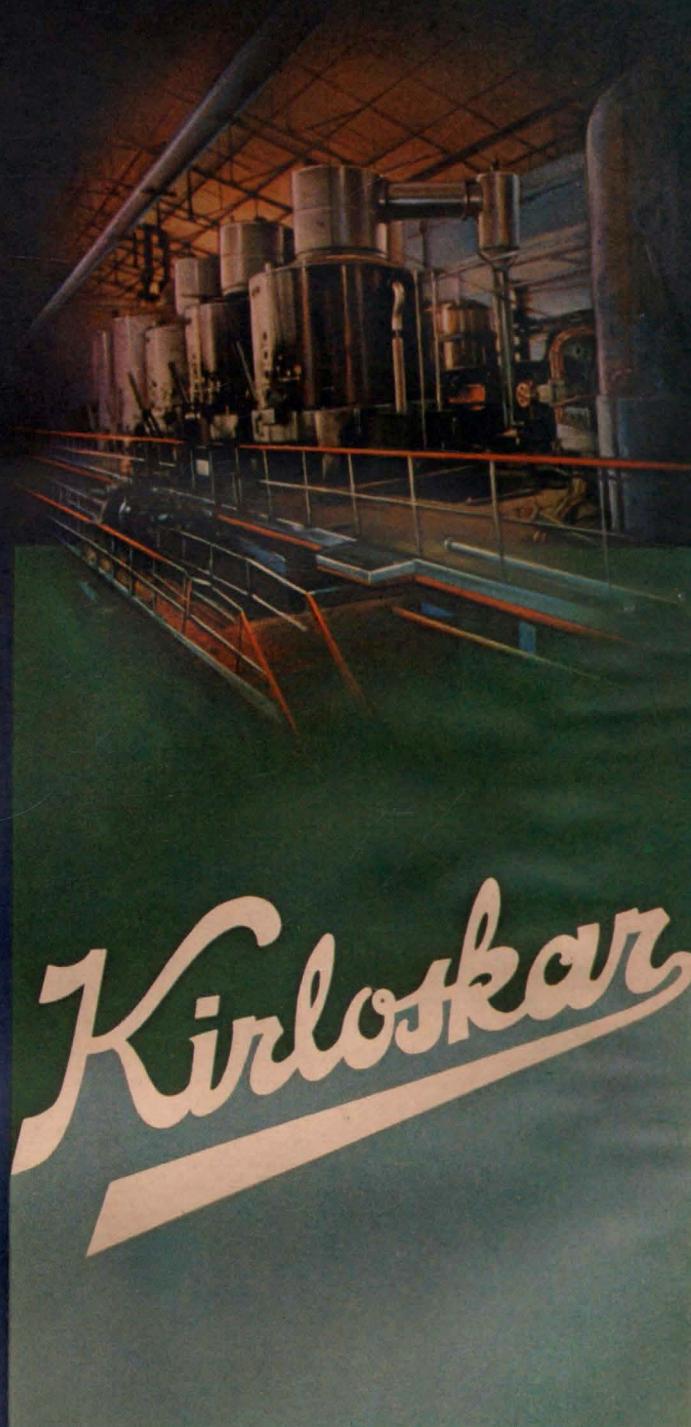
One of the strengths of the PUCL in Bombay has always been that it has a strong body of middle class, non-Marxist support—it is perhaps the only organisation with this kind of support. And among the middle classes, the pavement dwellers issue was seen almost entirely in encroachment terms. There was a widespread feeling that

unless checked, the slums would take over all of the city's pavements. Further, many middle class people regarded the slums as breeding grounds of crime, prostitution and bootlegging. To be sure, there was some sympathy for the plight of the evicted slum dwellers but this sympathy was allayed by the reasoning that it was 'either us or them'—either the slum dwellers had to go, or middle class people would find their neighbourhoods becoming unbearable.

Public perceptions of the PUCL as meddlers were heightened when Bombay's Municipal Commissioner PM Sukhthankar announced that the PUCL was obstructing him from performing his duty. The issue blew up into a full-fledged row when Durga Bhagwat, the noted Marathi writer, wrote Sukhthankar a letter congratulating him and resigned from the organisation.

Bhagwat's objections to the PUCL stemmed not so much from the belief that this was not a civil liberties issue as from the feeling that something had to be done about Bombay's slums. Lawyer Nani Palkhivala stopped short of criticising the PUCL but seemed to suggest in an interview that the legal action was ill-advised (drawing an angry rejoinder from PUCL activists) and Romesh Thapar attacked the organisation's stand in his column in the *Economic And Political Weekly*. He

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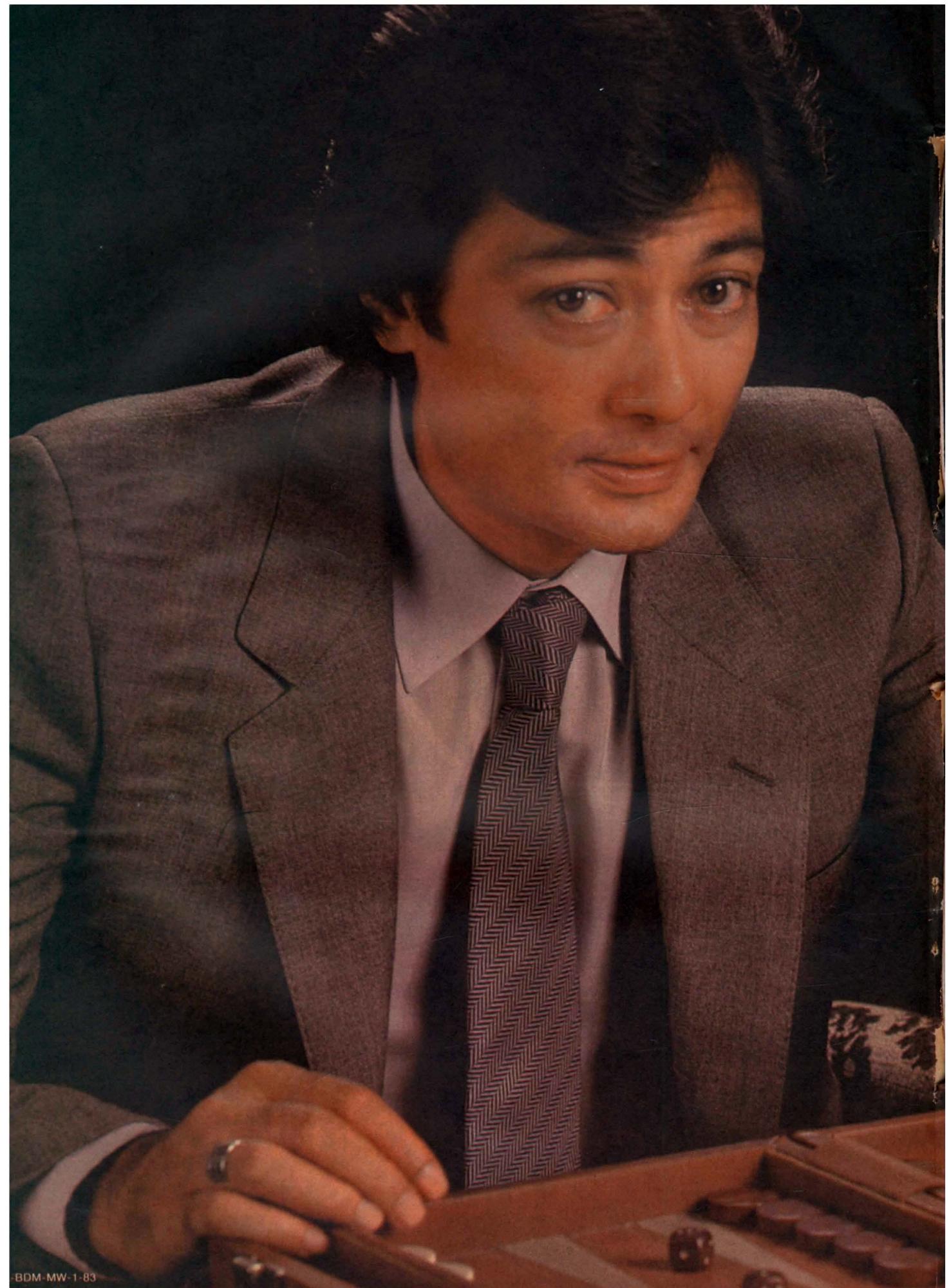


Kirloskar

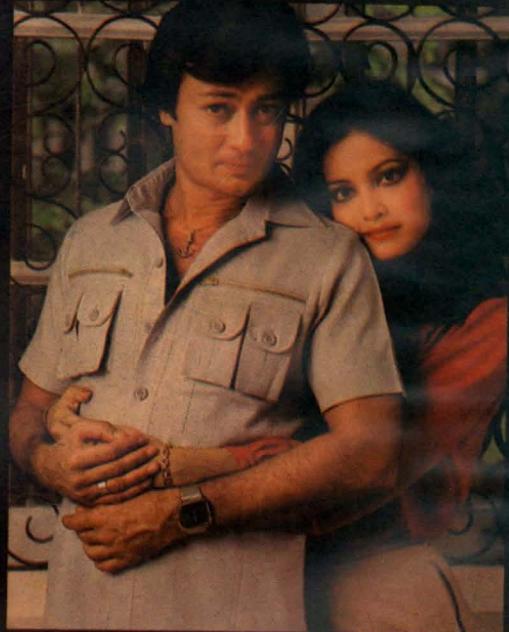
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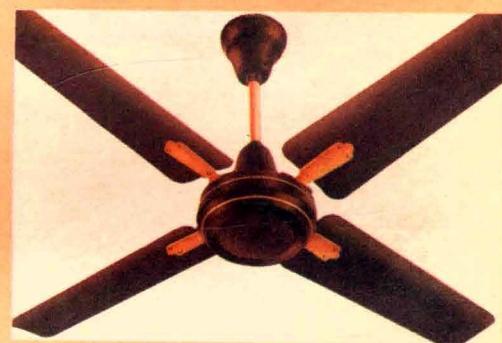
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commended Bhagwat on her resignation and wrote: "Populist posturings in support of illegalities seem to have become the only code of conduct for such organisations seeking a short cut to political clout."

It was a major attack, but to this day, PUCL lawyers are convinced that they did the right thing and that the criticism was unjustified. The anti-PUCL backlash was a new feeling for them and made them realise that it is difficult to stand up for individual liberties when the interests of your supporters are involved.

But at least partly, the PUCL's Bombay unit must take the blame for the damage to its own image. It never presented its own case in persuasive terms and never seemed to realise that it had to try especially hard to convince people of the justice of a cause that did not involve opposing Emergency-style tyranny. That the public would not see this round of demolitions and Turkman Gate in the same terms does not seem to have occurred to them.

PART OF THE PUCL's PROBLEMS arise from the fact that people tend to blur the distinction between members as individuals with professions and private pursuits and their being representatives of a civil liberties group. They expect the former role to be determined by the latter. This reasoning is fine as far as it would imply that a person fighting for civil liberties should not be torturing prisoners, or repressing labourers for instance. But there are times when the issue becomes much more complex and indefinable.

The case of the Goa police officer is one such instance. PS Rane, the officer in question, was widely believed to have been involved in a number of mysterious deaths in the '70s besides supplying falsified evidence in a murder case. In February 1978, Rane, and a local tough assaulted and mauled a Swedish tourist, Par Kallen and his Goan wife.

Indignant protests and public meetings were held in the town of Margao against the officer. Prominent amongst the agitators was a Citizens' Committee for Civil Liberties and Human Rights.

Par Kallen filed a suit which finally reached the High Court. MA Rane, General Secretary of the PUCL, Bom-



Tarkunde argued that as a lawyer he had to defend people.

bay, (also PS Rane's cousin) undertook his legal defense. MA Rane asked VM Tarkunde, to appear before the Supreme Court on behalf of his cousin. There was no doubt about the guilt of the police officer, but Tarkunde argued that the sentence of imprisonment awarded to his client be set aside so that he would not lose his job.

Claude Alvares, a journalist and a member of the National Council of the PUCL was angered by Tarkunde's acceptance of Rane's case. As the president of a civil liberties organisation, Tarkunde, according to Alvares, should not have defended a man who, in fact, had been the subject of protest by a civil liberties organisation.

Alvares felt that after fighting for police accountability and against police brutality, it was absurd that Tarkunde should defend a policeman known for such acts and actually argue to keep him in office.

Claude Alvares resigned from the National Council of the PUCL and wrote an article in the July 10, 1983 issue of the *Sunday Observer* titled, *Why I resigned from the PUCL's National Council*. Two weeks later, the paper printed Tarkunde's rejoinder.

Tarkunde argued that as a lawyer, it was his job to defend people, not to

pick and choose those who he approved of personally. He also came up with two other defences. The first one was that he was ignorant of the background of the case when he accepted the brief. Had he known that the case had been built up by a civil liberties organisation, he said, then he would have refused the brief. This was a weak defence and not one that did him much credit.

But his second defence was more convincing: "Supposing Claude Alvares was right in his view that I should not have appeared for the police officer, it is not understandable why he should have resigned from the National Council of the PUCL. The police officer had obviously not approached the PUCL for his defence and it had nothing to do in defending him. Surely, Claude Alvares knows that I appeared in the Rane case in the capacity of an advocate and not as an office bearer of the PUCL."

Alvares is not convinced even by Tarkunde's second argument. "When Ram Jethmalani takes up the cases of Haji Mastaans, it is not liked by the younger people in the PUCL," he says. "This involves a fundamental moral crisis—the right hand not knowing what the left hand is doing." Ideally, Alvares would like PUCL members to engage only in activities that are in keeping with its image—even when they are not doing PUCL work.

The dispute really is over what kind of organisation the PUCL should become. Should it remain a broad-based coalition to which various people offer their time and expertise on a part-time voluntary basis? Or should it become a more rigidly organised group composed of people who mould all their activities to a sort of 'PUCL lifestyle'? Again, this may seem like a minor issue. As long as PUCL's work gets done, as long as Tarkunde continues to expose 'encounters' and the like, does it really matter who his other clients are? But because the organisation is at a formative stage, when its members are still trying to work out exactly what it should evolve into, such matters will continue to be discussed.

INEVITABLY, SOME MEMBERS of the PUCL are also dissatisfied by the structure of the organisation. It is not clear how decisions are taken and who

NANI PALKHIVALA: ENDS CANNOT JUSTIFY MEANS

Nani Palkhivala, eminent advocate and Director of Tata Sons, has been an active and vocal member of the PUCL since its inception. He however did not agree with the stand taken by the PUCL on the pavement dwellers issue. He believed that the Municipal Corporation, an official, statutory body should not be prevented from carrying out its duties on grounds of, what he considers, misplaced humanitarianism. In an interview with the Sunday Observer in October 1982 he denounced the PUCL stand evoking a strong reaction from members of the organisation. In an interview with Imprint Mr Palkhivala takes a similar stand.

Q. Do you find there is a lack of understanding among lay people and the media over what constitutes a civil liberties issue?

A. Yes.

Q. Do you feel that all too often 'humanitarian issues' are confused with 'civil liberties'?

A. Humanitarian issues are quite different from civil liberties issues. In the name of humanitarianism, there are many cases these days of miscarriage of mercy. As far as public interest goes, miscarriage of mercy can be as dangerous to public welfare as miscarriage of justice.

Q. What do you think is the constitutional position of the Directive Principles vis-a-vis the Fundamental Rights? What in your opinion should be the ideal position?

A. The Directive Principles are the directory ends of government. The Fundamental Rights are the permissible means for achieving the ends. There can be no conflict between the ends and the means. The Constitu-



Palkhivala: justice, not mercy.

tution-makers expected that a wise and efficient administration should be able to achieve the directory ends by following the permissible means. They adopted the Gandhian philosophy that the end cannot justify the means. In fact the quintessence of totalitarianism is that to achieve the end of social justice the human spirit can be crushed and the State can dominate the life of the individual.

Our Fundamental Rights are so drafted that they can never stand in the way of accomplishing the Directive Principles. In fact, several times in the course of cases which I have argued before the Supreme Court, the Supreme Court judges have asked the Counsel for the government, "Show us a single measure of social or economic reform which you are unable to achieve as a result of the Fundamental Rights." No positive answer could ever be given to this question by any Counsel. The ideal position is clear—respect human freedom while seeking to achieve the Directive Principles of social welfare.

Q. Do you think 'civil liberties' can be approached from a Marxist position? Or is the concept an essentially

non-Marxist one?

A. Civil liberties and a Marxist State can never coexist. To talk of Marxist democracy is like talking of boiling icecream.

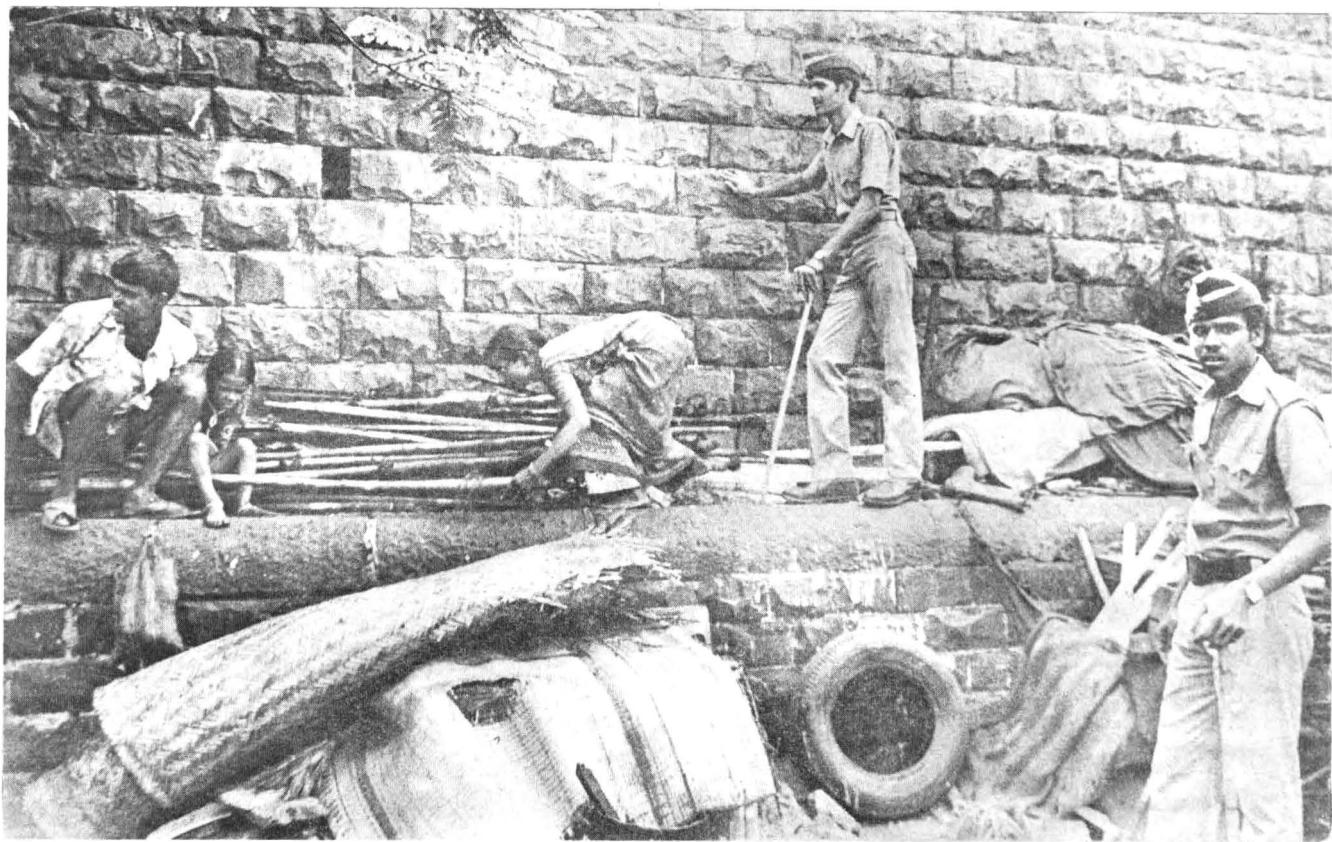
Q. What do you think of the work of Indian civil liberties organisations in general and of the PUCL in particular?

A. I am a member and supporter of PUCL. But in my opinion they were wrong in championing the cause of those who had been guilty of encroachments on public property.

On other issues they are doing dedicated work. We need this kind of organisation because it fights for people's rights and generates a certain consciousness among people.

Q. One of your objections to the PUCL action in the pavement dwellers case was that it prevented an official body from carrying out its duties. But surely, most civil liberties activism in India has to be directed at restraining such 'official' organisations as the police from performing what they construe as their duties?

A. The question is not of an official performing what he construes to be his duty. The real point here is that the Municipal Commissioner is performing his statutory duty—a duty about which there never was and never can be any doubt. If a public official is seeking to perform what is indisputably his duty, how can the Court prevent him from doing so? How can any Court prevent a public official from enforcing the law? It would result in absolute chaos if Courts, which are intended to assist in enforcement of the law, were to be converted into instruments for preventing such enforcement. Law and order would totally break down if such a situation were permitted to prevail. ♦



The PUCL claims that by throwing slumdwellers out of their homes the government was depriving them of their right to life.

should be consulted. Cho Ramaswamy for example, was particularly distressed when Arun Shourie, a leading light of the PUCL, came out against his anti-Naxalite resolution. Said Shourie: "If Cho's resolution is passed, it would hurt many among us. In particular, the CPI (ML) group would feel very offended as it would be construed as a direct reference to them. We cannot afford to do this." According to some observers, it was Shourie's view that really turned the tide against Cho. While Shourie is hero-worshipped by some PUCL members, there is dissatisfaction over his oracular status, even when he is only advocating expediency over principle.

Durga Bhagwat was also mystified by the PUCL's decision-making structure. When she resigned over the pavement dwellers issue, some PUCL activists said that she did not have full information about their stand. But as she points out: "If they go ahead and do things without giving their own

Vice President full information—then what do they expect?"

Claude Alvares is even more scathing: "It is almost like the Congress (I)." He is disappointed by the manner in which meetings are organised and decisions taken. Certainly, the issues on which Bhagwat and Alvares resigned should have been sorted out within the organisation first, rather than becoming public controversies later.

On the other hand, it is often impossible to consult everyone in a broad-based organisation like the PUCL. Nor can there be a consensus on every issue. But there is also a deeper and more significant explanation for the recent rifts within the PUCL.

The PUCL is, almost by definition, a part-time organisation: that is, one composed of professionals who take only a part-time interest in it. The actual running of such an organisation will only be done by those who are prepared to take the most interest and devote the most time. Inevitably, such

people tend to be activists whose views are more extreme than those of the relatively silent majority.

This is a common feature of all voluntary organisations. Given the very nature of their role and finances, their day to day functioning will be handled only by those who are more 'committed'—those who are prepared to sacrifice their professional and personal lives for a cause. On the other hand the rank and file of the organisation would be composed of those who are not prepared to make such sacrifices and a clash with the leadership thus becomes a near logical certainty.

There is no real solution to this. If active PUCL members are concerned about the eviction of slum dwellers, they cannot really go and consult all the Vice Presidents before acting—there simply isn't the time. And, the silent majority cannot impose the limitations of its own belief on those volunteers who are prepared to devote their time and resources to an issue.

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UCO CAS 127/83

THERE IS A FEELING THAT the PUCL's concept of 'civil liberties' is not as clear as one would like. Commenting on the pavement dwellers case, Nani Palkhivala obliquely criticised the PUCL's misunderstanding of the concept of rights. He argued that the crucial issue was "whether a statutory body like the Municipal Corporation which has been charged with the duty of ensuring by all reasonable means the proper maintenance of civic life in the metropolis, does in fact have the freedom to act, however belatedly, in the discharge of that duty, or whether it can be compelled, in the face of narrow populist pressures, to abdicate its basic obligations to its constituents." Or, as has also been said, was the PUCL misusing 'rights' to obstruct a statutory body? Palkhivala went on to berate those who because of their 'humanitarianism' evolved 'legally indefensible' conceptions of rights.

A criticism of the PUCL is that because in some civil liberties matters, it takes the side of the underprivileged, its members have confused supporting the underprivileged in all cases, with defending civil liberties. There is a Marxist tinge to some PUCL rhetoric that seems to have little to do with liberties. And some members like Alvares seem to have little respect for the sort of liberalism that fuels civil liberties organisations all over the world. Speaking of Tarkunde, Alvares called him 'an old fashioned liberal' and he also dismissed in print 'the colonially inherited duties of lawyers'.

Part of the problem is that there is so much injustice in India, that it seems wrong for a public-spirited organisation to declare that it will only concern itself with one kind of oppression and ignore the rest. But if the PUCL is to grow into the sort of cohesive organisation that is truly effective, then perhaps it is precisely this kind of distinction that it will have to make time and again.

As an army in peacetime, the PUCL has performed admirably. Obviously people who unite to fight an extreme situation cannot be expected to argue on all less extreme situations. And the PUCL has contributed significantly to the battle against infringement of civil liberties. Whether such rifts and disagreements will persist however, remains to be seen. ♦

CALLING A SPADE A SPADE

Bharat Dabholkar on 'creativity' in Indian advertising.

HOW DOES ONE begin writing a piece on advertising? Do you reuse some humorous quotes like 'Advertising is the most fun you can have with your clothes on' or 'Selling a product without advertising is like winking at a pretty girl in the dark?' (After all, isn't one's intelligence judged by the 'quotable quotes' one can remember?) Or at least have a title with a ring of solemnity like 'Consumer psychology in contemporary society' or 'Can advertising have built-in parametres of effectiveness?'. Decisions. Decisions.

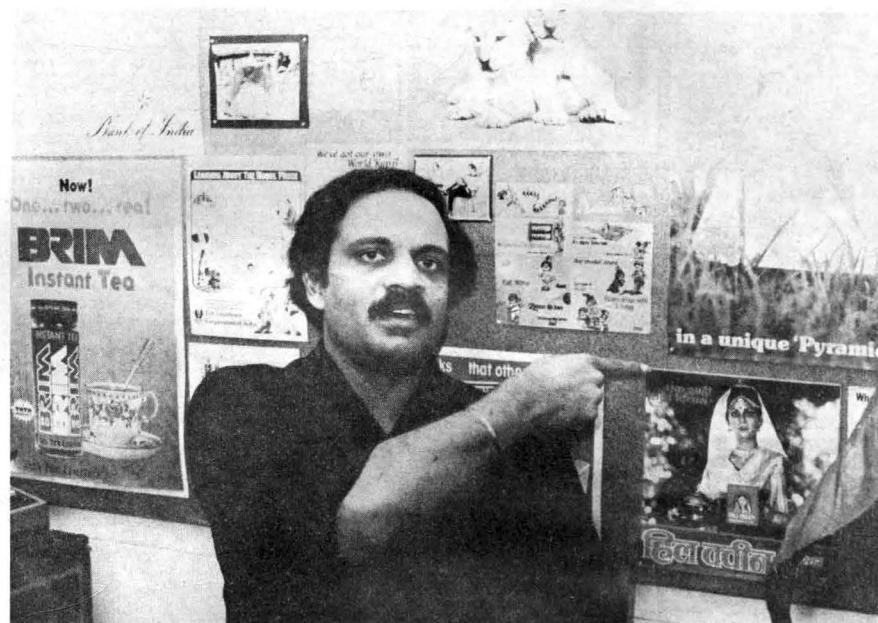
As a wide-eyed initiate in the advertising world, I used to be very impressed by professional-sounding articles which did threadbare analysis of contemporary advertising, quoted research studies in the US, consumer trends in the UK and so on. The 'chosen few' writing all those articles were the ultimate in advertising knowledge for me. Only later did it dawn on me that we all had access to the same trade books and magazines which contained all that information. And quoting some paragraphs from these didn't really make those writers 'advertising pundits'.

An advertising expert for me, now, is a person who can create a good campaign for a given product right here in India. Otherwise it's like an impotent man just quoting Vatsayana and Koka pundit on his wedding night. The bottom line being 'you do it and show me'.

Well, that's enough of an opening.

To me, advertising is like a religion. The consumer is the God; the marketer, the devotee; and the advertising agent, the priest. And a good priest is the one who talks in a simple language and tells you easy, uncomplicated ways to reach God. If the priest in advertising, like most other religions, creates an aura of exclusive knowledge, buries the simple jargon and creates a com-

Bharat Dabholkar, Account Director at da Cunha Associates, is one of the men behind the Amul hoardings.



plicated maze of creativity in order to perpetuate the dominant role of himself and his tribe, then it's time for some plain, commonsense thinking.

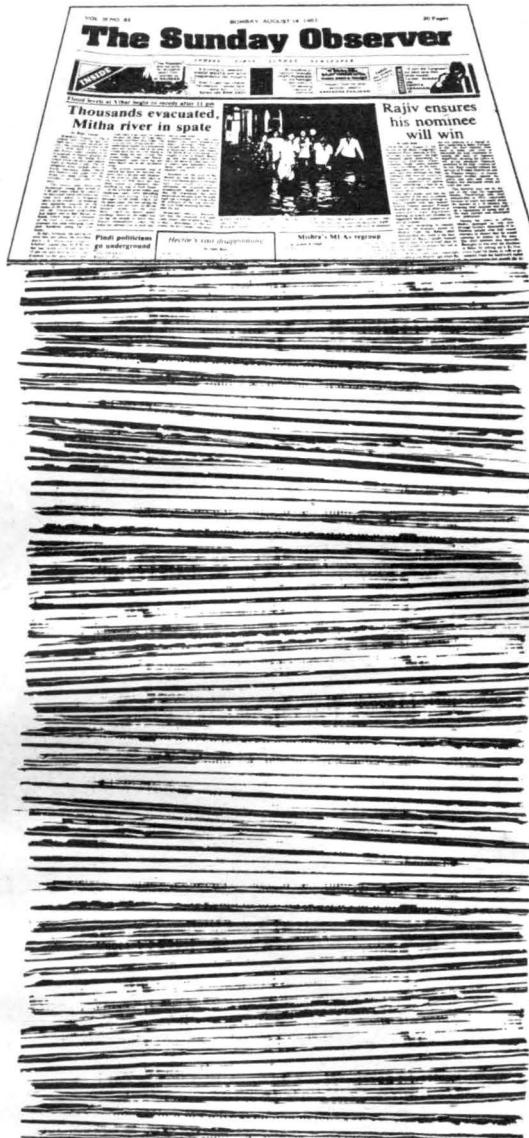
An advertising person is like an expert tea or wine-taster. If you don't have the in-built instinct to create and recognise good concepts and need the constant crutches of consumer research studies and other neo-management paraphernalia, then you shouldn't be in advertising in the first place. And if you are doing something right, then not knowing the right management terminology for that action, doesn't make it wrong. Right words don't matter—right actions do. Most of us know how to spell Mercedes Benz but can't ever afford to sit in one, while a non-articulate, nouveau-riche calls it 'merchidy car' and owns three of them.

Now, before my fellow professionals jump at my throat, let us all have an honest look at ourselves. Take tea advertising for instance. There are loose teas, packet teas, leaf teas, dust teas, premium and popular blends. When I wrote my first tea ad, I was under the innocent impression that most people wanted a 'good strong cup of tea

which had a good taste/flavour'. Then I found lots of people from different agencies spending thousands of rupees to find out what a consumer looks for in a good tea. The technical terms being—what are the perceivable and non-perceivable attributes that the consumer rates high on his 'preference scale' (wow!). And when they finished talking to consumers in the South, they would go to consumers in the North. And believe me, I have gone through a lot of studies done for a lot of teas, by different companies. And from Kashmir to Kanyakumari the tea attributes that get rated high on these 'preference scales' are 'good, strong teas with a good taste/flavour'. Studies for all competitive brands ultimately arrived at this gospel truth.

Obviously, what they should have been doing was to accept this basic commonsense premiss (it is hearsay, of course, but there are lots of down-to-earth people in advertising also) and to concentrate their monetary and creative efforts on devising attractive different ways of saying 'strong tea with good taste'.

It will also help a lot if some of the new entrants in advertising have middle



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The Sunday Observer

AT THE TOP AT TWO - THANKS TO YOU

impressions-2393

class backgrounds. Let's look at it this way. A major segment of your consumers, for most mass products, is in the middle and upper middle class. How can a public school type, sitting in swanky clubs every evening, ever understand how his major target group feels, lives and buys. And can any number of fact-finding studies really give him an insight into the deep psyche of this consumer? It is high time advertising professionals started recruiting people who understand this consumer because they are a part of them. For an advertisement to talk the language of the people, the advertising man should talk the language of the people.

Why should the original idea always be thought of in English at all? Why make advertising as restrictive as English theatre? Why have a handful of people churning out foreign rehashes (unless you like Woody Allen with a Parsi accent), when there is such a lot of talent in other languages just waiting to be tapped? As an advertiser, how many times have you rejected a Marathi advertisement as being too high-flown because some managers in your office, with names like Mr Sharma or Mr Kulkarni, thought so? Have you stopped to think that these managers may not necessarily be reading literature in those magazines even if their mother-tongue is Marathi or Hindi? And that those thousands of your consumers who read novels and magazines only in that language will not find your ad high-flown? In simplifying the ad you are also insulting the literacy and intelligence of your consumer.

Advertising is, really, quite a simple profession. It's an idea business. And creativity is a spark. You either get it, or you don't get it. There is nothing like 'creativity by committee'. Let's see how this simple process works. You have to advertise a product that is more or less like other products in the market. Now no matter how many papers you've read about 'me too' products not selling and the need to project a USP (Unique Selling Proposition), you can't always find a USP that's perceptively beneficial. So, you create an ad that's different from others. You've just arrived at the very

first pitfall. While making your ad different and nice, how 'different' should your approach be? Most ads get so different that their 'attention getting' ability increases manifold and the product to be sold barely gets breathing space under the unhindered creative expressions of the art director and the copywriter.

A clown can't sell but a witty salesman can. A welcome new emergence is that of hardsell, non-snobbish commercials on the scene. I have met a lot of people who, while condemning as pedestrian, have played back the full commercials of Vicco and Nirma. And before anybody pooh-poohs that as a result of constant repetition, remember that other great creative ads don't get memorable without repetition either. Don't you use colour double spreads in leading magazines in order to get noticed? That time we don't hear the

theirs.

Very simple. No beating around the bush. In the age of consumerism where the consumer is deemed to have a right to know the absolute truth, shouldn't all advertising be direct, down-to-earth and frank? In the old days, wives wouldn't refer to their husbands by their names. They resorted to the *humare woh, sun rahe ho* type of reference. Most ads today are like those wives. What's the use of showing a modern layout and pussyfooting it when it comes to 'naming names'? Why hide in the sanctuary of vague phrases like 'other similar products', 'other leading brands', 'Brand X'? If the superiority claims made in your ad are not subjective and can be backed by hard, factual data then it's absolutely necessary to present them honestly and not play cute games with consumers.

The only answer to 'is this type of advertising good?' is 'what other type is there?'. People often ask if such ads are legal and ethical. As a lawyer, I am very clear. It is absolutely legal as long as your claims are truthful and backed by facts. And any presentation that's honest and for the good of the majority is totally ethical, unless one has other convenient definitions of the word 'ethical'.

As far as our ad was concerned, there was this very cocky ad (not a very original one to start with, and nothing wrong in that) leaving a full page blank for its competitors. This big brother offering you a club and saying please, oh please, hit me hard. Talk about opportunity on a silver platter! Now, since we had featured their ad, logo and all, someone was bound to say 'but this ad gives publicity to the competitor as well'. But of course it does. Why not? Do you know how many pages in *Ramayana* are devoted to describing Ravana and other demons? The more publicity you give your opponent the better you look when you are proved superior. (Makes sense, doesn't it?) In these matters, the advertisement, *per se* is not important. What's important is the benefit of additional and honest information to the consumer.

Which is what all advertising is supposed to be about. Isn't it? ♦

How can a public school type, sitting in swanky clubs every evening, ever understand how his major target group feels, lives and buys?

plus points of dominant size.

There is also this great shying away from calling a spade a spade. Recently, I wrote an ad for a computer company which created a minor storm. All the ads for different computers were so full of great futuristic photographic angles and high falutin headlines that a direct, hard-hitting ad stood out like a sore thumb. It's so strange that you get such instant reactions to a simple and straightforward ad. It happened like this. There was this double spread ad released by a competitor which featured their computer on the left-hand page and the right-hand page was kept 'reserved for any other computer that can match the features of our computer'. My client's computer had superior features, so we reproduced their entire ad and made use of the blank page to show the superiority of the features of our product over

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COMPUTER CINEMA

Amit Khanna on the advent of 'electronic' cinema.

IT IS A paradox. The business of selling dreams and creating illusions—cinema—is gradually leaning on science and technology to make 'real' such illusions. Films, TV and video have today become a testing ground of the latest technology. In fact, this all-enveloping art form is gradually turning into a meticulous science.

It was Francis Ford Coppola who publicly heralded the advent of the 'Electronic Cinema' at the 51st Annual Academy of Motion Picture Arts and Science telecast when he said : "We are on the eve of something that's going to make the industrial revolution look like a small out of town try-out. I can see a communication revolution that's about music and art movies and digital electronics and satellites, but above all human talent and it's going to make the masters of the cinema, from whom we've inherited this business, believe things that they would have thought impossible."

Still in its early development, the 'Electronic Cinema' makes possible the previsualisations of the planned film. This begins with the process of optical transfer of story-bound sketches on to a video disc or tape. Then, the recorded dialogue of the film, plus music and sound, is added to the script many months before the start of actual filming.

The process allows the director to control and adjust all elements as he shoots. This technology is now being gradually used for actual film-making. *Tron* for example, has very successfully utilised this format. Using a word processor, the script is fed into a computer

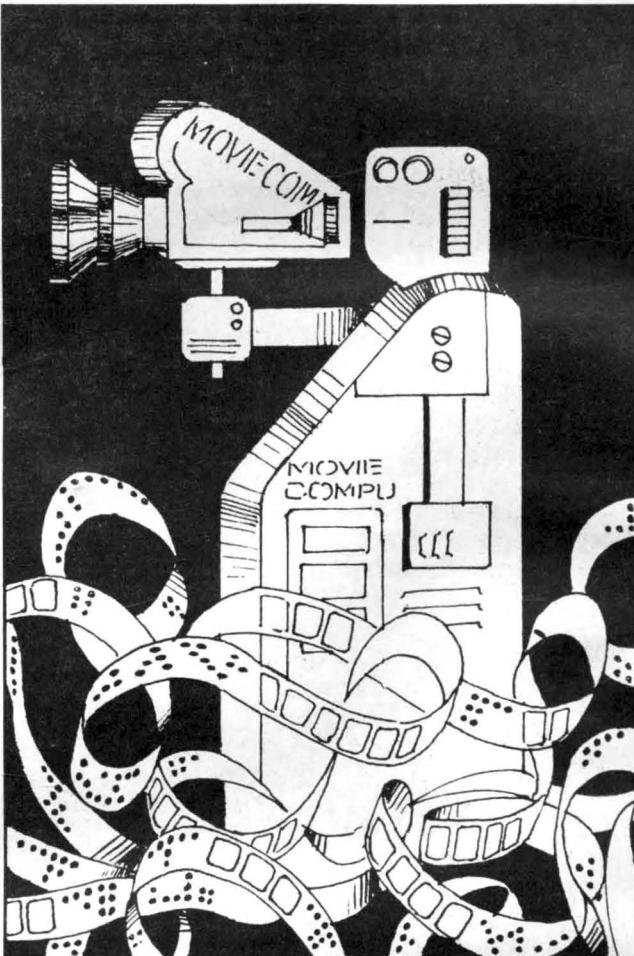
along with all possible permutations and combinations.

Special effects like dissolves, freezes and matting are also 'encoded'. The director, can then, on a mere press of a button, see what he has created. The use of a computenral image generators system can now provide a director with a console. Using various key boards, control key functions and light-pen (literally, a pen using a beam of light to write on a TV screen) in place of a traditional pencil and paper, the creation of a drawing is delineated on a TV monitor. Then, using a computer, various image configurations can be observed. As the video technology progresses, cinematography on tape is becoming more and more popular. With the introduction of sophisticated

equipment by giants like Ekagami, Toshiba, Sony, Bosch, Philips and NEC, one can expect a gradual switch from film to tape. The problems of resolution, sharpness, clarity and definition are gradually being overcome. Besides, editing on tape with the assistance of time-codes which are recorded on the tape along with the pictures and sound, makes the use of a computer possible. There is no messing around with cuttings, negatives and double takes.

Gone are the days of bulky studio cameras and giant arc-lights (aptly called Brutes). Electronics spearheaded by ever-changing microchips have changed the shapes of cameras. Variable speeds, auto-focus, gyro-controlled movements, nickel cadmium batteries and two-pin registration have all contributed to a clearer picture. Optics have also developed accordingly. Fast lenses (Stanley Kubrick's famous candle-light sequence from *Barry Lyndon* was shot

with a lens having an aperture of 0.7) and equally fast films (currently Kodak is marketing a 400 ASA film in 35 mm) have made cinematography possible in poor light. Contraptions like the Lorna Crane, an intricate marvel of mechanics and electronics, give the filmmaker a total command over the ambience in his film. Matting, special effects are so advanced today that you have almost to be a scientist to understand their usage and application. Sound too has changed. Using cordless microphones and stereophony, filmmakers have begun to use sound as a major ingredient in their illusions. 'Dimension 180' and 'Sensuaround' employ special speaker systems in the auditoria to create more realistic audio-effects. Digital Sound (also digital scene simulation) is making



Amit Khanna is a film producer, director and lyricist. He writes frequently on film technology.

its way into the movies.

What the impact of these developments on Indian conditions will be, is difficult to assess. But, we can expect more video theatres (regular theatres using a giant screen, and a VCR to project films) more video films and a lot of interaction between tape and the feature film industry.

Video is progressing at such a fast and furious pace that all we can be sure of is that more of today's most outrageous ideas will soon become a reality. In the course of these changes, there will be improvements in the versatility, quality and scope of existing systems. Novel technologies will make video a near perfect communications system.

As video becomes cheaper and more accessible, more and more VCR owners will suddenly become video movie directors. This will be made possible by means of narrower, 8mm tape and the CCD, (Charge Coupled Device) which is already being incorporated

into the new generation of video cameras. The CCD is a microchip which effectively replaces the camera tube, reducing the camera's weight. Although prototypes do not yet produce recordings of professional quality, this new camera responds to much lower light than a conventional video camera and is immune from burning by overbright light sources.

Today, even the best video is limited in quality by the coarse screens on which it is projected. Researchers in Japan are already working toward the 2,000 line television picture which will, for the first time, compete in quality with 35mm film. When pictures of such clarity and detail can be scanned by a CCD device and reassembled on large-screen systems, the way should be clear for another step forward, namely increased speed and ease of copying of video recordings. At present, copying involves inevitable loss of sharpness and quality because the copying machine is trying to draw an

accurate picture of a fluctuating signal. If however, the signal is recorded as a set of precise digits, each specifying a particular element of brightness or colour, the recording becomes a rigid set of instructions with no loss of quality.

By the end of the century, video will be everywhere: in homes, offices, schools and factories, in supermarkets and sports stadia. Video, linked to computers, will spearhead the new industrial revolution. To aid and to entertain, video will change from being a single entity into a whole system.

Naturally all these fascinating new technological developments will change the very nature of cinema as an art form for they will not only help make a filmmaker's job easier but also open new avenues. Filmmaker's will not only venture into many subjects that are now considered 'unfilmable' but new cinematic forms are also likely to evolve.

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Kumbh Mela



RAGHBIR SINGH

IN PRAISE OF MUSHROOMS

Aphrodisiacs, hallucinogens and gourmet delicacies.

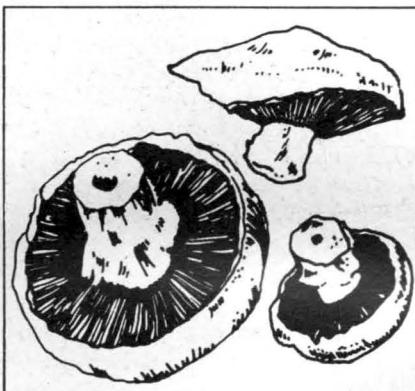
THE MUSHROOM IS one of those strange vegetables that all of us are acquainted with, but will rarely use in our own kitchens. We've heard the stories of its aphrodisiac properties, we know how it caused hallucinations among the hippies of Haight-Ashbury, and most of us have seen the bright, over-priced cans that the Kasauli farms churn out by the thousands.

But mushrooms have never formed an integral part of Indian cuisine; they are usually quite expensive and many people still harbour the suspicion that they cause food poisoning. So, they remain minority interests, bought by a select few and used mainly by the restaurants of the large hotels.

This is a pity, because the mushroom is an extraordinarily versatile vegetable that can, with the bare minimum of cooking, take on interesting and unusual flavours. It is equally at home in Indian, Chinese or Western cuisine and can be used for a variety of delicious snacks.

The most common mushroom here is the cultivated or 'forced' mushroom (*champignon de Paris*). As its name suggests, this mushroom does not grow wild and is cultivated on farms. Mushroom cultivation is a technical process requiring trays, albumen and the spores that function as seeds. It is fast catching on all over India but Kasauli in Himachal Pradesh is still the leading centre.

Generally, the cultivated mushroom is the blandest of all. It lacks the strong flavours of wild mushrooms and has to be glazed or spiced to be enjoyed fully. Even then, a good rule of thumb is that the larger the mushroom, the more flavour it has. The button or small, unopened, bud-like mushroom is immature and therefore, largely flavourless. Sadly most Indian mushrooms come on to the market when they are still buttons. I've heard two explanations for this. One is that the cultivators are interested in a high turn over and don't really have the patience to wait for the mushrooms to grow to



a reasonable size. Another is that the spore we use in India does not yield very large mushrooms.

Cultivated mushrooms are available all over the country. Unfortunately most shops sell the canned versions. Why mushroom farmers insist on canning their products is something I have never worked out. As anybody who has eaten a soggy mushroom that has been drowned in brine for weeks on end will agree, there is no surer way of killing the natural flavour. Abroad, canned mushrooms are used only for sauces and are considered unfit to substitute for the real, fresh thing.

Fresh mushrooms are now available at most places, but can sometimes be hard to find. Himachal Pradesh remains the major source of supply for the North, and Bangalore supplies the South. But as more and more farmers take to mushroom cultivation, new suppliers are opening up: a significant proportion of Bombay's mushrooms come from the hill-stations of the Western Ghats.

Fresh or canned, mushrooms are expensive. They are cheaper in Delhi than in Bombay, but even so they are priced higher than most vegetables. The cost of cultivation explains some of the difference, but there is no earthly reason why canned mushrooms should cost more—pound for pound—than chicken. The newer suppliers are undercutting the Kasauli barons so perhaps there will be a price war that will benefit the consumer.

Even at this high price, mushrooms remain a good buy because of their versatility. There are few Western dishes that mushrooms cannot improve. They add a nice texture to pies, can easily be sliced into the sauce for a *coq au vin*.

Their suitability to Indian cookery is less established. The morrel (or *guchhi*) of Kashmir is a rich man's dish, but even the cultivated mushroom (*dhingri*) can substitute easily for it. Mushrooms can substitute for potatoes in most curries, and go well with peas, chicken and *saag*.

They are least commonly used as snack-foods though this is something they are ideally suited to. Mushroom sandwiches, made from sliced, fried mushrooms and a cold meat filling are delicious, and *masala* mushrooms (either on toast or by themselves) form a perfect accompaniment to cocktails.

We are unfortunate in India in lacking access to other varieties of mushrooms. Morrels are too expensive and the dried, dark mushrooms of Chinese cuisine (available in Calcutta) do not adapt themselves to Indian or French food. I've seen wood mushrooms on sale in Bombay, but their availability is limited. And even if you live in a place where mushrooms grow wild, it is not advisable to pick them up and cook them—some varieties are poisonous.

But what of the mushroom legends? Are they really hallucinogens? Well, yes, some of them are. But if you expect to be transformed into Timothy Leary after a bite of the cultivated mushroom, then you will be disappointed—those mushrooms are not sold here. And are they really aphrodisiacs? The current medical view is that there are no aphrodisiac foods. Nevertheless, some more worldly doctors admit that empirical evidence suggests a link between mushrooms and libido.

There is of course, only one way for you to find out for sure!

— *Vikram Sinha*

Jehangir Sabavala

Interviewed By Malavika Sanghvi

Photographed By Ashok Gupta

THE FIRST THING that strikes one about artist Jehangir Sabavala's studio, is the almost ascetic simplicity of the room. It is a tiny area, 16 feet by 12 feet long (as the artist himself says, 'no larger than a pin') and lies close to the entrance to his Altamount Road apartment in Bombay. By any standards it is stark, holding only those items that are absolutely essential to Sabavala's profession. But when seen in relation to the rest of the house, which is scattered with antique frames, tapestry, and rosewood furniture, (all part of the artist's inheritance) the simplicity seems deliberate.

The room lies in a south-westerly direction and is lined on both these sides by windows. The artist who always paints by natural light, places his easels facing south and with the help of venetian blinds, can alter and often filter the light to suit his needs.

Since everything is geared to the central idea of painting and of utility, there is not much that catches the visitor's eye, except of course, the magnificent canvasses stacked neatly against the northerly wall. Opposite are two adjoining desks, both with narrow drawers which hold boxes and boxes of paints. These drawers also contain other tools of the trade.

By these tables there is a simple, single chair on which the artist sits when he is sketching on the table. More often than not though, he prefers to stand, doing his charcoal sketches, overlooking a magnificent view of the greenery of Altamount Road and further, the vast stretch of Bombay's skyline against Marine Drive.

The room is open to noises and intrusions of all kinds. Here birds twitter next door, a radio spews commentary, or inside the house, a phone jangles. Sabavala is quite content with all of it, in fact he believes that the sights and sounds of everyday life are important props for his working-style and he wouldn't dream of shutting them out. "In fact," he says, when asked whether the household moves

around on tiptoe while he is painting, "nobody pays me the least attention and if the phone rings, I answer it." A suggestion that he air-condition the little room for further privacy, is met with a wrinkling of the nose.

Utility and tidiness are the two facets of Sabavala's studio. Near his tables ('made by some local carpenter: nothing fancy'—he says) are a lower set of open shelves, which hold the rest of the artist's paraphernalia. Big bottles of turpentine and linseed oil, boxes of unused oils, neat little squares of cloth to keep handy and a row of copper and brass jars that hold his collection of brushes are placed in ascending order on the top shelf. These jars are probably the room's only concession to frivolity, as they are not mere jars, but ancient measures, picked up from Chor Bazaar a while ago.

Near this low shelf and under the southern facing window is a low settee, on which visitors, or potential buyers can be seated. Sabavala, though he is acutely aware of the small dimensions of the room, is quite happy to let visitors, even strangers, who wish to view his paintings into this room and describes this intrusion upon his work as a 'flattering one'.

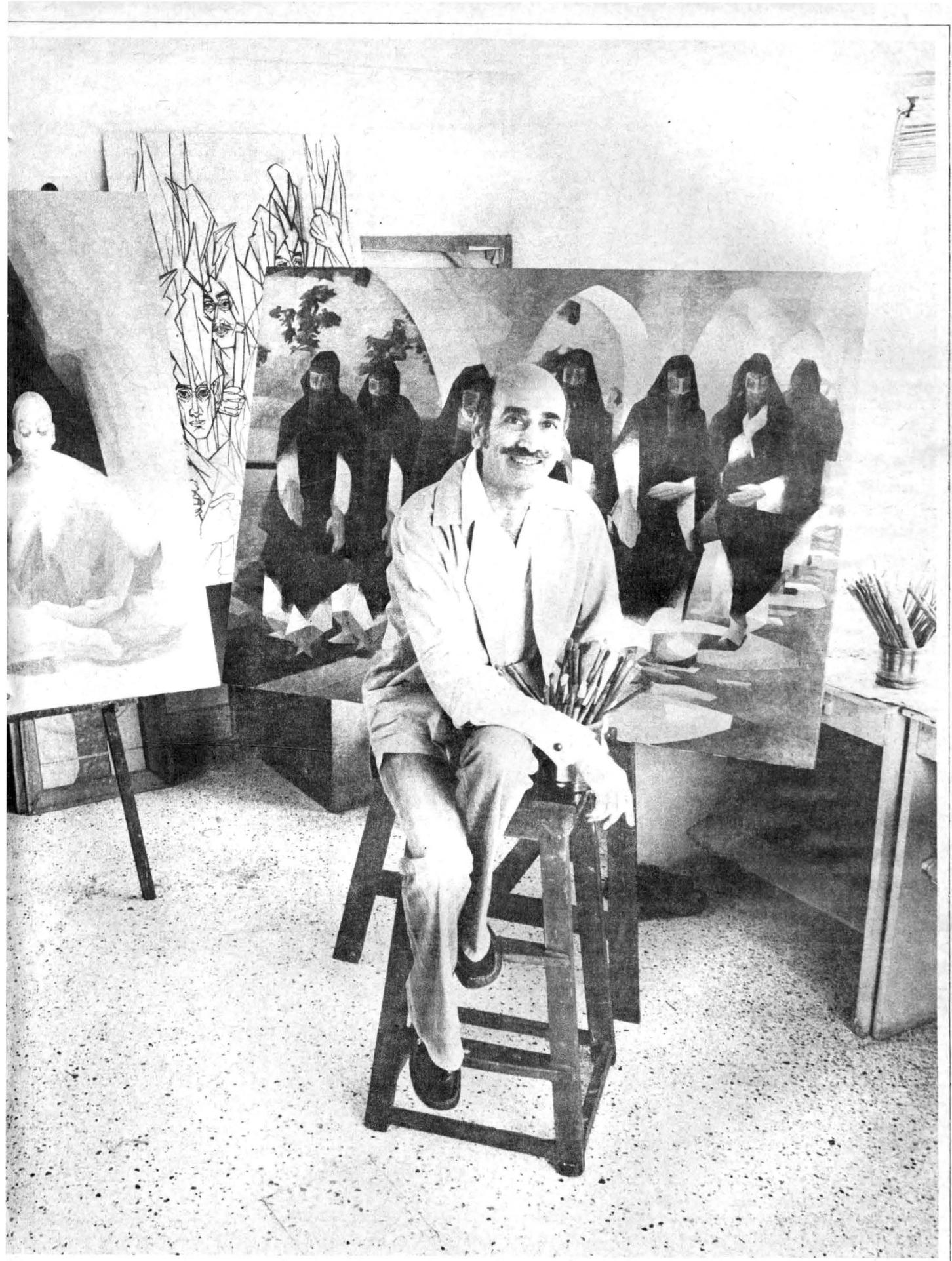
These then are the contents of Sabavala's studio, give or take a brush or two. Sabavala, who has painted in a profusion of studios as a young artist in his Paris days and until two decades ago, in a roomy old studio, overlooking a garden at Malabar Hill, has quite come to terms with the tiny dimensions of his present one.

"The idea is not to have a great studio, but to do great paintings," says the artist, who has exhibitions coming up next month in Bombay and Calcutta.

"Basically to produce a painting one must have a little privacy, good light and a small space," he says.

Besides of course, if it is vast spaces one is looking for, then they're all there, aren't they, in Sabavala's canvasses of haunting vistas? ♦







CARGO FROM SINGAPORE

By Manohar Malgonkar

IN SOME WAYS I AM SORRY FOR MATHRANI. ALL I
wanted to do was to settle an old score—pay him back in
his own coin. What I seemed to have done was much more
than I had bargained for.

It all began in Singapore, more than a year ago. I had
gone to Malaya for my paper. They wanted a few articles on
the 'Emergency'. The Templer plan was reported to be
proving successful, and they wanted some first-hand reports.

Post-war Singapore is the most fascinating city I know—the
sort of place where anything can happen. Nowhere else
does the mysterious East seem more mysterious. The water-
front has a heady, electric atmosphere all its own: perhaps
it has something to do with the mixture of smells so character-
istic of all Eastern ports. The pungent Singapore smell
has a richness which is unique.

Within a few hours of landing in Singapore, I ran into



some friends. British officers of the old Indian army who were now serving in the Far Eastern Land Forces in Malaya. Singapore, and the whole of Malaya, is full of old Indian army officers. You run into them everywhere, friendly and full of 'Do you remember. . . ?' My friends were very helpful. Thanks to them, I was able to travel over most of the peninsula. They even arranged a light plane trip to an outpost in Negri Sembilan. I wrote some really snappy articles for my paper, all from the 'on-the-spot' angle. None of these was published; they didn't fall in line with my paper's policy. When I got back to Singapore after my round of the interior, I got a longish wire from my Editor telling me what he thought of my articles and I am afraid I sent him one back, rather thoughtlessly, resigning my job.

That has little to do with this story, except that it explains why I happened to be in Singapore and at a loose end in September last year.

I had saved some money and, living in a modest hotel, I could have carried on for months. Actually, if I had wanted to, I could have easily got a job there. One of my old Indian Army friends is now a big noise in Radio Malaya and, as soon as he heard that I had resigned, he offered me a job in the Radio Station, just for old times' sake. If you have been in the Indian Army during the war, you certainly don't lack friends in Singapore.

But I didn't take the job. I wanted to get back to India, although I was in no hurry, and for the time being I was content to aestivate in the warm haze of Singapore. I spent my time wandering along the outer reaches of the waterfront, threading my way through the crowded Malay kampongs and watching the assortment of strange craft, when the idea struck me: Why not journey back to India in one of those sailing boats?

The more I thought about it, the more fascinating it seemed. I had never travelled in a sailing boat in my life, not even in one of those small dinghies with their snow-white sails that one sees strutting about near Ballard Pier in Bombay. To travel all the way from Singapore to India in a sailing boat seemed to be what I had wanted to do all my life.

For the next few days, I made inquiries from all kinds of shipping agents. But their response was discouraging. They did not know of any



To sail all the way from Singapore to India seemed to be what I had always wanted to do.

country boats which could take me on as a passenger. They were all quite certain that such boats did make occasional journeys between Malay and Indian ports, but they never seemed to carry passengers. One or two Chinese agents vaguely promised to see what they could do, but they didn't give me much hope. It was not easy to get a passage, they said, it depended on a lot of things, and then they proceeded to give me a formidable list of the factors it depended on.

At the end of the week, I was quite fed up with my Chinese agents; they would never tell me anything definite; and I had at last resigned myself to giving up the idea.

Then one day, I was talking to Walter Arnold about it. He is the chap who works in Radio Malaya. He was the only one who did not laugh at me, as most others had done. He pursed his lips and tapped his head in an unconsciously theatrical gesture, as though he were in deep thought. Then he said, "The only man who might be able to help you is Mathrani. In fact, I'm almost certain he will be able to help you. He is supposed to know all the country-craft Nakhodas."

"Where do I get hold of this man?" I asked.

"It is easy enough to get hold of him," he said. "Everyone seems to know him; he is perhaps the most well-

known character on the waterfront. Any sampan man in the harbour will tell you where to get hold of him." Then Walter paused and looked at me. "It is just that he is a bit on the shady side. Not quite *pucca-sahib*; you know what I mean. I am not sure you will want to meet him."

Walter did not laugh as he said this, but I did. Obviously, Walter still regarded me as the typical Indian Army officer of the old days, with inflexible rules about what is done and what is not done; brought up in the tradition that one must 'never be seen on the wrong side of the counter,' particularly with the regimental tie on. It was all very well in the Army, being particular about people you associated with, but in my profession—as a newspaper man—you couldn't go on being squeamish. I told Walter so.

I met Mathrani the next day, at the Cholon-Bar. He seemed to spend most of his day there, and had an air-conditioned office on the first floor. Walter thought that he owned the Cholon-Bar, but he wasn't sure.

The Cholon-Bar on Johore Road is said to be an exact replica of one of the famous nightclubs in New York. It was all chromium and yellow leather, and thick blue carpets; and, of course, air-conditioned. It was quite empty when I got there, soon after eleven, and Mathrani was waiting for me.

He was a well-built man in his early thirties and he was dressed in that somewhat flashy manner favoured by the wealthier Indian merchants in Singapore. He wore a beige sharkskin suit, pressed to perfection, and a purple silk shirt. His wide tie and the handkerchief, which was kept in position with a gold-capped pen and pencil set, were of the same material; and they both had designs of enormous, blue pineapples. His socks matched too, and his shoes were the most aggressive shade of what the American magazines call 'tan'. It was enough to put anyone off.

But the way he dressed had nothing to do with me. He was an affable enough man. He welcomed me with a dazzling smile, held out his gold cigarette case, and said, "Time for a Tiger?"

For a few seconds I blinked uncomprehendingly. Then I said, "Yes, of course. Thank you." Tiger beer is perhaps the most widely advertised product in Singapore; even most of the clocktowers in the city display the

slogan. Whenever you look up to see the time, enormous scarlet signs remind you that it is 'Time for a Tiger'.

We sat down, and the boy brought our beer. And Mathrani said, "So you want to go to Calcutta on a sailing boat?"

"Yes," I said, "or to any Indian port."

For several seconds, Mathrani looked at the tip of his burning cigarette. Then he smiled—a meaningful, foxy sort of smile—and, still studying the tip of his cigarette, asked me: "What is it?"

"What do you mean, 'What is it?'" I asked.

Mathrani smiled again, but he did not say anything. He waited for me to speak, as though he thought I was evading a direct answer to his question.

"What do you mean, 'What is it?'" I asked again.

"There is usually a reason, you know," he said, "A very sound reason why anyone should want to travel all the way in a sailing boat. You know the speed at which most of them travel?"

"What? Four, five miles per hour?"

"That's about it. And how far do you think it is to Cal?"

"One thousand six hundred and seventy-six miles," I said. I had checked up the distance in an atlas.

"Well it won't be as far as that. I might as well tell you that if I can arrange a passage for you it will be from Penang. About 1,200 miles from Cal. Even so, it will take you every bit of three weeks, counting all the delays."

"I've got all the time in the world," I said.

"And it won't be any cheaper than travelling by first class boat, or even by air."

"I know that," I said.

Mathrani crushed his cigarette in the ash-tray. "What gives?" he said, suddenly lapsing into American and again smiling that knowing smile of his.

Then I caught his meaning. I said, "I am not trying to smuggle anything, if that's what you are hinting at. It's just that..."

"Boyhood ambition, what?" he said, and grinned.

"More or less," I said. "I have never sailed in a sailing boat in my life. As you know, I am a journalist. I thought the experience would be good for me."

"Oh," he said, "I see." And he nod-



His last words were, "I hope you accomplish your ...er boyhood ambitions."

ded his head several times. "Well I'll give Mr Arnold a ring. Ready for another?"

"No, thank you," I said.

I left the Cholon-Bar feeling rather small. I didn't like Mathrani. But he certainly was a fast worker, for when I went to the Radio Malaya office in the Cathay skyscraper the next day, Walter told me that he had already rung up about my passage.

"Tell me more about Mathrani," I said.

Walter gave me a smile. "You don't like him?" he asked.

"Well, no."

"I didn't think you would," he said. "Although everyone seems to know him, no one knows much about him..."

See what I mean? He throws the most lavish parties in Singapore, but the people you meet there are, shall we say, a little odd. They say he is involved in all kinds of rackets. Someone also told me he is a Customs informer."

"What is that?" I asked.

"You know, the chap who assists in detecting smugglers. A lot of things are said to be smuggled from Singapore—gold, and dope, and things like that. Mathrani is believed to be one of those who pass on information to foreign ports. It is said they get quite a good rake-off from whatever the Customs blokes discover as a result of their tip-offs."

"Oh, now I see," I said. "He must have thought I was trying to smuggle something into India...."

"Oh, no," Walter said and laughed. Then he got the Cholon-Bar on the telephone and passed the receiver to me and there was Mathrani's syrupy, bland voice again.

Mathrani told me that a boat was due to leave Penang in three days and, if I could get there, he had arranged that I should get a passage in it to Calcutta. His last words to me were, "I hope you accomplish your...er boyhood ambition,"—and I didn't like the way he said it at all.

I flew to Penang the next day and caught my boat in good time. The voyage was fully as fascinating as I had hoped it would be, but it was horribly uncomfortable. The boat was a small 90-tonne affair with dirty, patched up sails and it seemed to creak in every joint. All the space I had to myself was a corner of the minute deck.

Aldous Huxley has somewhere written about the 'odours which crowded humanity naturally exhales'. I have never been so persistently aware of the smell as during those 19 days. The only time that the smell was less strong was when it was overpowered by the smell of burning dried fish, which was twice a day; and even that was a relief.

I am now glad I have made that journey; but I wouldn't like to do it again. I think once in a lifetime is quite enough. I was never more glad to see the sights of suburban Calcutta. I looked at the grimy landscape with all the longing of Sinbad returning from one of his more harrowing adventures. But my dreams of lying soaking in a hot bath within a few hours in some lush hotel in Calcutta and ordering my first real dinner in 19 days did not materialise. Although we reached Calcutta in

the late afternoon, I had to spend the night in the boat—guarded by two Customs sepoy.

WE WERE STILL about a mile from the harbour when the Customs launch accosted us, and soon an impressive detachment of officials boarded the boat. Several times in the past, I had gone through the dreadful ordeal of an Indian Customs examination, and although I knew how irritating these examinations could be, I had no idea that this one would take 24 hours. At first I even welcomed the presence of the Customs people on the boat. I thought I would have a pleasant chat with them, for during my journey from Penang I had been condemned to almost complete silence, since I and the Malay crew had no language in common.

But I soon realised this was no ordinary Customs inspection of an incoming country-craft. With the boat itself they finished within half an hour. Then they concentrated on me.

I have no wish to go into details of how thoroughly my baggage and person were checked. It only makes me hot with anger, even after all these months. All I had that was dutiable were four tins of cigarettes, and these I declared to the inspector as soon as I got the chance.

The Inspector laughed and looked at his assistants and they all laughed too. He did not say a word to me. Then they began to go through my things.

The way they handled my things, even unfolding each shirt and putting their hands through each single sock, made me furious. But there was little I could do. I protested in vain. Those who have gone through a routine Indian Customs examination will have some idea of what sort of search they make when they have reason to suspect that a passenger is trying to smuggle something into the country.

They took two hours to search my two suitcases and a zipper army-issue valise and they seemed disappointed when they didn't discover anything. Then they opened my tins of cigarettes, every single one, and ripped open several cigarettes in each tin.

At last, I thought, now I can get away. But they hadn't finished. They left a guard on the boat, and throughout the night the guard watched me. I fumed and cursed and threatened all sorts of reprisals, but it was no use.



With the boat itself the Customs officials finished within half an hour. Then they concentrated on me.

The next morning they took me to the main Customs Office and there my baggage was again carefully examined to see if there was any secret compartment or something. They brought out some new-fangled gadget—something like those mine detectors we used to have in the war—presumably to detect the presence of metals. They even ripped open my three pairs of shoes. In

the end, when they discovered that I had nothing that I hadn't declared, they let me go, reluctantly and without a word of apology.

THE FIRST THING I did on going to my hotel—even before taking a bath—was to send off an airmail letter to Walter Arnold. I got his reply after I reached Delhi. He confirmed what I had suspected. "Yes," he wrote, "Mathrani tells me he was convinced you were trying to smuggle something. He said he wasn't sure what. I have had quite a row about it with the—. He won't admit it, of course, but you can bet anything he must have tipped off your Customs chaps that you were attempting to smuggle something."

So that was that. Beyond cursing Mathrani, I could do little else. I had visions of meeting him in a dark alley somewhere, all by himself but even the worst hiding I might give him would not make up for what he had done to me. Also, I am not so sure I could have given him a hiding. He is about the same size as I.

It was only a few days ago that I got my chance. Walter Arnold was on his way to England and he stopped in Delhi with me for a day. Within a few minutes of his arrival, we got to talking about Singapore and, inevitably, about Mathrani.

"Oh, he is making a trip to India," Walter said. "Oh one of those posh new Japanese steamers—due to start in a couple of days."

"I almost feel like arranging a one-man reception committee," I said. "How I would love to knock out his teeth."

Walter looked at me and smiled. "Oh, forget the b—," he said. "That worm is not worth bothering about. Nowadays, I cut him dead."

But I didn't forget the b—. Walter caught his plane the next afternoon, and as I was returning from Palam an idea struck me. It gave me a delightful thrill of anticipation.

I stopped at the best-known firm of travel agents in Delhi. "Yes, Sir," the clerk told me. "The KOKIN MARU leaves Singapore tomorrow. It is the new Japanese Line ship. Very modern, very fast." And he shook his head in appreciation.

I WAITED UNTIL I was sure that the ship had actually left Singapore. I didn't want to bungle this thing. Then I sent a cable to Mathrani, although I

knew that he wouldn't be there. I had given a lot of thought to the wording of the cable. It had to seem both secretive and yet its meaning had to be apparent. This is what I wrote:

SB MATHRANI CHOLON BAR
JOHORE ROAD SINGAPORE LAL-
CHAND READY TO PAY TWO GEES
PER BAR WILLING TAKE OVER
ALL STOCK IN CAL AS SOON AS
YOU ARRIVE

I signed the cable: 'Ratanchand'. Then, just to make things doubly sure, I sent a letter to the Superintendent of Customs in Calcutta, telling him that I had reliable information that Mathrani was trying to smuggle gold and that he had already made arrangements with a Delhi merchant to take delivery of the gold in Calcutta itself. I did not send this letter anonymously, or even in a fictitious name. They never take much notice of such letters. I signed a name to this letter but I am not going to tell anyone what name I used.

As I said, all I wanted was to pay back Mathrani in his own coin. I wanted the Customs to receive him with the same ardour with which they had welcomed me when I landed in Cal-



I realised I had
succeeded far
beyond my most
vengeful vision.

cutta.

It was not until I opened my paper yesterday morning that I realised that I had actually succeeded far beyond my most vengeful vision. It was right on the first page.

COCAINE HAUL IN CALCUTTA

Acting on information, Inspector Paul Raj of the Calcutta Customs searched the baggage of one SB Mathrani, a passenger who arrived from Singapore this morning on the M/V KOKIN MARU. In the false bottom of a cabin trunk and concealed in a number of ornamental Chinese vases, was hidden a large quantity of cocaine, said to be worth more than two lakhs of rupees.

JUST SHOWS YOU doesn't it? I wonder if the Customs people will give me a rake-off! ♦

When you decide the menu and she agrees...



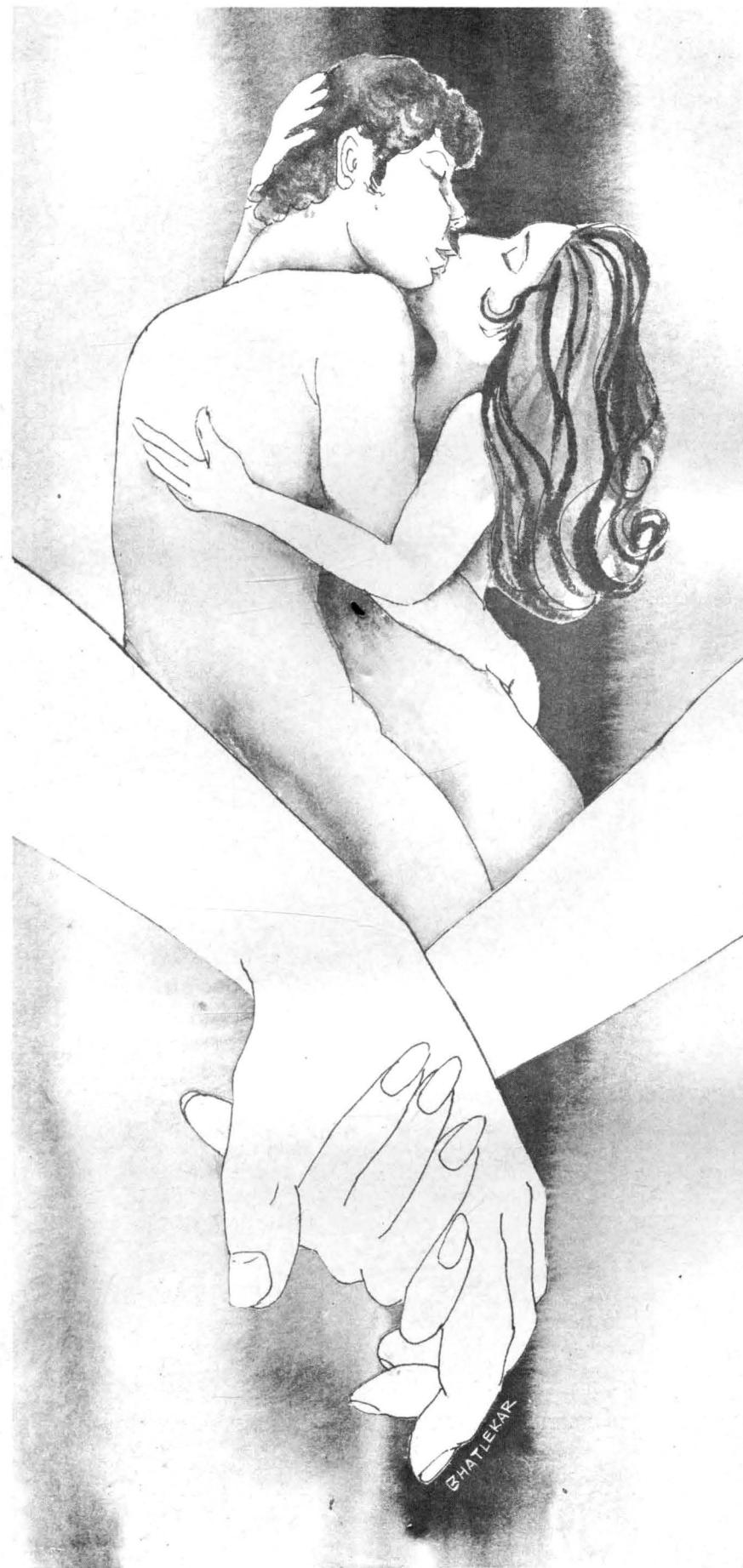
Hajmola keeps your tummy in good shape treat after treat

With Hajmola churan tablets by your side, you can give in to temptation, have a feast, whenever you feel like it! Just two tablets, after meals, will take care of indigestion, heaviness and constipation.

What's more, Hajmola is delicious. No wonder children love its taste! And it's so safe anyone can have it just for fun! Hajmola is the age-old Ayurvedic remedy for everyday stomach irritations. It tastes good—makes you feel good, treat after treat.



Tastes good, acts fast



HAND IN HAND

By Romesh Lamba

WHEN JONTY CALLED and asked me to pose nude for his new sculpture, complimenting my good looks and writer's sensitivity, the proposition took hold of me, pulling me phone in hand to the hallway mirror where I pictured myself marbled and stern. Actually, he said through his shy, strangled laugh which sounded to me like a horse's snort, you'll be posing with a girl, also naked. He knew he had me then and I hung up quickly, stripping already to find where the sensitivity showed through.

Naked, we postured the next day, Jonty's sister and I. I was still in a daze from the shock of meeting Jenny from England of whom I knew only that she was a model, 22, and was close to Jonty, but who stood now bare, without secrets, before me.

"Michael, my sister Jenny. Jen, my best friend Michael—amateur writer and virgin model, the nicest American in Boston. And now, to work."

That was all he said, making me

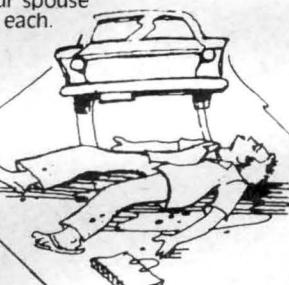
Romesh Lamba is studying Business Administration at the Wharton Institute, University of Pennsylvania. This is his first short story to be published.

Protection at a premium of less than a rupee a day . . .

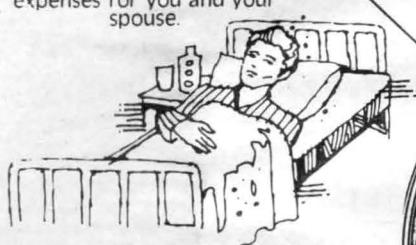
New India's Domestic Insurance Package

offers you a comprehensive cover
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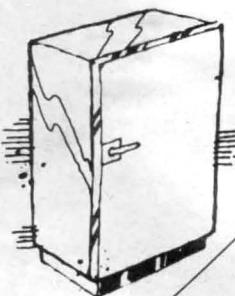
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for Rs. 15,000/- each.



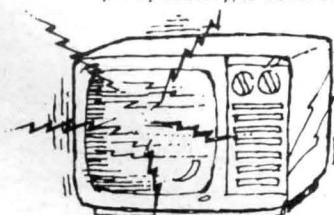
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compensates
medical/surgical/hospital
expenses for you and your
spouse.



* ELECTRICAL APPLIANCES
BREAKDOWN —
loss or damage due to
breakdown is compensated
for.



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DAMAGE —
due to fire, lightning, short
circuiting, arcing, self -
heating etc., as well as third
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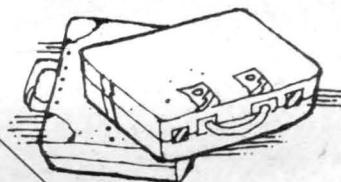
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theft.



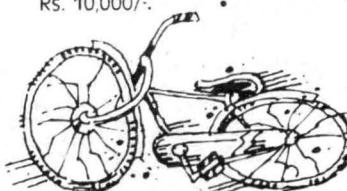
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world.



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protection against loss or
damage by accident, fire,
lightning etc., as well as
third party liability up to
Rs. 10,000/-.



Besides which, you can omit one or two covers
which don't apply to you, with a corresponding
decrease in the premium.



New India Assurance
Honestly, insurance is the best policy!

Concept-NiA-8154

wonder if I'd ever break through his wall of British reserve. And the surprises behind the wall, a magic room of the unexpected which I was allowed to peek into only for a second before the door was shut again.

We posed on a raised wooden platform a few feet away from where Jonty sat drawing furiously, one of Beethoven's sonatas floating through the room with the air of a spring day with blue skies and not a single cloud. I was in front, half-turned towards Jenny whose hand I held in mine as though I were leading her across Eden. Jenny, who had smiled at me as one would smile at a stranger in a train or a person holding an elevator open as one ran to catch it, even as she unbuttoned her shirt, stepped out of her

again, 'Act your age, Michael,' but nothing worked. With growing horror I shifted slightly away from Jenny, thanking God my palms didn't sweat, as if that would have made a difference. If Jonty noticed he showed no sign and I wished this was another place, a bedroom perhaps, but I was appalled at my own desires. Just when I thought the worst was over, Jenny gave my hand a small squeeze and whispered, 'It's like Latin, Michael, the more you think about it the harder it grows.'

That evening, she told me in the candle-lit restaurant I took her to, that I was like one of those rubber knock-me-down toys that always popped right back up. We spoke of many things, but were both preoccupied, often silent. She lit a cigarette after the

blessed by starlight falling in luminous rectangles through the skylights, we made slow and silent love, moved by an intensity that scared me. A thousand thoughts rushed through my mind and yet my mind was blank; I felt something, I was moved so deeply, I wanted to hold onto the feeling forever, yet I could not smile or whisper into Jenny's ear. It was as though we had embarked on a voyage whose destination was unknown and from which there was no turning back. And there was also something else in that dark, open room, as if we were ashamed of doing wrong, but that may have just been my imagination.

For three days we posed, arriving early and leaving late, making love before and after on the stage in the same sacred manner. In between, I could now hide my arousal and I held her hand in chaste contentment, stealing looks of complicity like a child. At night we told each other stories of our lives and slept together on my bed, but did not make love until the fourth night when we did not sleep but loved through the night, alternately laughing and crying in the comfort of the bed.

JONTY BANNED US from his studio while he worked on the sculpture, taking back the keys, demanding a patience we could not give; everything seemed to move so quickly those months. The day I called to tell him Jenny and I were getting married he told me he had sold our sculpture to the Fine Arts museum and that we could at last see it. The unveiling was a day before our wedding and we drove the three of us, to see it.

Jenny and I were apprehensive as we neared the door to the baroque-ceilinged room where the sculpture stood and I told Jenny that maybe we should have come disguised, what if we were recognised? As the people in front drifted away, we both stopped in astonishment. The sculpture was in a glass case and there were no naked figures in view. What we saw, instead, was Jenny's hand in mine from the wrists onward, carved in smooth, white marble, the two joined as one by another pair of hands, like a priest's benediction. The arrangement seemed to flow together with a still beauty. Suddenly Jonty was nowhere in sight as Jenny and I, rendered speechless, looked for him. The sign below the glass read: 'The Matchmaker' by Jonathan Turner. ♦



The sculpture was in a glass case with no naked figures in view. Instead Jenny's hand was in mine from the wrists onward carved in smooth white marble and the two joined as one by another pair of hands, like a priest's benediction. . . .

jeans, slid off her panties.

And watching her, not knowing what to do with myself, for I felt I shouldn't look, yet couldn't turn away, I began undressing myself carefully, slowly. And naked she joked with her brother while I stood at last in just my underpants, looking to see if she was looking, but she wasn't. And then we were up on the stage and I kept on telling myself to stop staring, to be professional, but she was so beautiful, the most beautiful girl I had ever seen in my life, and I wanted more than anything else to ask her out for dinner, but I was too shy. Her nakedness scared me.

Out of the corner of my eye I beheld her nudity. I thought of my cat sleeping at home, I reminded myself to write to my parents, I said again and

table was cleared and laughed a natural, simple laugh. 'I like your physique,' she said and suddenly I was struck that she hadn't said body but physique; I liked the way she spoke. I answered that I loved her at first sight and as I said the words without preamble, like the way she had taken off her clothes, I realised it was her directness I loved most and I stared into her frank eyes through the cigarette smoke, no longer afraid or uncertain. Without speaking further we hurried to pay the bill and walked swiftly back to the empty studio to which we both had keys.

On to the wooden plateau we stepped and shed our clothes to form a carpet on which we fell, solemn and quiet. Amidst the grey, crinkled blocks of emerging sculptures that inhabited Jonty's studio like a family of ghosts,

Cable TV: Great New Revolution Or Plain Copyright Violation?

By Amrita Shah

THE INFANT CABLE TV industry has become embroiled in a dispute that threatens its very future. The Bombay film industry has taken strong objection to the cablecasting of Hindi movies and is trying to put an end to this. For their part, some cable TV operators insist that the laws of copyright do not apply to them and at least one cable TV executive sees a conspiracy in the film industry's actions.

Cable television or community video as it is more correctly called, was started in Bombay by the Nemula Video Network in June 1982. It enabled residents of the affluent Cuffe Parade area of Bombay to receive (via cable) a regular entertainment programme on payment of a fixed sum.

The company's activities soon expanded to cover other areas of the city and new companies began operating similar schemes. Presently there are nine such companies in Bombay and some in Delhi. The Welcom Group and ITDC have installed cable television in their hotels with the Taj and the Oberoi Groups following suit.

The advantage of cable TV is that it does not involve broadcasting over

the air and is therefore, free from government control. But cable operators go a step further and claim that they can legally cablecast foreign television shows and Hindi films without obtaining permission from the producers. Moreover, they also refuse to pay any royalty at all.

Predictably, the film industry, already reeling under competition from video, is furious. Says GP Sippy, producer of blockbusters like *Sholay* and *Shaan*, "They are robbers, they are deriving income from our films without paying us a thing!" According to him, they are clearly violating the Copyright Act.

The dispute began when Nemula cablecast *Seeta Aur Geeta*, a Sippy Films Production. The producers filed a suit against Nemula Video Network for exhibiting in public, a cassette that was not meant for exhibition in the Indian market and for which no rights had been given to them.

Nemula contended that the video

cassette they had used (issued by Esquire) had 'World Rights' printed on it and nowhere was it stated that India was excluded. Further, the provisions of the Copyright Act clearly did not apply to cablecasting and so Sippy was wrong in claiming that his permission was required. The case has yet to be heard, but Nemula have given an undertaking that they will not cablecast any other Sippy Films productions. SR Nanavati, Director of Nemula, maintains that Esquire had been granted the 'World Rights'. He displays a contract in which the phrase 'excluding India' was added later by hand.

Accusing the film producers of being frightened people, he says, "When the agreement was signed, there was no problem of video in India. Now, realising that video has come to India they have got scared and that is why the vital phrase 'excluding India' was added. There is a conspiracy against me and we are going to prove it is a conspiracy."

SC Hira, Managing Director of Esquire cassette manufacturers tells a different story. "The producer gave me rights only for the overseas market and I agreed. If he does not want me to sell it in India, I told him I will not sell it here." Thus, according to him, India was excluded from the very beginning and there was no question of it being an afterthought. Hira dismisses Nanavati's charge that the cassette was marked 'World Rights' as false.

Nanavati has another argument. He says that if it was legal to sell a video cassette at one place, then the cassette is perfectly legal everywhere. For example, if it is legal to make video

Amrita Shah works with Imprint. She is also the author of Clashes In The PUCL elsewhere in the issue.



Sippy: "They are violating the Copyright Act."

cassettes in Dubai without seeking the producer's permission, then cassettes produced there are legal in India as well, never mind the Copyright Act.

Hira offers another version of this claim: "There is nothing wrong with bringing cassettes from abroad for private viewing. Nowhere is it mentioned that the cassette cannot be taken to India and there is no restriction on this even from the government." If the government thought it was wrong, he argues, 'they would not have allowed the import of such cassettes'.

Shriram Bohra, President of the Indian Motion Picture Producers' Association does not accept this argument. "If it is legal to consume *ganja* in one place," he argues, "does it mean that you can bring it in and consume it in a place where it is illegal?" Bohra seems to concede that private viewing of cassettes bought abroad is legal. He is however emphatic that it is illegal to make money out of such cassettes in India. In any case, private viewing may soon be illegal too. But does cablecasting count as private viewing? Are the owners of cable television who show films without paying royalty infringing the Copyright Act or not?

The question revolves around an interpretation of clauses one and two

Cable TV operators argue that they aren't infringing copyright—only providing an amenity.

of Section 52 (K) of the Copyright Act and precedents. The relevant section reads that it would not be an infringement of copyright if a recording is heard either 'at any premises where persons reside as part of the amenities provided exclusively or mainly for residents therein', or 'as part of the activities of a club, society or other organisation which is not established or conducted for profit'.

Mr S Srivastava of Cable Video Corporation insists that they are not infringing copyright rules as they are only providing an amenity for residents—no different from watching video in one's home. Mr Nanavati brandishes a written legal opinion from FS Nariman and Iqbal Chagla that, he says, supports this interpretation. He further maintains that despite clause two which refers to organisations 'not established or conducted

for profit', the Act is not really concerned with this. The point, he argues, is whether viewing is private or public—and cable TV only allows for private viewing.

Atul Setalvad, senior advocate and an eminent authority on copyright, however, states emphatically that it is a clear breach of royalty. As a precedent, he gives the example of piped music that is played in hotels as an amenity for guests. Royalty is paid by the hotels in this case.

The same logic, Setalvad feels, should apply here since the owners of cable TV systems are reproducing the films for the public and charging for it.



Hira: "Cassette import is legal."

Hira of Esquire echoes this view: "They should pay royalty, it is not for their private viewing or for social work. As they are charging for it, they should pay royalty."

Many arguments are put forth by the cable TV owners. One of them is that cable TV affects only the very rich and this minority cannot diminish film audiences to any appreciable extent. Gulshan Rai, a well-known film distributor and producer asks, "How do you define rich and poor people? In an upper class house with cable TV there may be four families with four servants, sometimes six."

"What do they mean by saying they 'take away' only one per cent of our audience?" demands Sippy. "It is not their property to take what they like."



Esquire: churning out video cassettes.

They are taking away our potential customers."

Film producers point out that all over the world, cable TV rights are applied and paid for. For the *Gandhi* film the cable TV rights were reportedly priced at \$20 million. If a film is to be cablecast, some compensation must rightfully be paid to the film producer.

What is particularly vexatious for the film industry is the fact that the cable TV organisers make a profit by showing films that have been made by the producers who have run the grave risk of losing their massive investments if the film flops. Besides which, the government loses by way of entertainment tax.

Some cable TV owners have also been guilty of using obviously pirated cassettes. Nanavati insists that Nemula only shows original cassettes and yet *Return Of The Jedi*, a film whose print had been stolen from an English cinema and illegally duplicated, was shown to the residents of Cuffe Parade recently. Nanavati tries to explain this strange phenomenon as a 'symbol of what is happening in the world'. According to him, the producer of the film did not sell rights in America, but he did send the film to Dubai where it was duplicated legally—an explanation which should intrigue George Lucas' lawyers. Says Manjula Nanavati, who is involved in the running of Nemula,

Some cable TV owners have been guilty of using pirated cassettes.

"We are not in the business of making illegal cassettes." But producers retort that even using stolen or pirated goods for profit is reprehensible.

As it is the film industry has yet to decide what its attitude to selling domestic rights to video cassette manufacturers will be. One school of thought believes that video will spell doom for cinema theatres and would like to frustrate all attempts to make feature films available on video.

Others argue that video players are a fact of life and that the industry would be well advised to accept this. They feel that as video cassettes are going to be sold anyhow, the producers might as well try and legitimise the industry and at least get their share of the profits.

The future of cable TV depends, at least partly, on the outcome of this dispute. Should the industry succeed

in outlawing all video cassettes of its films in the domestic market, then cable operators will be hard-pressed to explain where their software comes from.

On the other hand, even if the film producers do agree to sell domestic rights to their films to video cassette manufacturers, there is no reason to believe that the industry will change its mind about cable. Before TV came to India, many producers were paranoid about the potential competition. Now the same paranoia is reflected in their attitude to cable TV.



Bohra: leading producers' battalion.

Given the pace of legal proceedings it will take time for the Sippy suit against Nemula to come up for hearing. The cable operators seem confident that they are on strong ground, though the producers are equally vehement.

Meanwhile, there are serious attempts being made by the film industry to have the Copyright Act amended. At the time it was framed, video had not even been thought of and there is a case for framing a new, more relevant Act. Should cable TV catch on, then the government is also likely to legislate to give itself control over it.

If that happens, then the cable TV operators may find that all the arguments they now use to justify their stand have become irrelevant. And if the economics of cable TV are based on non-payment of royalties, then the whole scheme may have to be reconsidered.



Srivastava: "We are not infringing copyright."

Getting Back At Their Critics

Interviews: Shirin Mehta

WE ALL KNOW THAT CRITICS are a pampered breed, dishing out personal abuse to all and sundry. But can they take it back? In this article a few celebrated artistes give their worst reviewers a slice of their own slander.

KERSY KATRAK

Playwright

I HAVE REALLY NOTHING to say about critics by and large. But if you want to know about the most recent slanderous review that I have received it was Nirmal Goswami's critique of my play *Nightbirds*. Now that is what I call irresponsible criticism because it is self-indulgent. I don't know if you've read the piece but it is about Spinoza (who that is I myself don't know)—spreading its wings and trying to take off and never getting off the ground.... there is a sort of crash landing. Now, even assuming that Spinoza is the author and that the critic means to say the play does not take off the ground and falls flat on its face, that is only a one-line criticism.... I mean there is nothing—nothing—about the play, the actors, the production, the props—anything. Instead you have a description, couched in what Goswami feels is philosophical jargon, of a plane getting off the ground and then crashing. What sort of criticism is that? You have used my play as a vehicle by means of which you can write—rubbish!

You are at liberty to hate the play thoroughly, hate the actors' faces, hate the way in which it is written but you have to say something about it.... There is something of a sneer about the fact that it was performed in a place like Studio 29. Why? What does



the place in which it is presented have to do with the intrinsic value of the play?

I still don't know what Goswami was hoping to achieve by the review. There have been many people who have met me and talked about it and they didn't understand it either. Very often people ask me, "It was a very good review, wasn't it?" Not only has Goswami failed in his task as a critic, he has also failed to convince people that it was a bad play. And as far as I'm concerned the fact that he is Bengali is the failing point. I mean Goswami writes as a Bengali thinks

and he writes in the English medium as if it were Bengali. We all know that Bengali is very different from English—it is a very emotional language with a lot more of lilting strains in it.

My poems have often been reviewed favourably and unfavourably, badly and not badly but I have yet to come across a review that made no sense. I mean, no matter what people like Adil Jussawalla and Saleem Peeradina have to say about my poems at least they always write sense.

I have often considered that MV Mathews (he used to be a reviewer for the *Times of India*) reviews prejudicially in the extreme. Everyone knows for a fact that if Mathews likes you he is bound to find your stuff worth reading and praising and that if he doesn't like you he'll give you a kick on the ass. Of course, needless to say he didn't like me at all: we've had several fights and very many hard words. But whatever his relationship with the author, it should not matter to his reviews.

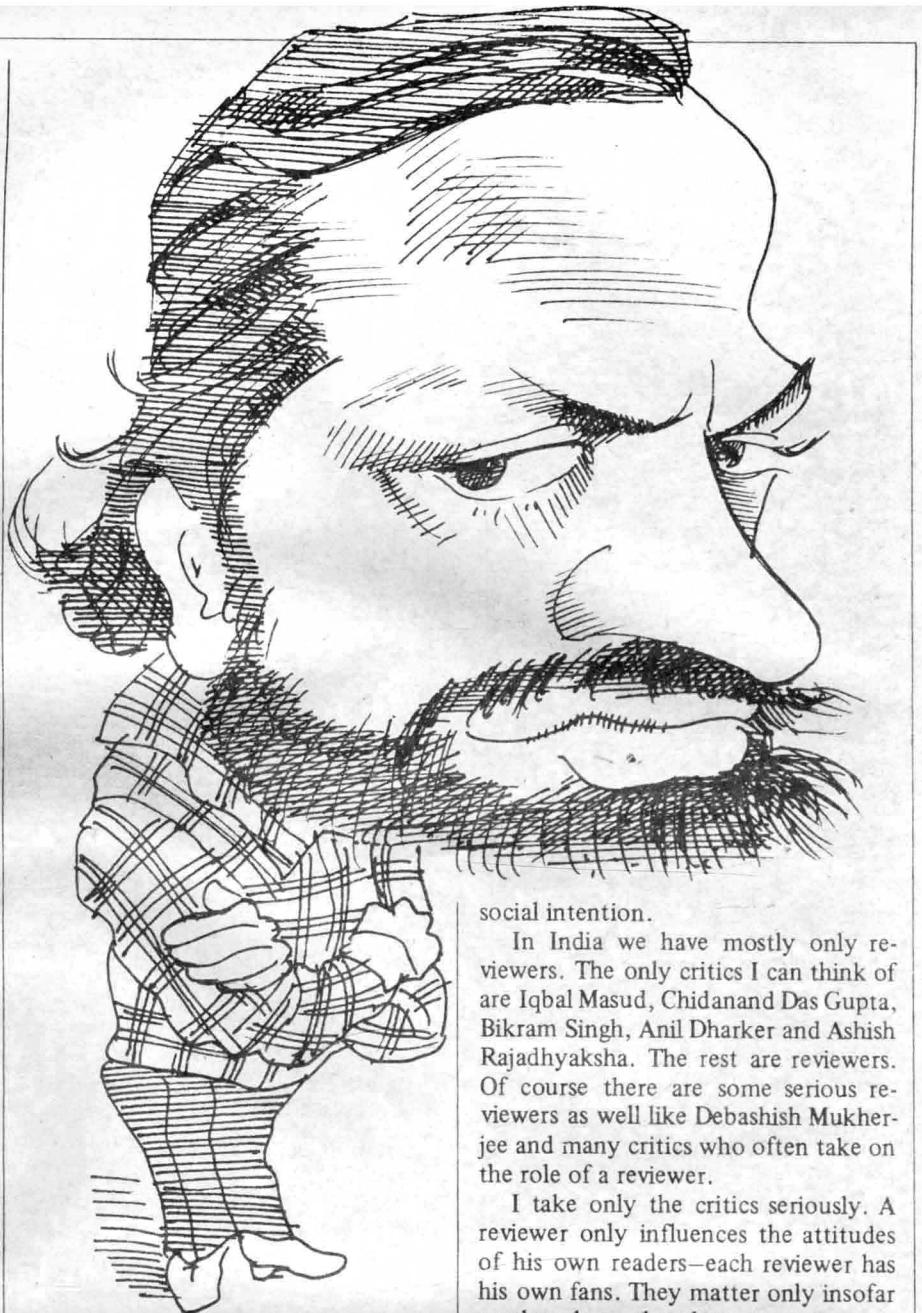
Bias, that is to say viewpoint, or even prejudice (which in effect means suspended judgement—I look at it that way) that's okay. But personal prejudice based on body chemistry or personal bias or the fact that you don't like the person's face that should not be the role of the critic.

Which is not to say that I would disregard an unfavourable review just because it is unfavourable. Whatever it is it has to be cogently argued. For a start, dammit, it has to at least make sense. There have been many reviews which are very angry, personal, and to that extent cruel. One learns to take them for what they are worth. To say that this is all personal crap, cut it out. After which if the piece is well argued and you have aspirations to be a better writer you look at the criticism and use it.

SHYAM BENEGAL

Film Director

YOU HAVE TO FIRST DIFFERENTIATE between a reviewer and a critic. The reviewer takes on himself the job of interpreting and evaluating a film to the readers of his publication. Now in India a majority of those who see films do not read reviews in the English press—the upper crust you have restric-



ted yourself to. So the question arises: what audience does the reviewer relate to in India?

Abroad, the relationship between a reviewer or a critic and his audience is very clear. For example, a critic for the *Guardian* knows the people who read his paper, the people who are going to see the film he is talking about. In India such a relationship between English language reviewers and the audience of our films is not so clear.

Next we come to the critics. The critic's function, unlike a reviewer's is to set out a set of criteria to evaluate a given film, not necessarily aimed at only the audience for his own publication. A critic's job is more serious—he has to judge a work against a given measure to evaluate its aesthetic and

social intention.

In India we have mostly only reviewers. The only critics I can think of are Iqbal Masud, Chidanand Das Gupta, Bikram Singh, Anil Dharker and Ashish Rajadhyaksha. The rest are reviewers. Of course there are some serious reviewers as well like Debasish Mukherjee and many critics who often take on the role of a reviewer.

I take only the critics seriously. A reviewer only influences the attitudes of his own readers—each reviewer has his own fans. They matter only insofar as they have the clout to prevent or encourage their readers from seeing a film.

But I do not consider this a fully satisfying response. A critic must be a bouncing board for the artist, he has to respond to the work in its totality not just to its photography or music etc. I think a reviewer like Khalid Mohammed does not even read my film. I think he takes my film as a joke and his reviews are only clever copy. Such a negative response is of no use, though it might upset me temporarily.

A good critic should set out the parameters for his criticism, his concepts of a good film, the aesthetic and social criteria he is using. I find our reviewers have no consistent parameters, they keep shifting their positions. One of the best pieces of criticism I have

read was by a Calcutta economist who judged my films on a political, social and aesthetic level. His parameters were so precise that they actually helped clear a lot of cobwebs in my mind.

Of course criticism does not influence me as a filmmaker because the work of an artist is purely dependent on his creative urge. But a critic can identify the course of an artist's development.

I know I have often been attacked by some reviewers who say my films are too slick. This is the opinion of only those few reviewers who know of my background in advertising. No one else has observed it. Obviously they are biased. A film and its maker's intentions should be judged in the film itself exclusively, not on the filmmaker's background or his public utterances. And what's wrong with craftsmanship anyway?

Public reaction to my films is also an important kind of criticism because if a film flops it means my next effort will be more of an uphill task. I have often been misquoted as simplistically saying that a commercial equation should be made in filmmaking. My point is not that. I think a commercial equation is made in filmmaking, necessarily.

I think the art of film criticism has not yet had the opportunity to develop because there are as yet no serious film magazines like *Sight And Sound*.

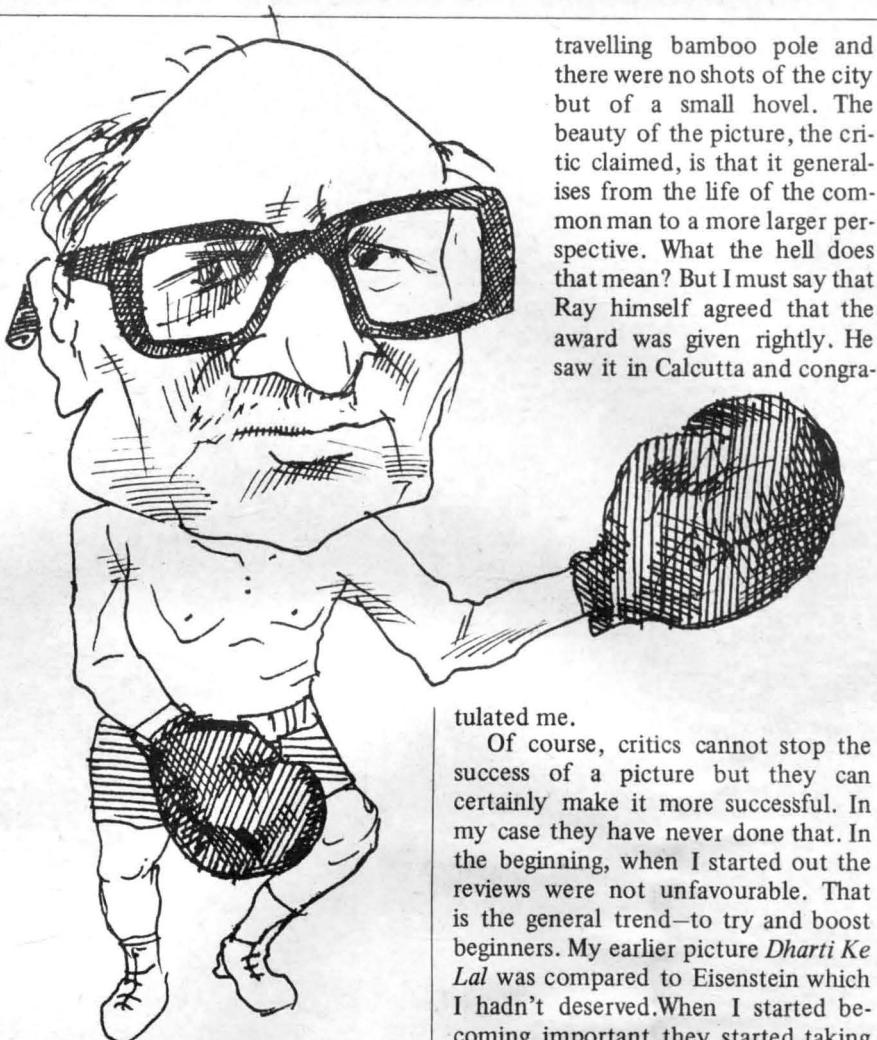
KA ABBAS

Film Director and Writer

WHAT DO I THINK OF CRITICS? I think that they are most self-opinionated, ignorant of the details of production and generally eager to impress people with their intelligence rather than discuss the merits of the film. This I firmly believe to be true of the majority of them.

I'll give you an example of what I mean. You see, I had written a book of my travels abroad and all that I had done or encountered there. One critic wrote a review saying that from the way Abbas writes, he does not seem to have been abroad at all. Then why should I write a book on my travels abroad? And on what basis has he decided that I had not been abroad?

Another example. My latest film,



Naxalites, has been condemned by art and culture-wallahs (call them culture vultures) and commercialists. On the one hand I have been accused of being a propagandist; on the other hand critics who have never met Naxalites talk of sentimentality and that I have therefore been unfair to the Naxalite cause. The normal trend nowadays seems to be that the picture does not come up to *their* expectations. What does that mean? Why should they see any film with pre-conceived expectations?

In all cases I have found that their expectations are very high, in fact the sky is the limit. Then when they feel that it did not live up to what they thought it would be they condemn it for falling flat on its face.

In the case of *Shehar aur Sapna*, people criticised the picture for being namby-pamby and sentimental nonsense. A Delhi critic wrote that this picture doesn't deserve the President's award and that it should have gone to Ray. When he was asked why, he said because it (Ray's film) was called *Mahanagar*. There was a shot of a

travelling bamboo pole and there were no shots of the city but of a small hovel. The beauty of the picture, the critic claimed, is that it generalises from the life of the common man to a more larger perspective. What the hell does that mean? But I must say that Ray himself agreed that the award was given rightly. He saw it in Calcutta and congra-

tulated me.

Of course, critics cannot stop the success of a picture but they can certainly make it more successful. In my case they have never done that. In the beginning, when I started out the reviews were not unfavourable. That is the general trend—to try and boost beginners. My earlier picture *Dharti Ke Lal* was compared to Eisenstein which I hadn't deserved. When I started becoming important they started taking me down.

If I were to take what they said to heart I would never do anything. The criticism for my books also followed the same pattern.

I can give you the instance of a critic who made up his mind before he saw my picture. He said that several Naxalites had been killed by the Calcutta police and now a Bombay producer is going to kill them. A Bombay producer? What do they mean by that? Don't they know my name? Why should they always think that they are more important? Do you know that I waited ten years to make the Naxalite movie? I waited for years thinking that either Ray or Mrinal Sen will do something about the theme. But when they didn't come up with anything I went ahead and did it.

My Naxalite film was also criticised for not being properly researched. I spent what I felt was the longest time to research the movie. I lived with the Naxalites, harboured them in my house for sometime, read up all the books that I could on the subject and went to all the places where they are in the

majority. So how can they say that I have not researched it?

Bobby they said sounded unrealistic, that it was a comedown for Abbas to have made such a film. I must admit that in the case of *Bobby*, Raj Kapoor did take out the realism in it. Like a fisherwoman's daughter wearing a bikini—who has heard of that? But on the whole I think that my theme was there, that there should be no bar on the rich marrying the poor. But the problem is that the critics gave it such a bad review—those very things they would have overlooked if it had been in any other movie.

There is no balanced criticism in this country—they either raise you sky high or they dump you in the gutter. I used to respect the criticism of NK Ghosh (ABP critic) and in Bombay two Gujaratis: Bakulesh and Geetuvai. Their criticism was at least well-balanced.

Like the art and culture-*wallahs* the critics have made a clique. They praise the small picture-*wallahs* and put down the others; they also prefer the non-communication directors like Mani Kaul.

DOM MORAES

Writer and Poet

THE POINT OF CRITICISM IS THAT it is often so invalid. Someone in India—I forget who—once said that I was a world class talent gone down the drain. At the same time Stephen Spender and Jeffrey Hill—the publishers of my poetry book in London—said that the poems I had sent in to them were excellent, really top class. They didn't think I had written so well in years.

Oh I know that there are many people who have said that I'm finished as a writer, that the best things I've written were years back. But that's all so much of nonsense.

Generally I don't react to what the critics have to say about me. If someone I like writes in to say that they have found something wrong with it then I take it to heart. You acquire friends and enemies and either way they are going to write what they feel about you as a person. Taking such criticism to heart is absolutely pointless. I mean some idiot reviewer who I



don't know at all blasts me doesn't make much difference; and if someone that I know to be a true admirer of mine says it's a lovely book or poem I know how much of that should be taken seriously! In either case I don't care a damn.

I suppose the only time a review cut me to the quick was when the London *Sunday Times* reviewed my book on Mrs Gandhi and said that I was a courtier of Mrs Gandhi. Now I resented that. When I started the book it was 1977 and she was down and out and I finished it at a time when she was still not in power. It was banned at the time because of the elections. The claim that I was praising her or flattering her for something was really so unjustified.

It does not mean that I do not take criticism to heart. In fact the only people who I listen to are the people that I really admire. Like in the old

days WH Auden used to tell me what he thought was wrong with my poetry, if a line worked or not. It was left to me to correct it.

But in the final analysis none of this matters. If you think, like I do, that some of your work is going to live on after you, then all this is of no consequence.

ADI MARZBAN

Theatre Director

ONE OF THE SEVEREST CRITI-cisms that has been levelled against me is that I produce English plays. But I must say in my defence that there are no good translations available in India. Pardon my saying so, but even Mr Tendulkar's plays are not really im-



pressive.

You see I really don't know where to start. This year I will be producing my 55th full-length play at the Parsi New Year. My very first play—*Chaye Ame Zarathostī*—was very severely criticised because I, in my naivety dared to poke fun at the Parsi community as I saw it then. (That was way back in the early '40s.) If I don't like what you say then I find fault with you all over: I say that you are stunted, handicapped, that you don't write, that there is nothing good about you.... Unfortunately that's the way criticism works.

My views on critics are very well-

known. I was one of the first to say that critics should not be invited to any play because they can unfortunately cause a lot of harm. In my opinion there are no critics of any worthwhile repute in this country. With the possible exception of Mr MV Mathews. He was a man who had his idiosyncrasies. But on the whole he was knowledgeable. And that is what counts in the final run.

Today the majority of the people are horribly influenced by the critics. A schoolboy or a schoolgirl goes and reviews Yehudi Menuhin's concert recital and says that it was all rubbish. If they can even keep five people away from the concert it is a crying shame. Where are the critics of any calibre?

The rule of my life has been that I should not review any plays because I am in the field myself. Maybe the day

I retire (that may be a few years from now) I will start reviewing and criticising plays. Right now, though I am eminently qualified to judge, I never do so.

There are, according to me, two kinds of critics—the name-droppers and the ones who feel that everything should have a purpose. The name-droppers will start off a review with a long aside on how they were in London and watched the same production which was acted by Laurence Olivier. The fact that it has no relevance to the reader and to the play that they are reviewing doesn't matter. The people who think that all things should have a purpose are the ones who start off the review with soul-searching questions on some philosophical point that has no bearing to the play itself. I am firmly of the conviction that art does not have to have a purpose. When a bird sits on a telephone wire and sings it does not plan to change the world. To me, it just sings. And that is what art is all about.

Sometime back I had made a statement in the press (which I stand by till today) that give me a stone and I will teach it how to act. By that I meant that I can teach anyone the technique of acting, the rudiments which he/she can use. Of course, the sensitivity that the actor can bring to the role, the way he can immerse himself in the character are all to be added on. Kersy Katrak read this statement in the press and said what an ego has this Mr Adi Marzban to make such a statement. What I didn't say even then was that I could teach a stone to act but not Mr Katrak.

My very firm belief is that the tribe of critics should be demolished. Just like the dog has to be de-ticked from time to time the profession of theatre has to be de-liced of these pests.

DEV ANAND

Film Actor and Director

I ENJOY READING AN INTELLIGENT review of a film. When a critic or a reviewer has a lot of knowledge about cinema, it is a pleasure to read him.

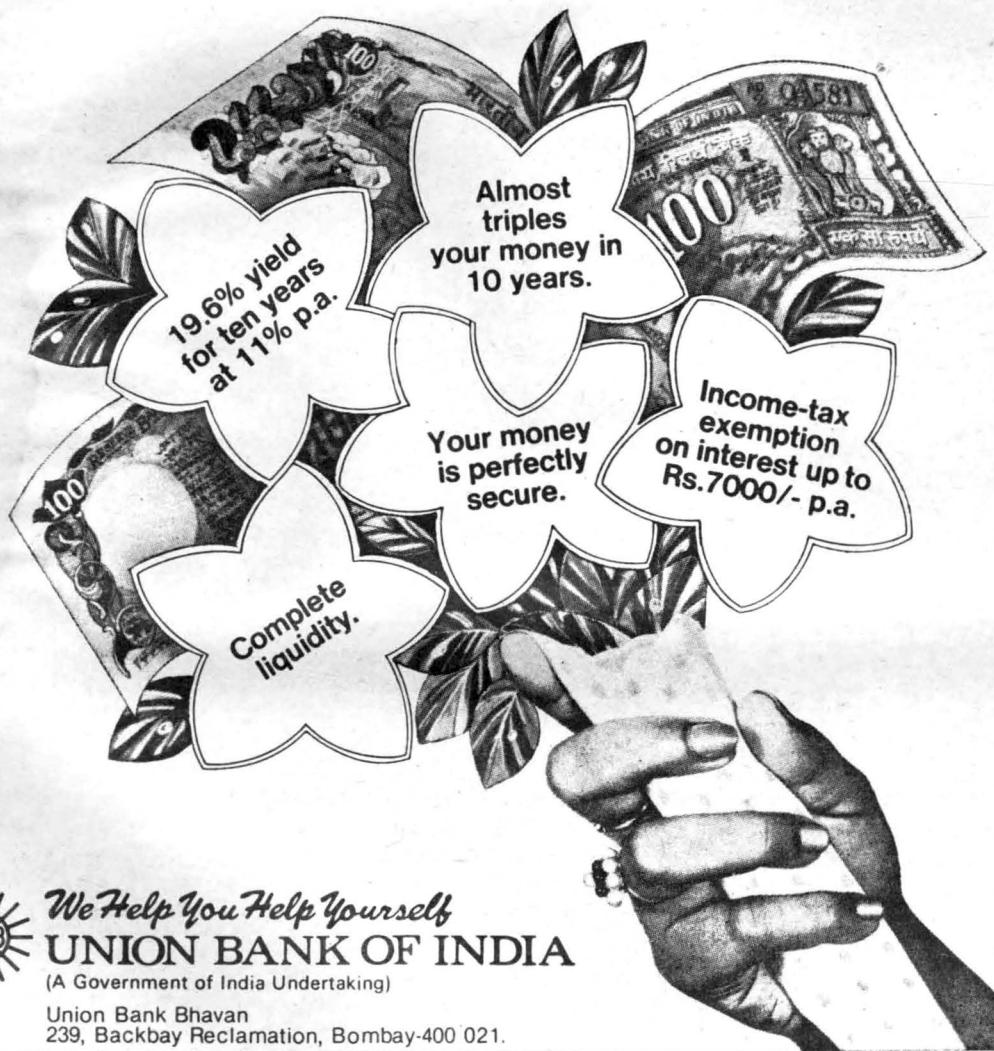
Sadly, I don't get this pleasure often. In India, there are very few good film critics. Most of the time they just want to show off their

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language and write funny things. They get carried away with their prose.

And after all, what do they know about our cinema? Do they appreciate that we are making films to entertain poor people, the majority of whom are illiterate? We have to make a certain kind of film for this audience.

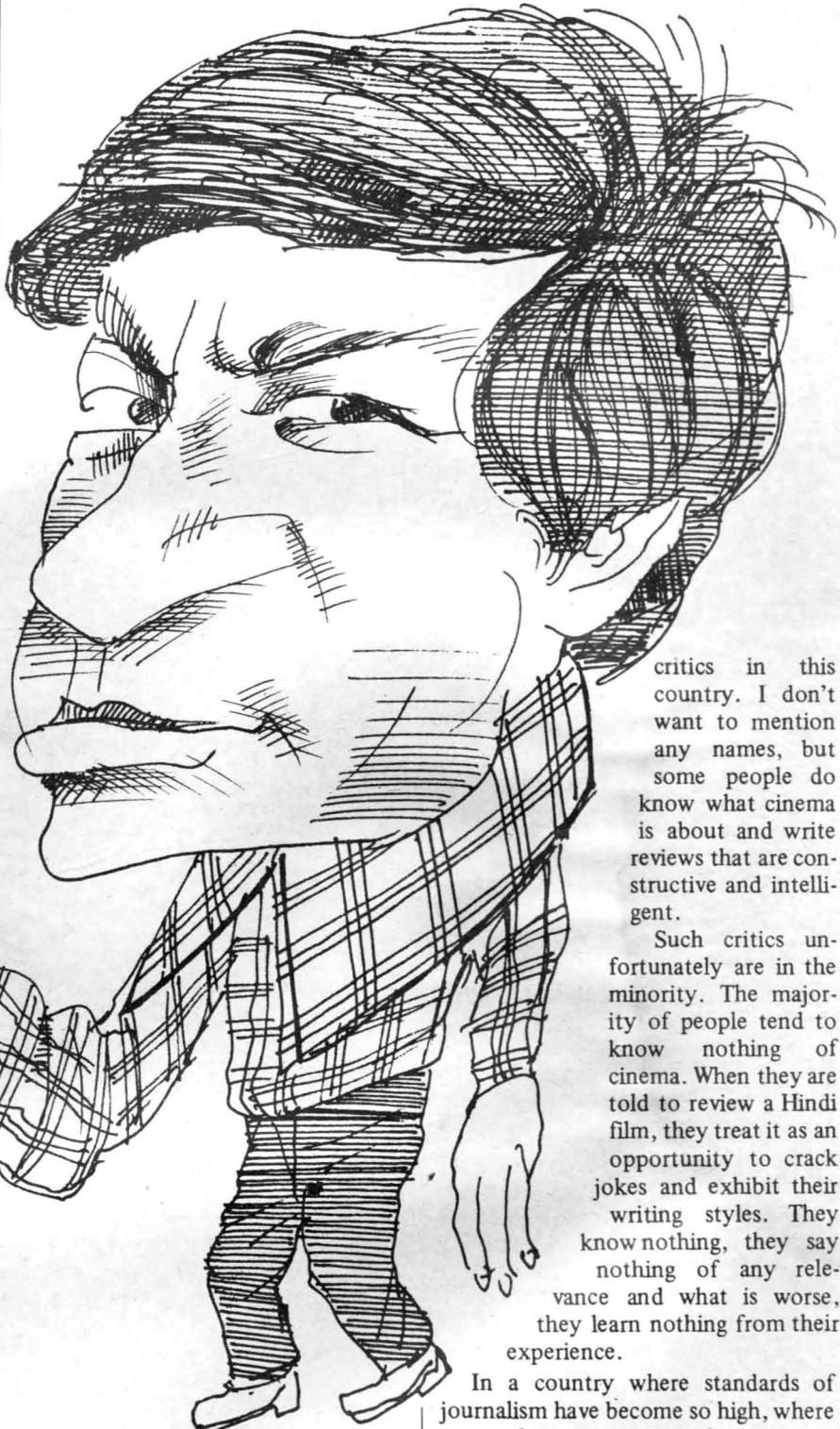
But the critics either don't realise this or they deliberately ignore it. I am fed up of reading about art cinema which is supposed to be very good while what we do is fit only for making fun of. Let's stop talking about art and non-art cinema! A film is either good or bad. Whether it is expensive or inexpensive is not the point.



These people have their noses stuck in the air, they are so full of themselves that they come and write all sorts of nonsense based on their preconceived notions.

Let's be honest. Let's be sensible. What kind of films are we making? What criteria should be applied? What is the yardstick? A filmmaker struggles to achieve a certain effect. Let's judge him on how well he achieves this. Let's stop criticising him for not making an art film—this was not what he wanted to produce in the first place.

I don't care about most critics. I don't get hurt by what they say. Not only are they looking for the wrong things but they also don't always make intelligent remarks. You read a review; they've emphasised the photography, when it was the performance that was good. Or they've praised something that everyone knows was bad. They just show off. Because they can crack



jokes, they feel they've become cinema experts.

But really, this is a great pity. Filmmaking is a creative medium. We need feedback. We need criticism. We need our work to be assessed. Whenever I read a good constructive review, I feel like bursting into applause. Nobody respects a knowledgeable critic more than I do. And, there are some good

critics in this country. I don't want to mention any names, but some people do know what cinema is about and write reviews that are constructive and intelligent.

Such critics unfortunately are in the minority. The majority of people tend to know nothing of cinema. When they are told to review a Hindi film, they treat it as an opportunity to crack jokes and exhibit their writing styles. They know nothing, they say nothing of any relevance and what is worse, they learn nothing from their experience.

In a country where standards of journalism have become so high, where we produce magazines and newspapers that are of world class, it is a great gap that we do not have a reviewing tradition that is of a similarly high standard.

What we need are proper film reviewers who have studied the medium and have acquainted themselves with the needs and demands of our cinema. Then directors like myself will get the pleasure of reading reviews that tell us where we have gone wrong and what we can do better. ♦

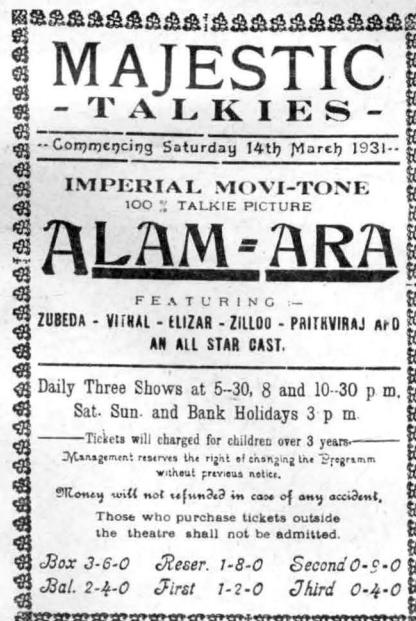
Silent Cinema's Forgotten Stars

By Ketaki Sheth

HOTEL WELCOME IS A welcome change from its neighbouring Hotel London, New York, Paris, Punjab and Madras counterparts in Bombay's crowded Frere Road section. Its neon-lit name sign stands out quite prominently, distinguishing it from the adjacent crumbling structures with their cosmopolitan names. You alight the dimly-lit stairway, past the reception room of the hotel and climb three more flights of creaky, cement-splattered, paper-littered steps which seems to be a nesting ground for cooing pigeons. A dark passage leads to the left and if you look hard enough, a musty name-plate reads, 'Mubarak Merchant'. Merchant, 74, once-upon-a-time hero of the silent film era, three-time Akbar (*Tansen, Anarkali, Rana Pratap*) and part-time shikari ("In my lifetime I have shot 23 panthers, nine tigers, one bison and six bears") is today an isolated shadow hero with only his achievements and memories as companions.

An Afghan by birth, Merchant an orphan, was brought up by the Namden Iranis, a Bombay-based Parsi family, whose only visible legacy in the artiste's home is a polished rose-wood desk and chair. We sit on a faded sofa surrounded by dusty bookshelves on top of which lies a silver-framed plaque presented to the artiste by Mrs Gandhi in 1981 commemorating 50 years of Indian talkies. "But I'm especially proud of this," says Merchant, pointing to a statue fashioned after the Oscar trophy, awarded for an outstanding performance by an Indian actor or actress. "It was introduced for only two years and withdrawn shortly after. I was the first and last to receive it for my performance in *Renuka*."

Flipping through his albums, images of Merchant the actor and Merchant



Alam-Ara's original poster.

the boxer, ballroom dancer, cricketer and shikari all come alive as the narrator recounts each experience. "I used to be so scared of tigers. During the shooting of *Noor Jehan* in Udaipur, a supposedly tame tiger tore the dummy to shreds and I was petrified. I was then 22 and wanting to look brave. So when I was asked 'are you frightened?', I said, 'no, no,' breaking out in cold sweat."

Retired a long time from films ("Don't ask me dates, that's my biggest failing"), Merchant has been writing scripts in recent years, "but they're not selling. The producers don't want them. They say it's too much like a western script." The two scripts he mentions revolve around 'real-life experiences'. One is based on the problems of sharecroppers and the second on yellow journalism. The latter is

particularly important to Merchant: "It's about a series of scurrilous articles written by a film journalist which completely ruined the life of an actress known personally to me. Besides her very true-to-life experience, my script is set in editing and mixing rooms and in laboratories and studios, so that it's a film both about an actress and the whole process of filmmaking."

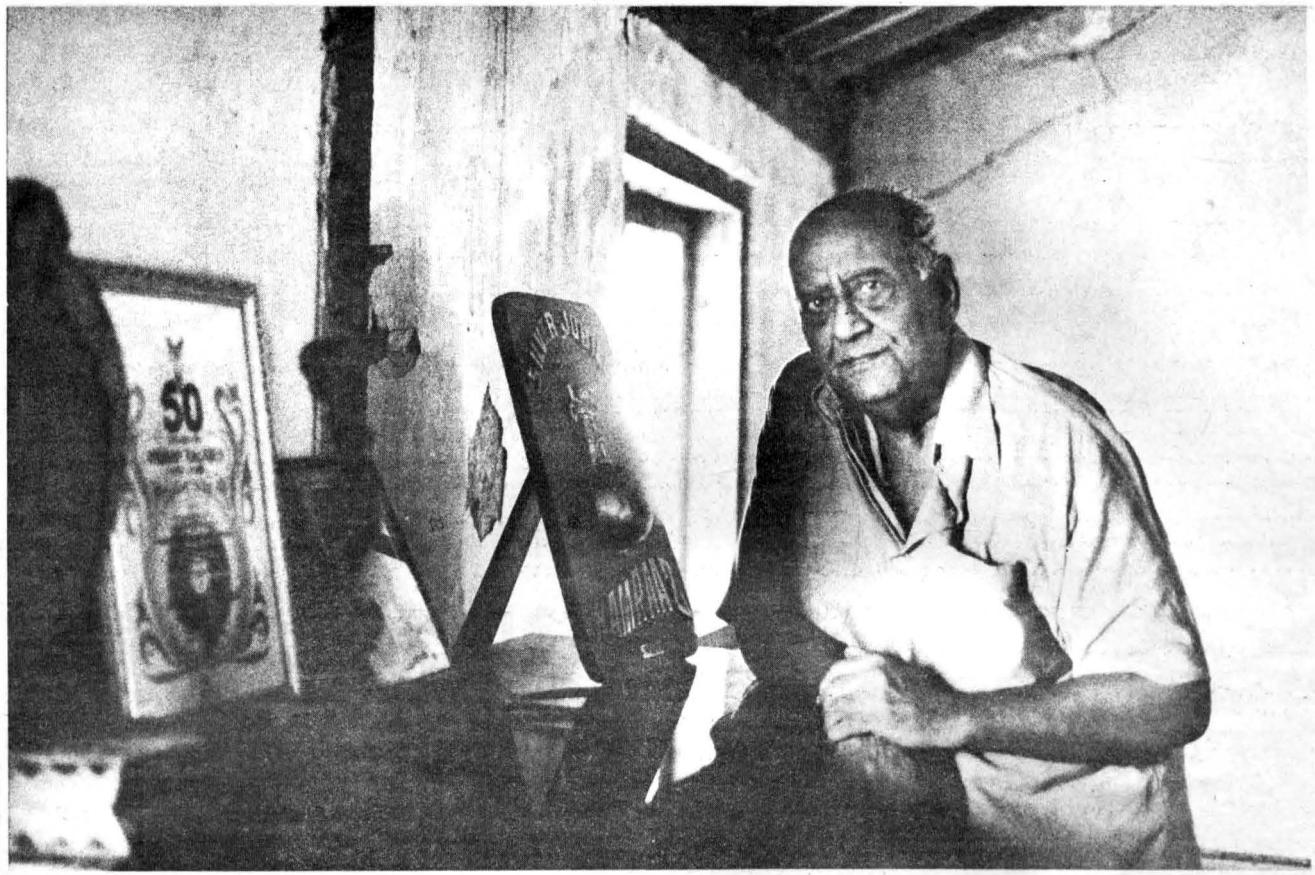
Living above Hotel Welcome since 1918, all through his life of 70 films spanning 41 years, Merchant now finds living alone extremely difficult. His stipend of Rs 450 per month from the Cine Artistes Association, which, ironically, he started in his salad days, barely sees him through his everyday needs and medical expenses (Merchant suffers from vertigo, heart disease and peripheral neuritis and often has to climb the five storeys of his building). "I hope the end comes soon. I'm finding life unbearable at 74." For the one-time waltzer, boxer, actor, hunter, life seems to clock by in slow measured ticks as he shuffles hesitantly to shut the door.

* * *

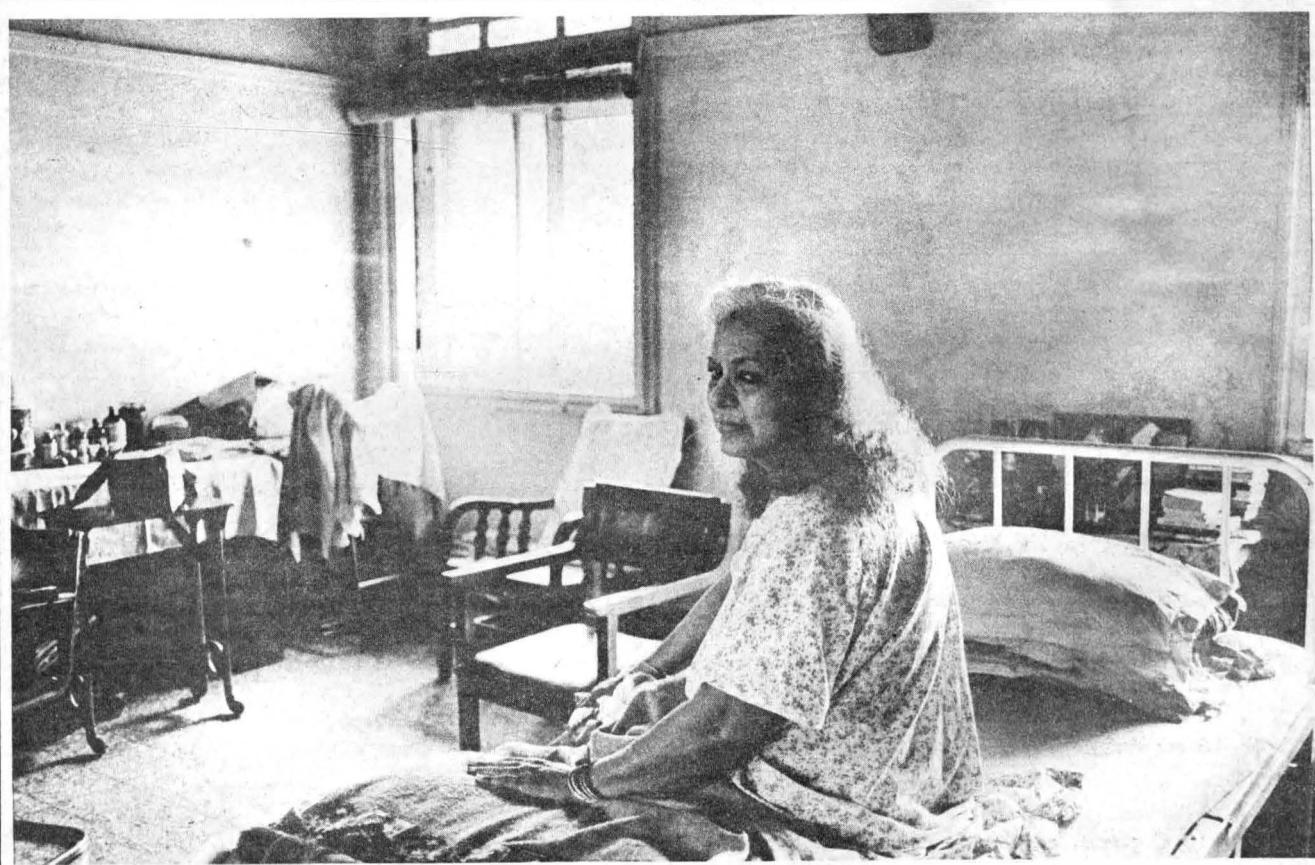
Zubeida, 72, now referred to as Begum Zubeida after her marriage at 21 to the former Raja of Dhanrajir, started her career at 12 in 1923. Born into a wealthy nawabi family of Hyderabad, Zubeida's entry into silent films was influenced, to a large extent, by her screen sister, Sultana and her stage actress mother Begum Fatma. It was her mother who started the Victoria Fatma Film Co for whom Zubeida did seven of her total of 60 films.

Now that she is an invalid (her gangrene-infected leg had to be amputated two years ago), Zubeida's room resembles a hospital with Girija her ayah for companionship, scores of

Ketaki Sheth is on the staff of Imprint. Her photo-feature Mother And Child appeared in the July issue.



Three-time Akbar, part-time shikari, Mubarak Merchant: solitary retirement.



Zubeida, heroine of the first Indian talkie: now out of the movie mainstream.

photographs and daguerreotypes as memories and heaps of Mills and Boon and Nick Carter novels as pastimes. Her face still retains the dignity and sophistication that she has always been remembered for (a press clipping of the '40s concludes: 'Moreover, Zubeida is a brilliant and witty conversationalist'). One of the mementos she is most proud of, placed carefully between an exquisite sepia-shaded still of her mother and a garlanded picture of Sai Baba, is an enlargement of a very glamorous Zubeida with Mrs Gandhi in 1981, when both she and Mubarak Merchant were paid tribute

to. "It was a few months after my amputation. The doctor was hesitant. I was determined to go and I went in my wheelchair."

Zubeida was the heroine of the first Hindi talkie, *Alam Ara* (see poster) produced by the late Khan Bahadur Ardesir Irani, owner of the oldest existing studio in Bombay which is today manned by his son, Shapurji Irani. Popularly known as Jyoti Studios, the once Imperial Film Company changed its name after partition, "as the imperial days were gone" reminisces Shapurji Irani. The premiere of *Alam Ara* was a grand occasion. It took

place at Majestic theatre in Bombay in 1931 and the chief guest was the Governor of Bombay, Roger Lumley. "There was a red carpet, police *bando-bast*... great style," recalls Irani Jr.

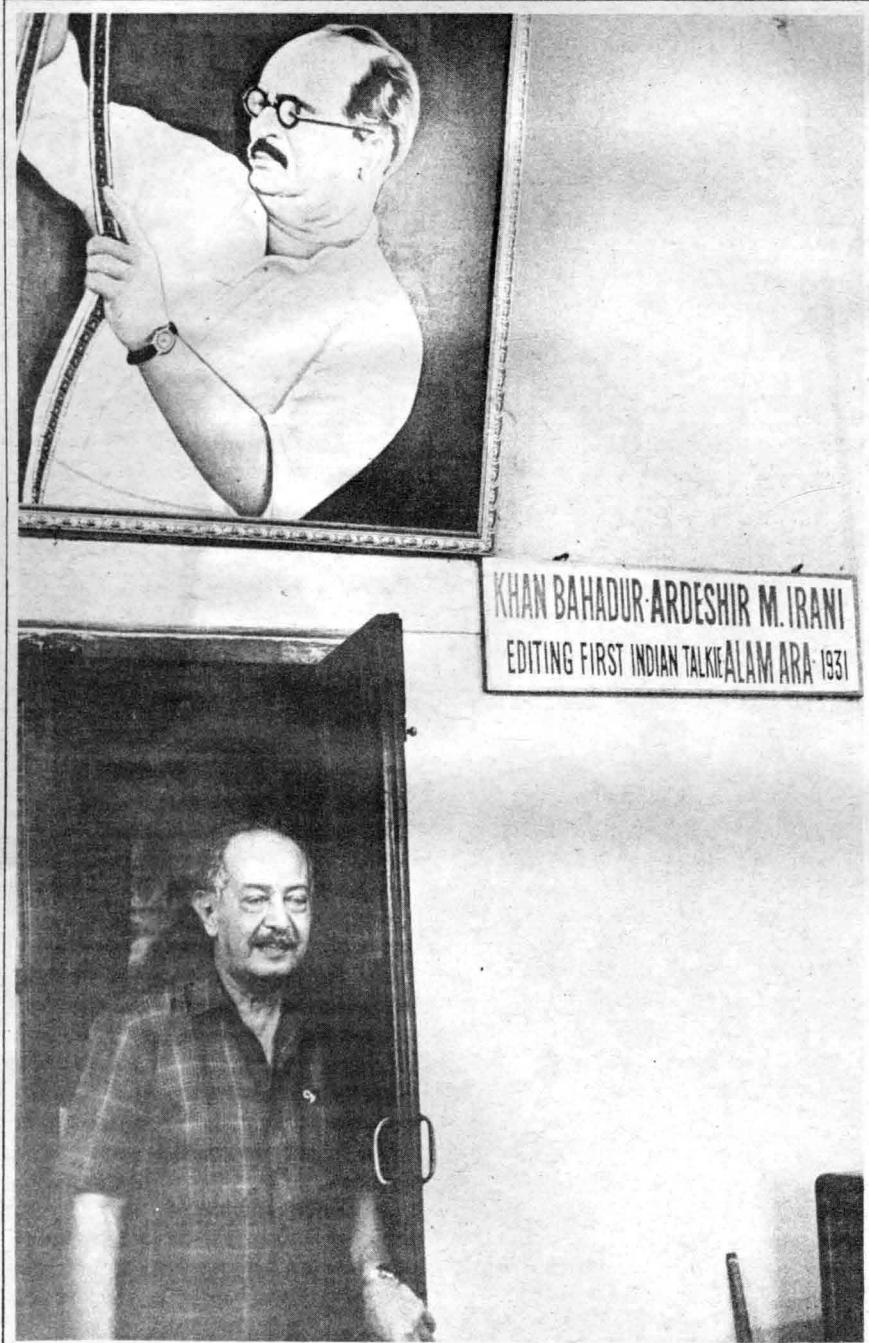
"He was the father of the talkie and of the first film colour process," explains Shapurji Irani. The first colour laboratory was set up by the late Ardesir Irani in India in the early '30s at a heavy cost and the first colour film to be produced was *Kisan Kanya* in 1937, followed by the fabled *Mother India*. "My father called an expert from Hollywood, one Mr Wolfe. He paid his passage, put him up at the Taj and learnt the colour process technique in three weeks," recalls Irani Jr who was barely out of school when his father had introduced both sound and colour into the silent movie world.

* * *

One of the 'celebrities' of the '30s who attended the premiere of *Alam Ara* was Gauhar K Mamajiwala, a dusky beauty with expressive eyes. Popularly known as 'glorious Goharbai', the actress, now 74, was a contemporary of *Alam Ara* heroine Zubeida as well as her close personal friend. Recalling the occasion of the premiere, Goharbai says: "We were mobbed by the crowd. We used to hide or slip out early on such occasions. But the crowds were never obscene or unruly, they were merely star-gazers."

Goharbai shot into fame and fortune in 1925 with *Fortune And The Fools* when she was in her late teens for the Kohinoor Film Company, with Homi Master as her director. Since then, she has to her credit 20 silent films and 20 talkies including her memorable performance in *Achoot* opposite Motilal and her favourite role in *Barrister's Wife* directed by Chandulal Shah. *Barrister's Wife*, a talkie, revolves around the life of a young woman compelled to break her relationship with someone of her choice to marry an older barrister because of parental pressure. In the film, Goharbai plays both the barrister's wife as well as their young daughter. According to one report, Chandulal Shah sent 3,000 telegrams to promote the film. The telegrams read: "Come meet Miss Gohar in *Barrister's Wife*." Reflecting on her 15 successful years as an actress, Goharbai muses, "I was singularly lucky in always being the heroine."

At the time when few women dominated the film industry and fewer



Shapurji Irani before a portrait of his father, movie pioneer, Ardesir Irani.



'Glorious' Goharbai with a '30s portrait of herself from Achoot.

still went into production and finance, Goharbai, together with her by then steady companion, director Chandulal Shah, formed a film company. Ranjit Films, still in existence today, has four floors with studios and equipment and at one time employed 400 personnel and produced 130 features under Chandulal Shah's stewardship, including more than 60 money-spinners. The company is today no longer run by Goharbai.

Through their association, Goharbai and Chandulal Shah broke a lot of taboos in the days when heroines were only projected as good, kind, virtuous and dutiful wives. In *Guna Sundari* (English title: *Why Husbands Go Astray*), the story revolves around the dilemma of the dutiful wife, burdened by household problems. At night she takes these problems to the bedroom. The husband, with his own crop of work frustrations, doesn't want his problems multiplied. So he turns to a dancing girl. The film's message hits hard and clear at a time when heroines were only the *sati Savitri* type: "Don't only be a dutiful wife. Be a companion too." A long and steady professional

and personal relationship between the two lasted till 1975 when Chandulal Shah died.

Unlike her contemporaries who in a way still live in the memory of the days when the cameras cranked and the artistes performed; when earning Rs 5,000 per month slotted you above the Governor; when discipline was the name of the game and a movie took about a month to complete—Goharbai, while upholding these 'virtues' has learnt to accept the changing attitudes and tastes of both the audience and the artistes of the '80s. "The whole nation has changed, not just the film industry. . . . you can't expect people to stay the same—the mentality of the audience has changed. In the old days, affairs, both off and on screen were banned. Today, a film like *Arth* is both bold and popular. The audience is accepting the other woman's role. The film wouldn't have been accepted even ten years ago. . . ."

* * *

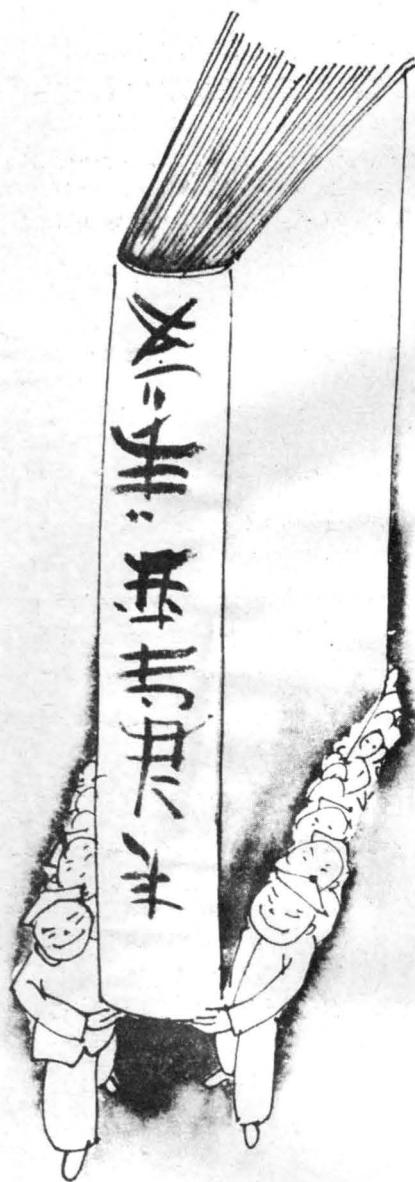
Once contemporary artistes, today Merchant, Zubeida and Goharbai are but tinsel names that were part of

Bombay's Hollywood glitterati in the '30s and '40s. While photographing the three in their present environments, one couldn't help but notice the pride, the aloneness and the desolation in each of their faces. At times the cine artiste in them would surface as in the case of Mubarak Merchant who gently issued a set of well-rehearsed instructions regarding camera angle, focal length and availability of light before each 'take'. At other times, the very 'realness' of the situation seemed to dominate. Although Zubeida talked little, the sadness in her eyes spoke volumes for her in the clinical environment which is now hers. Even Goharbai, for all her articulate ponderings and positive acceptance of the changes in her life excitedly pulled out one of her treasured mementos: an oil on canvas portrait of a youthful Goharbai with all her golden trophies.

The common past that unites the three artistes hangs like a backdrop on a stage where the curtain has been finally drawn. The applause has faded, the audience has gone home. And, as one of the artistes points out: "It's their turn now. . . ."

AMAZING BOOK FACTS

A compendium of literary trivia.



THE LARGEST ENCYCLOPAEDIA

The Great Standard Encyclopaedia of China consisted of 22,937 separate handwritten volumes and was completed by 2000 experts in five years, from 1403-1408. Only one set of the encyclopaedia was produced. All but 370 volumes have disappeared.



THE LARGEST BOOK

The Little Ref Elf, a short story by William Wood, is printed in a book seven feet two inches high and ten feet wide when open. The giant volume is kept on display in a cave in Scotland.



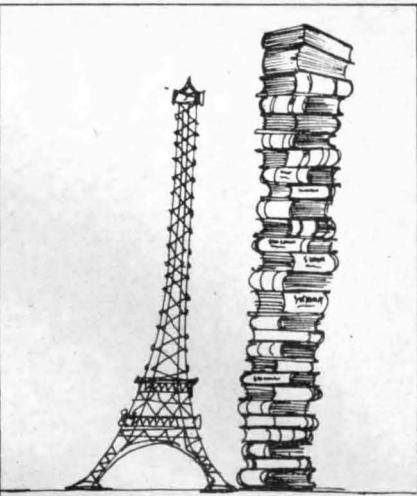
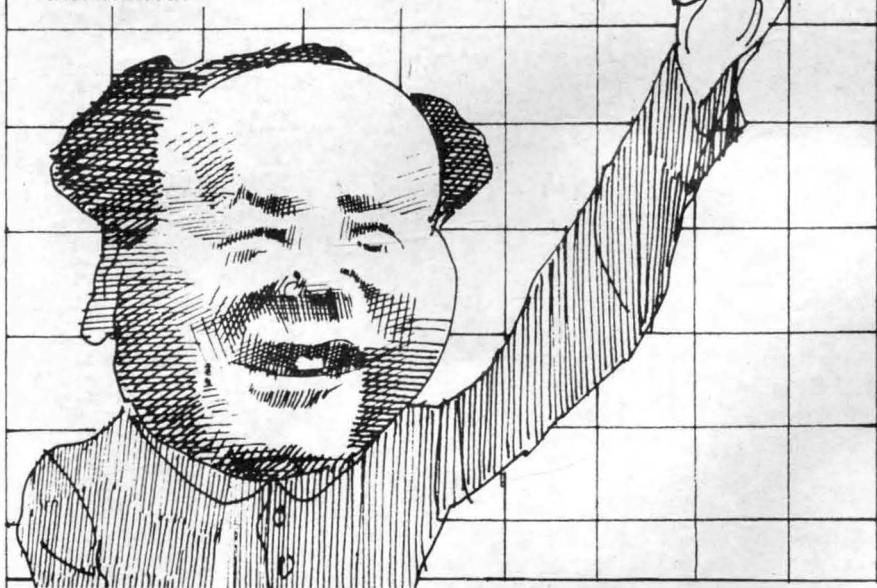
LONGEST LITERARY GESTATION

In 1901, the Oxford University Press commissioned Brigadier General Sir Harold Hartley to write *Studies In The History Of Chemistry*. The book finally appeared in 1970, 70 years later.

BEST SELLERS

BESTSELLERS

The Bible is by far the bestselling book in the world. Between 1800 and today, about 2 billion copies have been printed in more than 1300 languages. Runner-up bestseller is the booklet, Quotations from the Works of Mao Tse-tung. Over 800 million copies of this work have been distributed.



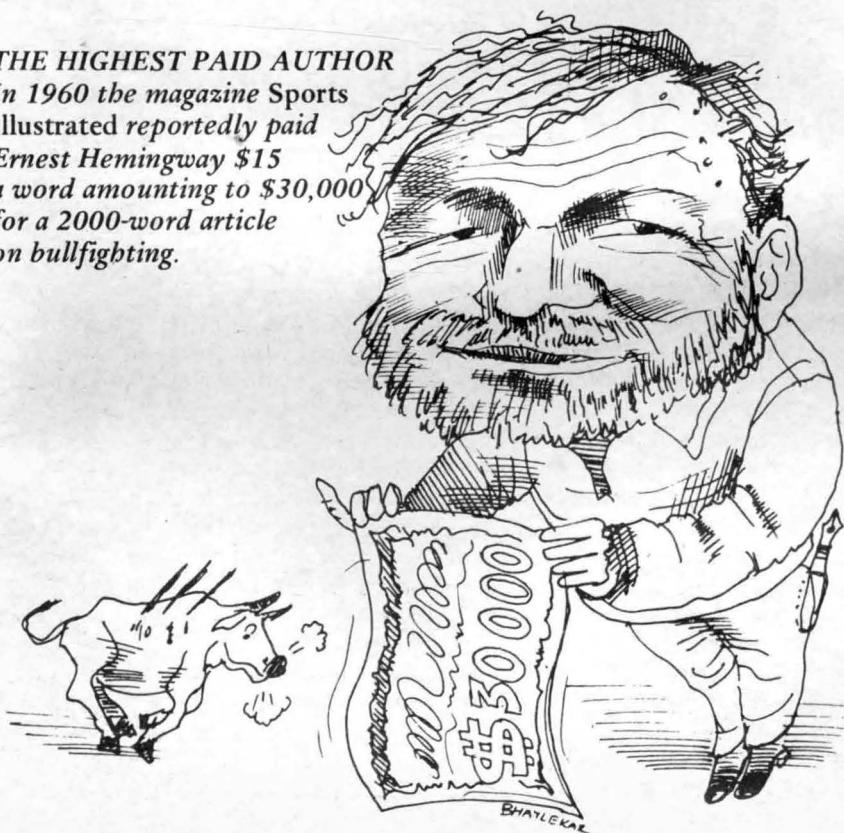
THE LONGEST NOVEL

A French novel (English title : Men of Good Will) by Jules Romains ran to 27 volumes and was published between 1932 and 1936. In Japan, a novel is running in short sections in the daily newspaper. It is expected to run to 40 volumes when finished.



THE HIGHEST PAID AUTHOR

In 1960 the magazine Sports Illustrated reportedly paid Ernest Hemingway \$15 a word amounting to \$30,000 for a 2000-word article on bullfighting.



THE BESTSELLING AUTHOR
Over 672 million copies of the works of the Russian author Iosif Vissarionovich Dzhugashvili (1879-1953) have been sold or given away. Better known as Josef Stalin, Comrade Dzhugashvili has been required reading in Russia and other communist countries. French author Georges Simenon and the English writer Agatha Christie, both known for their thrillers, rank second to Stalin with joint sales of over 300 million.

ASTROLOGY

Starting this month regular astrological forecasts by Bejan Daruwalla.



ARIES: March 21 to April 20: You will be in a position to act as a go-between between two parties, or groups, or clans. Success is certain. Partnerships and ties at various levels are predicted for you. In other words, business as well as personal attachments are probable. This aspect is specially highlighted between October 6 to 26. A journey with a stop-over is very likely. Thanks to the impact of Venus and Mars a job-switch is possible.



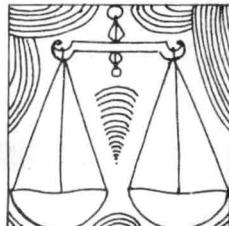
TAURUS: April 21 to May 21: This month will run in two directions: There will be a definite accent on employment and work area and your health and your relationships with colleagues and subordinates will need careful watching. You will continue with the creative pursuits of the last month. Venus and Pluto in fine formation shows ultimate fulfilment in your hobbies and pastime. Travel and group activities foretold.



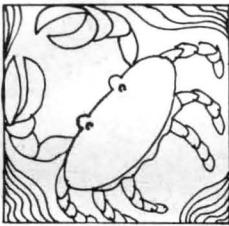
GEMINI: May 22 to June 21: In October, you will be on the move! By your wit and vivacity you will overcome the opposition. If you are interested in education, partnership, alliances, interior decoration, writing, teaching, acting, astrology, a new business venture, the chances of success are bright. Children will clamour for attention. Your brightest period is the fortnight October 6 to 21.



LEO: July 23 to August 23: You will be under considerable pressure to perform, to show results. You will be assured of success. Many Leos will be communicating, contacting people, circulating fast. Therefore, remember to brush up on your letters and make the phone calls you have been intending to. Success will depend upon your capacity to fan out to people and places. Get your travel kit ready for a trip at a very short notice.



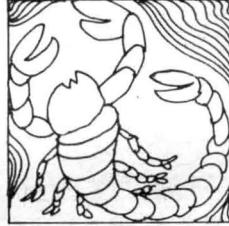
LIBRA: September 24 to October 23: Sun and Neptune in fine positioning is suggestive of gains, gaiety and heavy expenses. Your work will be done despite a few twists and turns. Mercury in your sign from October 9 gives you the dash and dexterity to weave your way out of trouble. You will be communicating in grand style and winning over friends to your side. Important news and messages are on their way.



CANCER: June 22 to July 22: As a rule, October is the month for home and the domestic scene. This October, however, you will be enlisting support for a creative venture, ripping the opposition apart, communicating at a feverish speed. Many crabs will be interested in renovation/decoration/alteration. Venus and Saturn in fine aspect means that you will consolidate your position and register a few gains. The health of your parents and in-laws is suspect.



VIRGO: August 24 to September 23: This is a money-making month. In the bargain, you will also enjoy yourself. Therefore, you will have the best of both worlds. Venus and Mars in your sign will give you the energy to shatter the opposition. A touch of romance or the beginning of a new venture, should warm your heart. The snag is that you could overdo a good thing and thus ruin it by excess. Caution is advised.



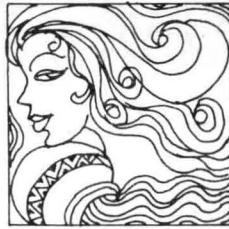
SCORPIO: October 24 to November 22: Secret alliance and ties, a rendezvous, heavy expenses, visits to depressing places (like clinics) are predicted for you in October. This does not mean that, October is a horrible month. But it does mean that you must get ready to cope with tensions and tribulations. The duo of Mars and Venus help you to socialise. You will have your fair share of well-wishers and supporters. But the overall trend could be one of slight opposition.



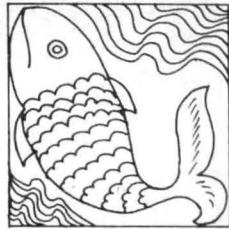
SAGITTARIUS: November 23 to December 21: The sun in your 11th sector helps you to entertain, socialise, amuse yourself, take chances. After the 23rd expenses will be very heavy. The last ten days your health might buckle under the strain of indulgence and extravaganza. Journeys and trips are quite possible this month. You may also expect foreigners and visitors to liven up matters for you. The Sun-Pluto conjunction helps you.



CAPRICORN: December 22 to January 20: This month and the next you may expect an important breakthrough. Important decisions in your profession or business will have to be taken. The conjunction of Venus-Mars aids you in competition and rivalry. The second half of the month finds you socialising. There is a distinct possibility of an alliance or a collaboration. It could be of vital significance for your career and business.



AQUARIUS: January 27 to February 18: You can now look forward to expansion and development. Simultaneously, the trend of loans and funds of the last month will be in active operation. Those of you interested or involved in research, marketing, teaching, writing, acting, publicity, sales, religion, philosophy, will find themselves at a distinct advantage. Your inspiration and intuition will lead you to the right answer. Therefore, learn to trust it.



PISCES: February 19 to March 20: Loans, funds, joint finance, insurance, windfalls, lotteries, legacy and taxes keep you busy. As Venus opposes your sign, intimate relationships are very probable. See that an unkind word or a mere slight does not hurt you beyond repair. In other words, do not be disturbed by trifles and a few misunderstandings. The last 11 days are for journeys, publicity, ceremony, research, education and exploration.

GREAT BORES OF OUR TIMES



“ IF YOU ask me the Russians did the only thing they could have in the circumstances, I mean the plane was obviously a spy plane, sent by the Americans and what could the Russians do after all except teach these guys a lesson once and for all, as this article I read last Sunday said you know, that it's only the Western media backed by all these Zionist Jews who are spreading false propaganda and we should condemn the Americans in the strongest terms possible because the CIA is really getting powerful under Reagan now and as, this guy I know who reads the foreign papers was telling me, the whole world knows that all those 269 people were undercover agents. . . . ”

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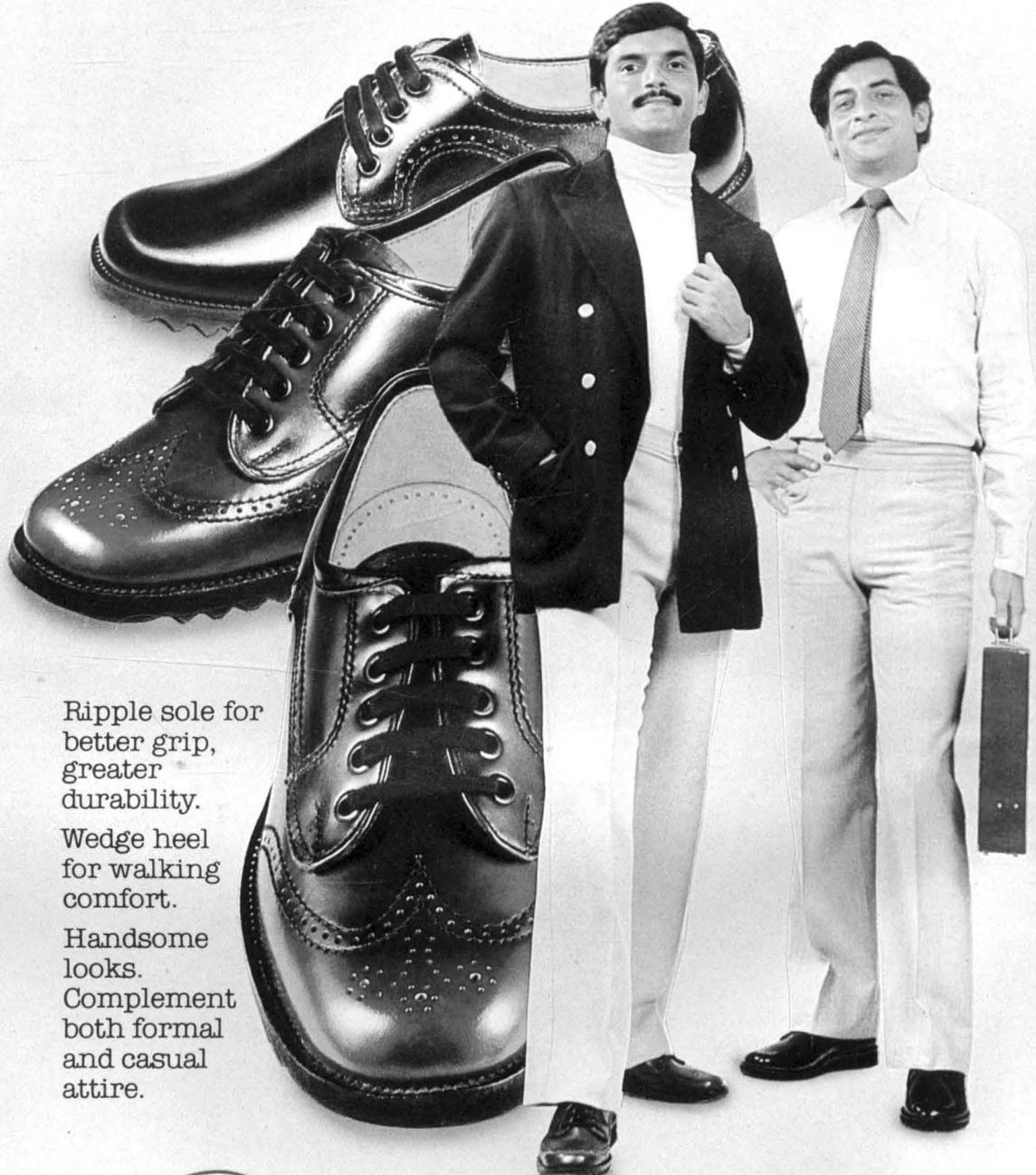
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