

Real issues in defamation

This year the Government of India rendered a signal service to the people of India by their introduction and withdrawal of the Defamation Bill. The exercise, in the words of Prime Minister Rajiv Gandhi, obliges all to look "inward and outward". According to the supporters, the objectives of the Bill are:- (1)

By M. J. Audi

To prevent character assassination. (2) To protect reputation of the individual and (3) To prevent freedom of press from becoming a licence. The opponents insist that the Bill aims:- (1) To protect persons in high places involved in corruption. (2) To discourage investigative journalism and (3) To muzzle the Press in India. The supporters and opponents do not tell the whole truth. To know it, one should separate facts from fairy tales. This is an attempt to remove the masks and bring people

and reality face to face.

Integrity of character is the foundation of fame. If fire is the test of gold, clash with calumny is the test of fame. Hence, truly famous are never afraid of verbal gossip and printed matter. Whenever anybody attempts to spit at the sun, he spits upon himself. The sun does not need the protection of law against spitting and the famous do not need the law of defamation. As Thomas Fuller put it "honest man fears neither the light nor the dart". His life is an open book. He knows that assassination of character, if one has it, is as impossible as drying of the ocean. It is true that integrity of none should be doubted without facts to support the doubt. It is equally true that integrity of none should be believed without facts to support the belief. Anxiety of people to protect their reputation, if they have it, is natural and understandable. What is unnatural and horrible is the law which gives them

reputation without having it. Just as beauty cannot be acquired through beauty-parlours, fame cannot be acquired through the law of defamation.

If the rulers think that the laws can silence the critics then they do not know the limitations of law. No law can silence persons dedication to public good. Stone walls and iron bars cannot extinguish the flame of fire burning in their hearts. During India's Freedom Movement, the British enacted notorious Rowlatt Act and the Law of Sedition before which the Defamation Bill of Government of India pales into insignificance. Young revolutionaries, barely in their twenties, kicked them and smilingly kissed the gallows. Lokmanya Tilak and Mahatma Gandhi dismissed the Law of Sedition with the contempt it deserved. Who are frightened by such laws? Now as then only the armchair philosophers and opportunist weather-cocks.

There can be no two opinions about existence of corruption in high places. Eversince independence, the credibility graph of India's leadership moves downwards. People assert that just as crows do not become eagles by sitting on the top of temples, selfish persons do not become unselfish rulers when elected and nominated to the highest offices of the State. But to concentrate only on corruption in the Government and condone its existence in other fields is to make confusion worse confounded. Is corruption confined only to persons in public offices? Do we have angels in Big Business? Are the leading lights of various professions sea-green incorruptibles? Does Big Press expose captains of trade and industry as fiercely as it exposes the holders of high offices? Does investigative journalism investigate Big Business as rigorously as it investigates public offices?

At every level, corruption is a

compact between giver and taker. Indeed, if there are no givers, there will be no takers. Honesty, Purity and truthfulness are not at all the means by which the business empires are established, extended and preserved. Recently, when the dealings of one of the industrialists were under the investigation, the professional on his pay-roll defended him thus: "then, only Bhagwan Sri Ramachandraji can make accusations. Nobody else is completely clean". Big Business purposely controls Big Press in India. It invests heavily in Press because Press is the most reliable weapon in commercial warfare. The mission of Big Press is to preach that what is good for Big Business is good for people of India. It identifies progress of democracy in India with prosperity of its masters. Hence, when Big Business Houses were raided by the Government. Big

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Press cried that "Democracy was in danger".

Doubtless, the owners of Big Press use their newspapers to blackmail the rulers. But the law of defamation is not and cannot be an answer to the blackmail. Cogent answer would be prompt publication of facts and figures about their economic crimes. The rulers dare not do it because in India political sheep and business goats are inextricably intertwined. Together, they have made a mockery of the Directive Principles of State Policy

The powers that be and powerful in business shed crocodile tears over the safety of individual. Which individual? Mahatma Gandhi's individual was the poorest man. Said Mahatma: "Recall the face of the poorest and the weakest man... and ask yourself if the step you contemplate is going to be of any use to him. Will he gain anything by it"? John Stuart Mill, the champion of Liberty, said: "If all mankind minus one were of one opinion and only one person were of contrary opinion, mankind would be no more justified in silencing that one person than he if he had the power would be justified in silencing mankind". Neither Mahatma Gandhi's "poorest man" nor Mill's "mimus one" is their concern. Their prime concern is a "specific individual". He is either a power-wielder or a money-spinner or a lackey of both. Safety of this "specific individual" is the real issue in the dispute over defamation.

Clearly, the aim of supporters of the bill is not to protect the fame which they do not have but to protect their ill-gotten wealth.

The aim of opponents is not to expose such ill-gotten wealth and restore it to the public exchequer but to safeguard their own means of multiplying millions. In a fight between the power-brokers and moneyhunters, whoever wins, the people lose. The people of India are thus caught between the devil and the deep sea. Will they be deceived by the deceitful propaganda?

It is time for people to realize that the holders of high offices of State are not the only culprits. The culprits exist in each and every field. Therefore, the right remedy is insistence upon rigorous enforcement of accountability at every level in Politics, Business, Bureaucracy, Defence Forces, Judiciary and Professions. No person should be exempted from open public scrutiny. The clearance-certificates obtained from stage-managed commissions and committees may be praised sky-high as the proof of Rule of Law but they are never accepted as the proof of credibility. The legal procedures which systematically sabotage scrutiny of corruption should be summarily rejected. During the Freedom Movement, the Indians told the British that good government was no substitute for self-government. After forty years of freedom, they discover that without accountability in true sense of term, the self-government becomes "selfish government".