THE RECOVERY OF FIRE: NEHRU AND LEGITIMATION OF POWER
IN INDIA

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I

IN THESE days of national nihilism, fomented by the arch practitioners and
critics of democratic politics in India the very act of remembering Nehru
becomes deeply problematic. And the cacophony of voices in this birth
centenary year, marking an eager multitude of those not even worthy of the
honour of honouring Nehru aggravates this task even further. If the
promotion of causes which were so dear to Jawaharlal was a requirement of
integrity for those who would speak about him, the cascading flow of high
centenary rhetoric will, I am sure, reduce only to a trickle.

To recall Jawaharlal Nehru seriously is to invite collective national
introspection, not the reiterative discourse of his aspirations and achieve-
ments. In this spirit one should at least raise a simple, but integrity-enhanc-
ing, question: “For whom, and to what ends, do we remember Nehru
today?”

A determined act of recall such as the centenary cannot be innocent of
ideology and politics. Memory, like history, celebrates its own ideological
and political ends. And the politics of memory necessarily reconstruct the
text, the context and the persona of history. Nehru’s corpus of texts and
political action provide an endless chain of interpretations and reinterpret-
tations. Several styles or types of discourse seek to reincarnate a figure
known as Jawaharlal Nehru and each seeks to appropriate Nehru for distinct
ideological ends. One may wish to recall Nehru as he was in pristine purity.
But as he himself was so fond of saying, life moves on in ceaseless change;
in the flux of history, which is also unceasing interpretation, no identities
with fixed, eternal essences may be located.

This historic discursive persona named Jawaharlal Nehru will be recalled
by the national nihilists as an inaugural agency for the sorry spectacle of
the present political practices. The nihilist will say that the dialectical tension
in Nehru’s discourse between the high political ideals and the routine,
unreflective, everyday state practice has now been resolved simply in favour
of politics of expediency.

The thesis of the nihilists is broadly that, over the last 25 years every
single major aspect of the Nehruvian legacy (socialism, secularism, and
democratic spirit) has been systematically subverted by the practices of
politics in India. The nihilists say that Nehru’s India has been annihilated.
If this is so, the ideology of memory and recall entailed in the centenary
celebrations must signify the very last rites in the process of this annihilation.

Nehru and Legitimation of Power

On a nihilistic understanding, the recalling of Jawaharlal Nehru would be an
act of partisan, cannibalistic appropriation of Nehruvian discourse for
distinctively un-Nehruvian ends.

But nihilism provides only one instance of the ideology of memory. Against it is raged the thesis of the resilience of ancestors who survive all
attempts at their planned massacre. The yugpurushas, the vishwanavas
among India’s nationalist ancestors are possessed of as much, if not more,
potential for guiding the national destiny from their nodal positions in the
firmament. The resilient believe that it is possible and historically incum-
bigent to reappropriate the Nehruvian discourse and vision: and this they do
through a variety of discursive strategies. One of these is to vulgarize
Bakhtin somewhat) the carnivalization of discourse, typified in the Door-
darshans genre of mera Bharat mahen. Another discursive strategy is to fuse
and confuse national history with the biography of Nehru; or to construct
Nehru’s life as constituting the moral autobiography of the whole nation.
Yet another way is a compassionate reading of Nehru, which stops short of
hagiographical idealization while at the same time celebrating the uni-
queness and historical greatness of Nehru (in different ways this approach
runs right through Hiren Mukherjee’s A Gentle Colossus to Sarvapalli
Gopi’s splendid three volume scholarly biography).

A third ideology of recall is critical in the best sense of the word. It
recalls Nehru as a figure sculpted by nationalist history rather than as a
sculptor of the Indian destiny. Nehru, on this analysis, was the lyricist of
the power of the modern Indian state who articulated, poetically as well as
politically, the “ideological unity of the nationalist thought.” His discourse
on order or “the rational organization of power” and the state ideology
which appropriates “the life of the nation into the life of the state” consti-
tutes the very site where the “passive revolution is underlining its own life
history.” Recalling Nehru is then a way of understanding ways in which the
emergent state power in India (through the nationalist discourse) becomes
the sole voice of a multidisciplinary nation. This way of reading in turn invites
a critique of “the nationalist discourse, and of the state ideology built upon
it the discourse, which must find for itself the ideological means to connect
the popular strength of ...struggles with the consciousness of a new uni-
versality, to subvert the ideological sway of a state which falsely claims to
speak on behalf of the nation and to challenge the presumed sovereignty of
a science which puts itself at the service of the capital to replace, in other
words, the old problematic and thematic with new ones.”

The nihilist, the resilientists (if one may be forgiven this mayhem on
language) and the critical discursive strategies, of course, do not exhaust the

1. See the highly readable work by M.J. Akbar, Nehru: The Making of India
(1988).
2. In. See P. Chatterjee, Nationalist Thought and the Colonial World: A Derivative
Discourse 161, 51 (1986).
3. Id. at 170.
Shortening of legislative time is irredemibly connected with tendencies towards arbitrariness and authoritarianism.

Third, the title that law carries – legitimacy and obedience is structured, or rather textured, by norms of legality. Wielding obedience is, indeed, “sullen”, not conscientious, when animated by the desire to avoid unpleasant consequences; between "sullen" obedience and "abject surrender" there is, indeed, a difference of degree, not of kind. Implicitly, Nehru is here pointing to belief in legality for its own sake, an internalization of the authority of the law, as a motive for compliance which Max Weber identified as a hallmark of legal-rational authority or dominance. Or to articulate this thought in a different tradition, it is an effort towards hegemony rather than sheer dominance, by force, which distinguishes a colonial from a constitutional state.

Nehru’s critique of the Indian liberals was that with or rather because of, their vision of Indianization and dominion status they reflect the “mentality of a good country-house servant” who does not contest the legitimacy of the British treating “India as a kind of enormous country-house...that they owned.” The liberals thought of changing the administration (or the colour of it) whereas what was needed was a new state. A new Indian state won by swaraj did not mean that “everything continues as before, only with a darker shade”. (Nehru here refers to Indianization; but he has unwittingly used a potent import of phrase which outlasts the/its original utterance). And the new state will be distinguished from the colonial/imperialist state by the eight marks of legality.

From where does the connection of legality, both as a basis of the critique of the colonial/imperial state and as an alternative state ideology for independent India, come from? Even the author of Discovery of India is aware that the fully-fledged notions of legality emanate from the conditions of the colonizing western nations. He acknowledges that our challenge to the British version of history, economics and administration in India grew, and yet we continued to function with the orbit of their ideology.

Nehru was troubled by this derivative nature of the nationalist discourse. But he saw no escape from it. Instead, he reconciled to himself the English traditions of legality. But he did it in ways which accentuated the distinctively anti-colonial and pro-freedom aspects of the English, and generally the Western, traditions of political thought. And he seemed to think that recourse even to the Marxian discourse too, will have to be derivative in the sense that it originated outside India’s (and Asian) historic experience.

In the event, Nehru did seek to variously operationalize the eight attributes of legality in the formulation of the Indian Constitution. In many respects, he moved India, through this effort, outside the “orbit of... (English) ideology.” We cannot pursue this theme here except to say that the constitution as it emerged, and its later career, does mark a significant break from the overall nationalist discourse. If the latter is ‘derivative’, the constitution is indeed innovative, and at places almost singularly original.

III

The post-colonial pursuit of legality, an ideology which so powerfully served the cause of decolonization, provides a fascinating and frustrating narrative. It is fascinating because of the ways in which Nehru had recourse to the competing notions of traditions and charisma in the face of claims of legality which required disciplining of the executive power. It is frustrating because the overall legacy that Nehru bestowed on us was one in which modern state armed with modern science was considered critical for the Indian development; but, modern law was, often, considered an obstacle to such development. The constraints which Nehru perceived in pursuing the path of legality as an end in itself and the justifications he offered paved way for legal and constitutional culture which, more or less, forfeited the role of the law or belief in legality to mosaic of motivations sustaining political authority.

I take the situation of privy purses as a luminous example of Nehru’s appeal to tradition of honouring word against the ideology of the Indian Constitution. Nehru was, as we know, utterly opposed to this institution. At the going rate of 1949 the privy purses cost the nation Rs. 4.66 crores free of tax. And yet the commitment was announced finally in 1950. And article 291 of the Constitution specifically provided for the payment of privy purses to the erstwhile rulers. Article 363 barred all judicial powers, including the extensive powers of the Supreme Court, to review any executive or legislative decision in this regard. Therefore, the Constitution legitimized the privy purses.

A recalcitrant opponent of such an arrangement, Nehru felt that it had to be undone. But he chose not to do so. Instead he wrote long letters to the erstwhile rulers saying in fact that the privy purses signified the “continuance of a functionless group” to whom payment of “large sums of money cannot be justified by any moral, political or social theory.” Acknowledging his failure as a pedagogue to princes, Nehru later made infructuous proposals for a “voluntary contribution to the public revenue of ten to fifteen per cent of the privy purses.” Typically, he also warned the princes that sooner or later, masses will ensure abolition of such an undemocratic bequest.

What restrained Nehru from seeking a constitutional abolition of this arrangement? His answer is to be found in one historiographic sentence: “There

7. Id. at 417.
8. Id. at 427.
field of which they constitute salient illustrations. For example, there is yet another discursive strategy which might be called polemical, in the strongest sense of the word (like Dr. Lohia’s comments on Nehru’s last will and testament which even Nirad Chaudhuri laments as being in “unbelievably bad taste”). Other, more responsible polemic strategies point to internal contradictions in Nehru’s worldview.

In what follows, I intend to deploy the critical strategy only to understand one aspect of Nehruvian discourse hitherto relatively unexplored. I wish to explore Nehru’s own thought and practice concerning legitimate authority. Whether one can look for or find an articulate political theory concerning legitimacy and obligation in Nehru may be a serious question; this interests me but I do not address it here. What I seek to do is read Nehru’s actions as political texts.

And it is necessary to my purpose to announce a conclusion which I find compelling. For Nehru, belief in legalism for its own sake, even in independent India, was not necessarily a critical resource for the legitimation of political power. His practice consistently shows that it was important to appeal to a wide variety of motivations and belief systems (even when contradicting legitimacy) to legitimate power. Nehru found it necessary and indeed desirable in the first decades of independence to invoke elements of charisma, tradition and legitimacy to sustain state power. In post-colonial Indian state formation, all the three types of domination (so luminously identified by Max Weber) mix and mingle, combine and recombine, intersect and interrogate, legitimate and delegitimate the power of ideology and ideology of power.

Among the reasons which lead me to share this conclusion at the outset is that this forfeiture of legality as a principle informing the legitimation of political power has begun to produce since Nehru’s time devastating consequences for the nature and future of the Indian democracy, especially in the decline of norms and motivations sustaining charismatic and traditional domination modes.

Nehru’s own ideas concerning legality were formed early and lucidly and these proved powerful in his critique of the colonial state as well as its Indian apologists, especially the liberals. In refuting the allegation that the Congress agitational methods were “unconstitutional” Nehru celebrated the “wide significance” of the word “constitutional” in “countries with democratic constitution.” The notion of constitutions, or of legality, he wrote:

controls the making of laws, protects liberties, checks the executive, provides democratic methods of bringing about changes in the political and economic structure.  

Legality or constitutionalism thus performs four critical functions.


First, it provides a framework of powers and limitations for the exercise of legislative competence. It thus provides a grammar, in a Greimasian sense, for law-making political activity. Second, legality ordsains the protection of liberties of citizens always threatened by the dominating power of the few. It is a prime function of constitutional legality to define the nature and scope of these freedoms and the ways in which these may be enjoyed without let or hindrance, and also to define ways in which, collectively, the pursuit or the exercise of freedom enrich rather than impoverish, subserve rather than subvert, the overall scheme or structure of distribution of freedoms. Third, constitutions provide for orderly changes in political structure not just through the guaranteed right of adult suffrage but through the politics of accountability embedded in the freedom of speech and press and of association. (Nehru would later include within the changes in political structure the unrestricted claim of power to amend the whole of the Indian Constitution). Fourth, constitutions provide frameworks for state and non-state pursuit for economic activity and development and endow governing groups with capabilities to alter the framework.

Clearly, the colonial state did not fulfill any of the requirements of legality. The word “constitution” was in the colonial era mainly “in support of the executive’s more or less arbitrary actions.”

When these laws can be promulgated by an irresponsible executive at the shortest notice, the word ‘legal’ simply means the will of that executive and nothing more. Ordinarily that will be obeyed, willingly or sullenly, because the consequences of disobedience are unpleasant. But for any one to say that he will always obey it means abject submission to a dictator or irresponsible authority, the surrender of his conscience, and the impossibility of ever gaining freedom, so far as his activities are concerned.

We derive from this accurate critique three additional characteristics of legality. First, the law is more than “the will of the executive” in a democratic society; since the executive power is created by the constitution it can only be exercised, in all its plenitude, for constitutional, and no other, ends. If exercised differently, it becomes “arbitrary.” And the constitution would provide modes of authoritatively marking an act of power as arbitrary, depriving it of its purported legality, legitimacy or authority. Second, the making of laws must have a time-dimension. Laws ought not to be brought into being “at the shortest notice.” The law’s time is, of course, political, hegemonic time. But it is time. A time which creates space for consultation with affected interests, provides for scope for revisions in original legislative proposals, and for democratic deliberation.

5. Ibid. at 423.
6. Ibid.
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What restrained Nehru from seeking a constitutional abolition of this arrangement? His answer is to be found in one historic sentence: “There

7. Id. at 417.
8. Id. at 427.
is such a thing as a Government’s word and a Government’s honour.” The emphasis on “word” and “honour”, not frequently characteristic of Nehru-vian practice and discourse, acquires a grim poignance. This word and honour motif emanates straight from the discourse on rajdharna and the medieval codes of royal honour. These signify a gesture by the modern prince to the princes of the yesteryear. They are in disagreement on the subject of continuance of the privy purses but they are in profound agreement as to what the kshatriya kings may do to one another in a victor-vanquished situation. The victor is supposed to show magnanimity, not meanness; the victor is to persuade, not to coerce; and if necessary the victorious is to bear, as it were, a mark of defeat of her triumph. The rulers’ word is the dharmic vakya; to go back on it is to go back on a covenant and thus to betray the dharma among the rulers.

The reference to the masses eventually confiscating the privy purses is the only helplessly democratic aspect of Nehru’s discourse with the princes. But the rajdharna requires the prevention of such a philistine encroachment, of this magnitude, of a political calamity. Hence, the appeal to charity and compassion as a form of self-insurance of the ruling classes. The gesture of contribution of ten or fifteen per cent of the purses would be appreciated by the masses as a language of rajdharna; they would not merely be content but be overwhelmed by this dharmic act.

The appeal carries the strong motif of the sacred. If rajdharna of the modern prince requires to honour the “word” the rajdharna of the rulers entails compassionate renunciation of superfluity on the part of erstwhile rajas and maharajas of India. No question here arises of treating them as common citizens; that privilege is reserved for the “masses.” No question, also, arises of keeping the “word” given to the “masses” during the freedom struggle. That word was hypogamous less legitimated by canons of rajdharna; the “word” to the Indian rulers was a word among feudal equals, inherently and eternally creating sources of inviolable obligation and fidelity.

Look at the contrast with the word given to the zamindars by article 81 of the Constitution. It was also a solemn word; their properties were not to be confiscated. Nehru was as equally unhappy with this pillaging of froth as he was with privy purses. And yet in 1951, hardly before the ink with which signatures were appended to the Indian Constitution was dry, Nehru had no difficulty with reneging on that word. That word was of a wholly different order; it did not involve the honour of the government. The zamindars were feudal remnants, not royally feudal remnants. The words of article 31 symboized no pact, no covenant; these were words of the Constituent Assembly which itself authorized their change and even their repeal.

No doubt, one may seek to explain this episode by other reasons such as political expediency and the need to respect Sardar Patel, or by the pressing agenda of national development. But, as to the first, if the constitutional arrangements on compensation for acquisition of property could be easily explained by Patel’s death, Patel was equally, and indeed long, dead during the long Nehru regime as regards the abolition of the privy purses. The pressing agenda of national development argument does not carry much persuasion as there is no reason why the overwhelming national burden of privy purses should be borne even as resources for the ambitious five year plans were becoming problematic.

It is not the political exigencies which offer an interpretation for Nehru’s determined inability. Rather, it is the ideology of the word and honour which are central to his discourse. The “word” figured in the covenant before it featured in the text of the Constitution. And the legitimacy of the ruler’s word in the covenant formed a different genre of social contract, governed by wholly different herememonial codes. The sacredness of the word, a primeval source of political legitimation in societies ruled by traditional or patriliney is here the central motif. And so central it is that invasion of it by another code—the code of the Constitution empowering the infant nation state of India—is considered wholly illegitimate. The fact that a similar feudal ideology animated the Supreme Court of India in the seventies in considering the abolition of the privy purses in Indira Nehru Gandhi’s India, long after the motifs of the “word” and “honour” we had become anachronisms in the Indian political discourse, offers yet another fascinating narrative but this remains outside my present concern.

What is striking, indeed, is the fact that this recourse to a feudal tradition became an accepted political idiom and fact of Indian life during Nehru’s creatively long Prime Ministry. Subject to further research, it is plausible to say that the continuance of the privy purses, denounced as undemocratic by Nehru himself, did not feature as an aspect of party politics (till the advent of Indira Nehru Gandhi) or of people’s struggles. If so, it must be said, in deference to the contemporary Indian political history, that the appeal to tradition was a critical component to legitimation of political authority as preached and practised by Jawaharlal Nehru himself.

IV

The activation of charisma, as an alternate to legality grounding political authority, is writ large on many actions of Nehru as the Prime Minister of India. Once again, I will content myself to only a salient illustration furnished by the blessings of Nehru to Vinoba Bhave’s Chumbal Valley Dacoits’ heart transformation mission in 1959. This was replicated by Vinoba’s spiritual successor Jaya Prakash Narain in 1969 under the auspices of Nehru’s charismatic successor, Indira Nehru Gandhi.

No work on Nehru pauses to even record this episode; this itself testifies to the hegemony of charismatic domination of political authority in the Nehru era. My own archival researches extend only to uncovering the problem, which will have to suffice for the present purpose.
Briefly stated, the situation was one in which Vinoba, deeply fatigued by the Bhoodan/Gramdan odyssey, found it incumbent to change the terrain of his spiritual politics. Whether or not God Almighty spoke with him, he felt summoned to put an end to the ravages of the dacoits in Rajasthan and Madhya Pradesh. The transition from agrarian restructuration to changing of hearts of dacoits awaits labours of historians and biographers of Vinoba Bhave. So does the extent of the ‘success’ of his mission. My interest here is in the very conception of this mission and its execution. I must here pause to confess that in describing this episode as a mission I am somewhat influenced by the current models of several social and technological missions; the desire to overcome obnoxious social conditions pervades both Vinoba and the present leaders. For Vinoba, the moral mission had the edge of miraculous; for his laterday technocratic successors, missions are, with deep implication, no less miraculous in the sense that the failures of the 40 years of planned effort are now sought to be overcome by time-bound managerial programmes. The fact that there is as yet no “law-and-order mission” is best explained by humility before history of the masters and managers of missionomania in the contemporary India.

There was no way in which Vinoba (and later Jaya Prakash) could conceive of the mission without a wholesale violation of legality and a totalistic judgment that the path of legality was a path of utter failure in achieving the objectives. What the law simply cannot achieve, spiritual politics will and with a multiplier effect for Indian polity. Implicit in the mission was a wholesale repudiation of the principle of legality as identified by anti-colonial Nehru.

The sarvodaya ideology which inspired the Vinoba (and later Jaya Prakash) mission is somewhat easily stated. The law does not act on conscience, being an insincere act of coercion. The way of state coercion is not the way of social transformation. The war against organized crime is best waged at that ethical plane which recognizes the perpetrators of violence as human beings, whose bloodied beings have to be recovered to humanity. And that site has a privileged place for moral regeneration of agents, which is never explicitly the law’s concern, because even when the law talks in the language of reformation it does so in terms of changing the attitudes and behaviour of those who are first of all dealt with and stigmatized as criminals through its due processes. It is through the compassion of the ruling classes—summed up in the message “forget and forgive”—that diehard ‘criminals’ can be converted into conscientious citizens.

Given such premises, the task of this conversion must lie only with charismatic figures, who have shunned political power, who are gifted with the grace of God, and are prepared for martyrdom in pursuit of a noble cause. The law’s figure of a policeperson, judge and the hangman are inapt to combat social banditry. It’s only, as the folk ditty goes, when the saints go marching in that tasks of moral regeneration begin.

But an essential condition, following from this, of the saints going marching in is the suppression of the discourse of legality, and also its ethics of legality. This is suppression that the Nehruvian blessings achieved for Vinoba (and later for Jaya Prakash). For, when K. F. Rustamji, in his purvasharam life (for now, he is in his exalted retirement, he is a staunch civil libertarian) as a senior police official, objected, (in a long missive to the then Chief Minister of Madhya Pradesh) to the mission. He was silenced peremptorily by the rebuke that the mission had the blessings of Jawaharlal Nehru.

The suppression here occurs by a combination and recombination of multiple charisma. Saint Vinoba is himself a charismatic figure; but the sources of his charisma lie in repudiation of democratic politics as ineffective even if necessary evil. But Jawaharlal Nehru’s charisma adds to it the secular, democratic legitimation. And Nehru’s charisma lay in his being (to use Antonio Gramsci’s words) a modern prince, a folk hero who personified the party and the nation. That charisma rested in his olympian status in India of his times, which in turn had contradictory but overall hegemonic blending of tradition and legal rational authority. Nehru was a leading articulator of the rule of law; he was also an upholder of the word and the honour (tradition). If he sanctioned what unhistoric beings like me would call the wholesale evasion of legality, he could and would only do it in the national interest.

But of the total repudiation of legality one may indeed speak of with complete assurance. All the major national and local laws, general and special laws, were violated by the mission; the evidence was a major of public record. And if prosecutions were initiated, heavy jail sentences would have followed, given the extraordinarily large number of serious offences proved. Not merely this; the violation of legality was so comprehensive as to require the police from desisting from their obvious public and statutory duties. The police were under directions not just to overlook the commission of offences but to actually participate in it.

And the entire Indian legal system lay suspended during the mission, not by virtue of an explicit legislation immunizing the mission from the sway of the Indian legal order. Rather the extraordinary abrogation of the Indian legal system was achieved through the verbal messages and shared understandings between Vinoba and Nehru, percolating downwards through the concerned chief ministers.

The salient mark of legality—namely, the dispersal of the sovereign power and disciplining of the constitutionally demarcated and distributed powers—was erased, both in 1959 and 1969, by these missions. And there was no strong contemporary reaction to this, testifying to the triumph of ascendent charisma over mere claims of legality.
Nehru and the Constitution

premiership. The archives concerning Krishna Menon jeep scandal, the vicissitudes of M.O. Mathai, the privatization of the Life Insurance Corporation in the Mundhra affair, the extraordinary trial of Sarojuddin political contributions and, of course, the Pratap Singh Kairon case must be compulsary reading for all students of Nehru and of the future of the Indian democracy. It is not my purpose to revisit any of these scandals afresh. But I do wish to suggest that the way Nehru responded to the charges of corruption in high places has deep contemporary resonance. If the Nehruvian response to political corruption is to be counted as an aspect of his legacy it is an aspect that all political parties have deeply and outstandingly cherished and developed. But my concern here is simply with the manner in which Nehru articulated a conception of legitimate authority in the context of a tribal culture.

The ways in which Nehru articulated the problem of corruption are fascinatedly complex. He did not conceptualize corruption in its etymological sense as signifying something rotten, putrid or impure in the body politic. Nor did he ever fully recall that the anti-corruption law (which was passed by Parliament under his own leadership,) provided any standards governing executive power; the words the statutes were addresssed on this view, to the judges dealing with cases brought before them. But when, if at all, cases ought to be prosecuted was indeed a matter for the executive to decide; and in that decision the legislative ideals of rectitude in power and the law’s definitions of corrupt conduct did not furnish any controlling standards for the executive power.

With this adieu to significant mark of legality (whose function, we recall, for the anti-colonial Nehru was to arrest arbitrary power) the problem of corruption in high places emerged as a distinctly political question. And Nehru offered several general and specific analyses of the problem.

Nehru was averse to develop any generalized legal instrumentality to vindicate guilt or innocence of people in high places charged with corruption. The interesting reason for this aversion was that such a device would “encourage the habit, deep-rooted in India, of making baseless allegations...” He reiterated the theme often: “We are” he said a “gossipy people.”

The only substantiation of this national habit of gossip, we have only the ipse dixit of Jawaharlal Nehru. I do not recall whether The Discovery of India supports such a general conclusion concerning the Indian people; nor do I recall fully whether the Glimpses of World History suggests that this national trait was unique to the Indian heritage. But what the man of thought in Jawaharlal Nehru may not have found, the man of power soon discovered about the Indian people.

Nehru did not pause questions concerning the status of the discourse which he called ‘gossip.’ But it is clear that he regarded gossip as socially irresponsible form of public utterance and communication, based on unworthy acts of imagination. And insofar as gossip comprises rumours without any identifiable origins, given by ambiguity and porous to myriad improvisations in the process of transmission it is even less eligible for democratic discourse on political accountability.

But the very notion of gossip must, to make sense, posit its opposite; the notion of truth. Between ‘gossip’ and ‘truth’ must exist relation of logical contradiction. Gossip must signal absence or lack of truth; and truth, the lack of gossip. One may not then speak of the truth of gossip or the gossip of truth.

In Nehru’s analysis the site for gossip is the community or society. In contrast, the site for truth is the state. Only the ensemble of the state apparatuses—the legislatures and courts being the salient ones—possess the truth-making capacity and potential.

Nehru’s actual practices of power, and his discourse on gossip, point acutely towards his general agreement with what Michel Foucault was later to characterize as the “general politics of truth,” of societal “regimes of truth,” Foucault summarized his conception of truth and power as follows:

‘Truth’ is to be understood as a system of ordered relations for the production, regulation, distribution, circulation and operation of statements.

‘Truth’ is linked in a circular relation with systems of power which produce and sustain it, and to the effects of power which it induces and which extend it a regime of truth.

The strengthening of the regime of truth is among the critical functions of state power. Indeed, the widespread inculcation of belief in the regime of truth is itself a critical condition of the legitimation of political power.

But if truths are productions of power, the discourse of gossip may also tend to produce its own truths since the state “for all the omnipotence of its apparatuses, is far from being able to occupy the whole field of power relations..." At times, these may be counter-hegemonic, subaltern or subversive ‘truths’ marking a general crisis of the political economy of truth. On these occasions, the beliefs and motivations sustaining the legitimation of power may be at grave risk. And the state has to have recourse to legal and extra-legal modes of repression, as became necessary for Indira Nehru Gandhi in 1975-76 when the total revolution movement almost

14. Id. at 122.
15. See Supra note 12.
Nehru and the Constitution

Nehru succeeded in installing the truth of gossip concerning the pervasive nature of political corruption against the systems of official, sanctioned ‘truths’.

Nehru perceived this danger quite early. He was keen to maintain the critical distance between “a typical site of collective discourse and the ideal site of official truth—between the bazaar and the bunglow”16. When the bazaar-gossip assumes the form of autonomous political discourse dedicated to partisan propagandistic uses, the agencies for the promotion of official truth may not stand idly by. Allegations of political corruption against leading persons of the ruling party, whether made by factions within it or by the opposition, were constantly described by Nehru as propaganda.

The very characterization of dissident discourse as propagandistic devalued the logic of public accountability which underlay the deep structure of campaigns against corruption. Nehru strove to reduce such dissident discourse to that of the bazaar-gossip. Describing it as the “underground, over-ground, middle-ground propaganda of every type” he used the devices of official truth-making to almost show that this type of propaganda “falls to the ground” when “you enquire into it.”17

As soon as gossiply discourse is conscripted to partisan, expedient political ends, it becomes, in Nehru’s eyes, a destabilizing discourse, using moral symbols to erode the very bases of legitimation of political power. The benign tolerance of the gossiply character of Indian people—the tolerance of the nativist joys of gossip among the common people without the power to comprehend or control the power—structures which govern as well as rule them—has to give way to a regime of truth.

The superimposition of propagandistic discourse on gossip is then properly viewed as subversive of national stability and development. Hence, allegations of political corruption in high places must be devalued wholly at the outset.

For, to lend official credence to such propaganda would be “really extraordinary” in that it would create an ever-increasing range of charges and counter-charges and “probably no person in authority will escape.” With such an imminent (and even imminent) result says Nehru “you might soon (have to) pack up the Five Year Plan. You can’t do anything substantial!”. 18

The official truth needed to be established both in the intra-party and inter-party domains. On the mode of establishing and imposing the official truth Nehru, indeed, showed remarkable consistency of thought and action. Since anti-corruption campaigns were party-political in nature, the courts of law did not offer a site for the discovery of their truth. Rather, the forum has to be provided by the ruling party and its leader, in the supreme exercise of the supreme executive power. Thus emerged early in Indian politics a functional equivalent of the adjudicatory role of the executive. That such a role was neither contemplated by the Constitution of India nor the law of the land did not at all seem problematic to Nehru’s logic which rested on a single premise: political matters have to be decided politically, and the authoritative legal discourse does not count much in defining the “political.”

Nehru, accordingly, resorted to a number of devices. Save in the Munda-R-LIC affairs and Kairon case, he never welcomed the idea of formal commissions of inquiry. And both these decisions were deeply reluctant ones. In the LIC affair not merely did Nehru make many public statements supporting Krishnamachari but also criticized the procedures and findings of the Chagla Commission.19 And the Kairon commission was most grudgingly recommended by Nehru in a note dated 25 October 1964, which offers a classic text of Nehru’s conceptualization of corruption.20 Barring these reluctant exceptions, Nehru relied on “private enquiries.”

An outstanding example of this is offered by the Satjuddin affair. Nehru announced in Parliament that Justice S.R. Das, a sitting judge of the Supreme Court of India, will conduct a “private, unobtrusive enquiry without any fuss” and the recommendations of the judge will be received by him for his personal guidance. He also announced that these will not be published, even tabled before Parliament. He dealt with superb indifference the arguments raised by Frank Anthony and M.S. Aney in the Lok Sabha that the constitution did not permit such enquiries by a sitting judge without prior and specific sanction of the President. Such technicalities, Nehru must have felt, should not be allowed to overwhelm the newly discovered executive power to adjudicate on the validity of the charges of corruption in high places.21

Secrecy and confidentiality of advice by ad hoc committees to the Prime Minister were of the essence, said Nehru, of fair decision by him. A constitutive condition of the promulgation of “official truth” was the Prime Minister’s own freedom—from the constitution, the law, and Parliament—in deciding the ways in which enquiries be conducted. And this grand measure of power was indeed necessary to sustain the charisma of a great leader. And a second constitutive condition of official truth was the subjective satisfaction of the Prime Minister of India, which had to be beyond further public controversy conducted by the frail, fallible propagandists of partisan politics.

Nehru thus distinctly chose to believe that he himself owed a high moral responsibility to the nation and its future to act as a custodian of standards

16. Id. at 259.
17. See supra note 11 at 123.
18. Ibid.
of rectitude in public life. Democratic to the core, Nehru, of course, always agreed to yield to the collective wishes of legislators of the ruling party who could always elect a new leader for one tainted by the propaganda of corruption. But when this collectivity failed to discharge this democratic burden, his own moral duties to the nation came to the fore.

And in discharging these, he invoked not legality but his own charisma. As a bearer of God-like wisdom, or one so perceived, he was able to know, when others remained deeply confused, what the nation needed at the specific conjuncture of national development. For example, his spirited defence of Kairon, as late as 1963 in his note to the President, extolls the integrative qualities of Kairon in a sensitive border state, riven by communal and linguistic strife and the shadow of emergency caused by the Chinese aggression. Nehru thus deftly invokes nationalism, the claims of unity and integrity of India, to dwarf the corruption crusades. In non-border states and in his own Cabinet he occasionally allows ministers to resign, even if temporarily. And this symbolic sacrifice of power at the altar of integrity provide for the exit of corruption from the Indian history.

In this discursive context, Nehru does not strive to render political corruption non-problematic. Rather, he denounces it in the order of national, political and developmental priorities. If, in this process, the lesser mortals in the Indian polities begin to feel that astuteness of political management with unblemished protestations of fidelity to the charismatic leader are sufficient to create a natural right in them to use resources of the state for extended and extensive private gain, this result may not be attributed to Nehru. For, Nehru, indubitably, was a model of rectitude and perhaps the major non-corrupt political figure in the Third World's inaugural history.

Nehru's masterly conversion of the problem of corruption into an inherently political problem negated the notion of legality almost wholly. Almost wholly but not wholly. This caveat is quite important. Nehru behaved as if anti-corruption law was a dead letter before the sway of his hegemonic power and prowess. But as the occasion arose he was not averse to deploying the principles of legality to bolster his management of the political economy of corruption. Nehru's enunciation of legal principles in the 1963 Kairon note to the President offers a superb piece of forensic craftspersonship.

He there invokes the principle that since Kairon himself was not a party to writ proceedings which passed strictures against him, the judgment of the Supreme Court did not bind him or the consideration of the allegation of corruption by Nehru himself. Nehru also argues, rightly, that the constitution does not envisage any gubernatorial discretionary powers which would justify his asking a Chief Minister's resignation; that prerogative only belonged to the legislature. He also articulates with delicate reticence, on federalist grounds, a Prime Minister seeking the resignation of a chief minister on grounds of corruption or lapses in rectitude. He memorably urges that strong prima facie grounds must exist to justify a judicial enquiry which may be overridden in deference to a presidential reference. I invite you to construct and deconstruct this agonized and agonizing text.

Legality is thus not absent from the Nehruvian discourse on corruption. But it is present as a shield, rather than sword, against corruption in high places.

The Jawaharlal Nehru of the days of his Autobiography was keenly aware of the fact that before India is reborn it will have to go through, again and again the fire that cleanses and tempers the weak, the impure and the corrupt.**

But as the Prime Minister of India he was, like a modern day Prometheus, constrained to steal that fire for the good of his people. He left it to his successors to recover it and use it to purify and strengthen the national regeneration.

But, alas it must be said that his own actions have made that recovery extremely difficult in the short run. In the longue durée, of course, history may be expected to return the cleansing purifying gift to the Indian people. It is this courage of hope for the future against a dismal and decaying present, which is the hallmark of Nehru's fashioning of transient retreat of legality in the forging of legitimation of political power in India.

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22. See supra note 4 at 449.