

Vol: 25 | No. 12 | December 2017 | ₹20

# OPINION --- --- EXPRESS

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A MONTHLY NEWS MAGAZINE



## HAIL, REFORMS!

Positive indications from various rating agencies about the Indian economy are an endorsement to PM Modi's economic reform measures



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# OPINION EXPRESS

RNI UP-ENG 70032/92, Volume 25, No 12

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The magazine is published and printed by Rajiv Agnihotri for Opinion Express Communications & Entertainments Pvt Ltd, from Kumpu Graphic

Press 2 Ashok Nagar, Lucknow & printed at Kumpu Graphic Press 2 Ashok Nagar, Lucknow - 226001 Tele : 91-522-4060880 &

Nikhil Offset An ISO 9001 : 2008 Certified Company 223, DSIDC Complex, Okhla Industrial Area Phase - I, New Delhi - 110020 Tele : 91-26812316, 26810097, 26810458, FAX:91 45792362 E-Mail : nikhil223@yahoo.com, nikhilg91@gmail.com

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# editorial

## Gujarat Elections 2017: Caste groups help Congress challenge Modi in backyard

Gujrat assembly elections 2017 offers Rahul Gandhi led Congress a historic opportunity to script remarkable comeback. It is the local caste fringe groups namely Pattidars, OBC & SC that are giving BJP sleepless nights and Congress party has offered a platform to all the disgruntled groups to unite and resist Modi Shah jargon. It is extremely unfortunate that Gujurat elections have confined itself to religion and caste issues rather than development and vision of party. It can be easily predicted that BJP will easily win the elections mainly due to its well oiled party cadre backed up by disciplined RSS work force, recently acquired money powered and clean image of PM Narendra Modi. But to Rahul's credit, he has fought the Gujurat elections with great passion. Unfortunately, Congress party has no party machine, disciple cadre, clear vision to govern the state. And the similar issues will haunt Rahul Gandhi after he will take over the Congress party formerly. The Congress urgently needs organizational changes: if there is anything it needs to learn from its series of defeats, it is that the days of relying on the Gandhi – Nehru charisma to win elections have ended. The Congress needs a complete remake, and it has to start with its present leaders formally handing over power to meritorious central leaders who have long term vision, and he perseverance to rebuild the party democratically from the roots.

However Narendra Modi journey towards GE 2019 will be extremely challenging. The effect of demonetization and GST initial hiccups will settle down by the time Modi government will present its fourth budget but the lack of private investment in the domestic market, slowdown of manufacturing sector, growing unemployment monster, rising global oil price, ever hanging NPA of Indian banks will test skills of team Modi to the limits. On foreign policy front: China Pak combo will remain hostile, SAARC country emotional integration with India is a tough task, Indo Pacific zone comprising of USA, India, Japan and Australia will offer new challenge in the new emerging foreign policy of India. On the internal security front, the Modi government has done fairly well by controlling naxal activities, fake note circulation and drug peddling. Brand MODI is solid though the key people surrounding the brand are under attack on corruption and promoting nepotism. There are serious allegation recently surfaced against top BJP leaders, the same may start depletion of brand MODI, if the corrective measure are not taken place.

On the international front, Kingdom of Saudi Arabia has attracted global attention. The young crown prince Mohamad Bin Salman has waged war against corruption and terrorism with a resolve to address the two issues with iron fist. Top 200 Saudi royal members are held up with an intent to clear the corrupt monopolistic governance witnessed by Saudi Arabia in the recent past. The start of the said process was highlighted by social reforms with Saudi Arabia agreeing to allow women to drive, a long-standing issue of contention. It has also allowed women to attend sports events at stadium. These changes come on the back of waiting for the accession of a young King, who will preside over a very-young and globally well-connected Saudi population on the cusp of a post-oil economic and social order, and a corrupt royal system against which sentiments had been latently bubbling for a long time. Young Prince MBS has (finally) decided to move beyond its dependence on a singular mode of finance and approach models, such as those embraced by its neighbours, specifically Dubai.

—Prashant Tewari, Editor-in-Chief

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Manushi Chhillar is crowned Miss World 2017



# Ivanka at Hyderabad summit

OE Political Bureau & Agencies

Prime Minister Narendra Modi and Ivanka Trump, US President Donald Trump's daughter and presidential adviser, attended a gala dinner at the Falaknuma Palace last week. The dinner was hosted by the Union government as part of the ongoing Global Entrepreneurship Summit (GES) 2017.

Famous for its huge Nizam-era table which can seat 101 guests at a time, the palace-turned-plush hotel is one the key landmarks of the city.

Telangana chief minister K Chandrashekhar Rao was among those present for the dinner. A separate dinner was arranged for around 1,500 delegates of the GES on the lawns of the palace.

Modi, on his day-long visit to the city today, inaugurated the first phase of the Hyderabad Metro Rail at Miyapur station here, and the GES at the Hyderabad International Convention Centre.

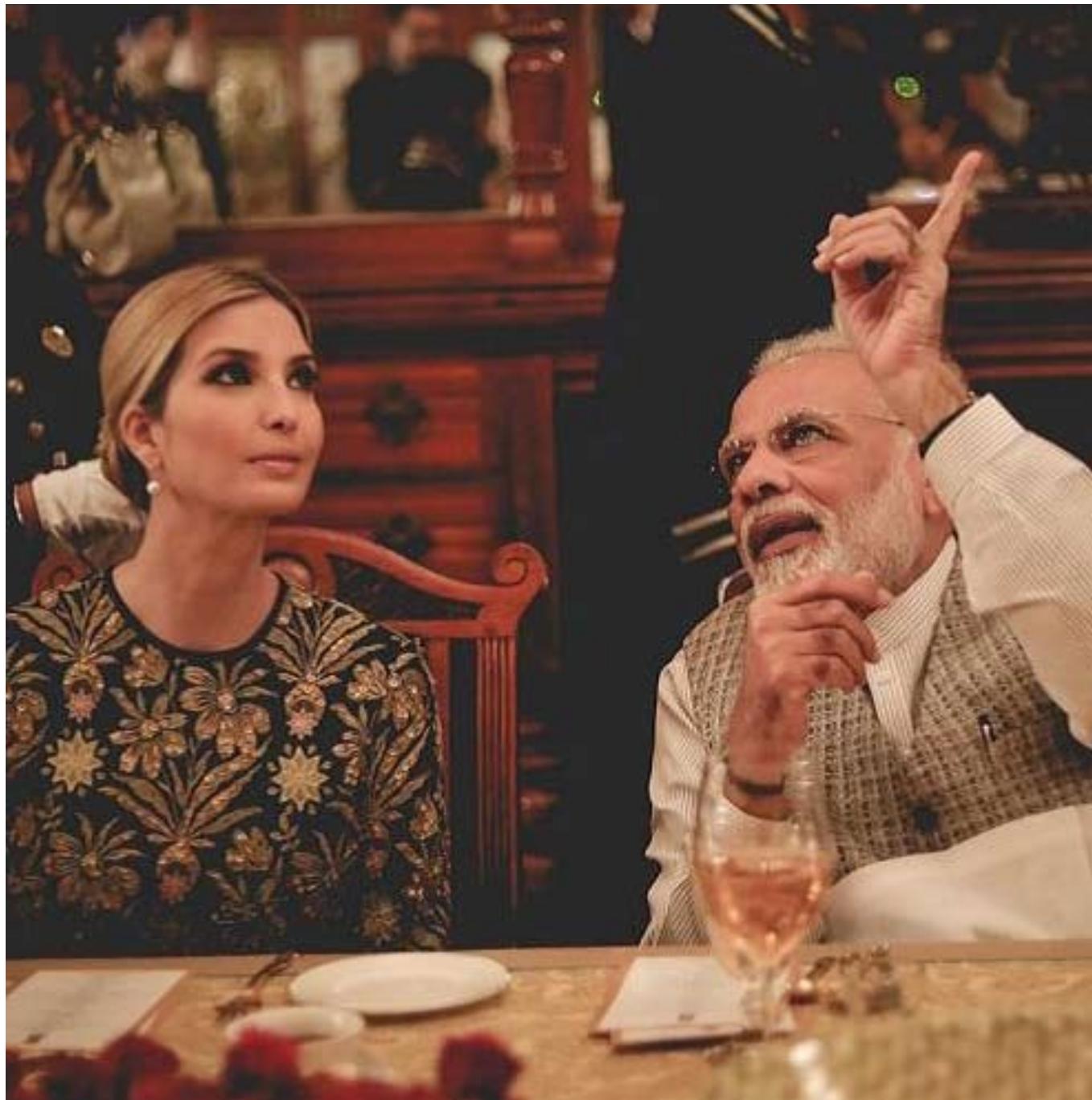
A senior police official said a five-tier security has been provided to Ivanka.

Telangana DGP M Mahendar Reddy had said earlier that a total of 10,400 security personnel drawn from various

wings have been deployed as part of security arrangements for the summit.

It includes personnel from Traffic Police, Central Armed Reserve, Telangana State Special Police, Intelligence Security Wing, commandos of Greyhounds anti-Naxal force and the elite OCTOPUS anti-terror force.

More than 2,000 police personnel have been deployed around the Falaknuma Palace, the official said, adding the police conducted a door-to-door search at 3,500 houses in surrounding areas and sanitised the areas in the run-up to the summit.



# THUMBS UP TO REFORMS!

An upgrade in India's rating by Moody's is an open endorsement to Modi's reforms and proves India's global mettle

By Swapan Dasgupta

The Moody's upgrade of India has, quite predictably, drawn sharply partisan responses. This is not surprising in view of the mini-election season. The results, when they are finally announced on December 18, may not suggest a close fight. However, in the midst of an election campaign all elections appear to be very bitterly contested, as they undoubtedly are, despite what the final outcome reveals.

The Congress, now experiencing a social media resurgence of sorts, has, for example, seen the modifications of GST as the Narendra Modi's panicky response to its aggressive onslaught. Congress supporters genuinely believe that the cumulative effect of demonetisation and GST has alienated vast sections of the population who were earlier committed BJP voters. There is a belief that the modifications in the GST regime have come too late and this alienation, coupled with caste discontent in Gujarat could result in a spectacular electoral upset in the home State of the Prime Minister and the BJP president.



On its part, the BJP has not been sitting idle. The first anniversary of demonetisation was used by the party to mount an aggressive campaign that tried to paint the opponents of the November 8, 2016 announcement as patrons of corruption. Finance Minister Arun Jaitley circulated an article that richly documented the colossal financial gains from demonetisation.

It is important to note that the BJP commemorated the first anniversary of demonetisation as "Anti-Black Money Day" — an indication of the extent to which the Modi Government has put the ethical transformation of India at the centre of its political strategy. As the architect of this creative disruption, Modi appears to have calculated that the wider regeneration of India has to be both economic and moral.

At one level, the GST, which had been on the drawing board of different Governments, was focused on the need to create a seamless, pan-Indian market. That is what excited the imagination of the global community and Indian corporates looking for improvements in the ease of doing business. However, there was an important ethical dimension that was in-built into the new scheme whose significance was not initially realised. In simple terms, the system of interlocking payments and credit made it difficult, if not impossible, for businesses to create a zero tax zone for themselves.

The implication of this interlinked GST was quite awesome. For long, a section of India's trading community had created an innovative business model whereby the competitive edge of their enterprise was provided by zero tax. With GST, these units found it impossible to do business without either paying the new tax or attracting the attention of the tax authorities.

It is entirely possible that Surat, an important centre of the textiles and diamond trade, had a tradition of sharp business practices that was kept well below the radar and which needed the GST to bring to the surface.

Whatever the reality, GST witnessed a grand alliance of zero tax businesses of all sizes. Rather than openly advocate tax avoidance, the anti-GST agitators picked on two issues that warranted attention.

First, they complained, quite legitimately in my view, at the heavy burden of compliance norms that would divert attention from running a business to filling endless forms. This a problem the designers of the GST should have anticipated.



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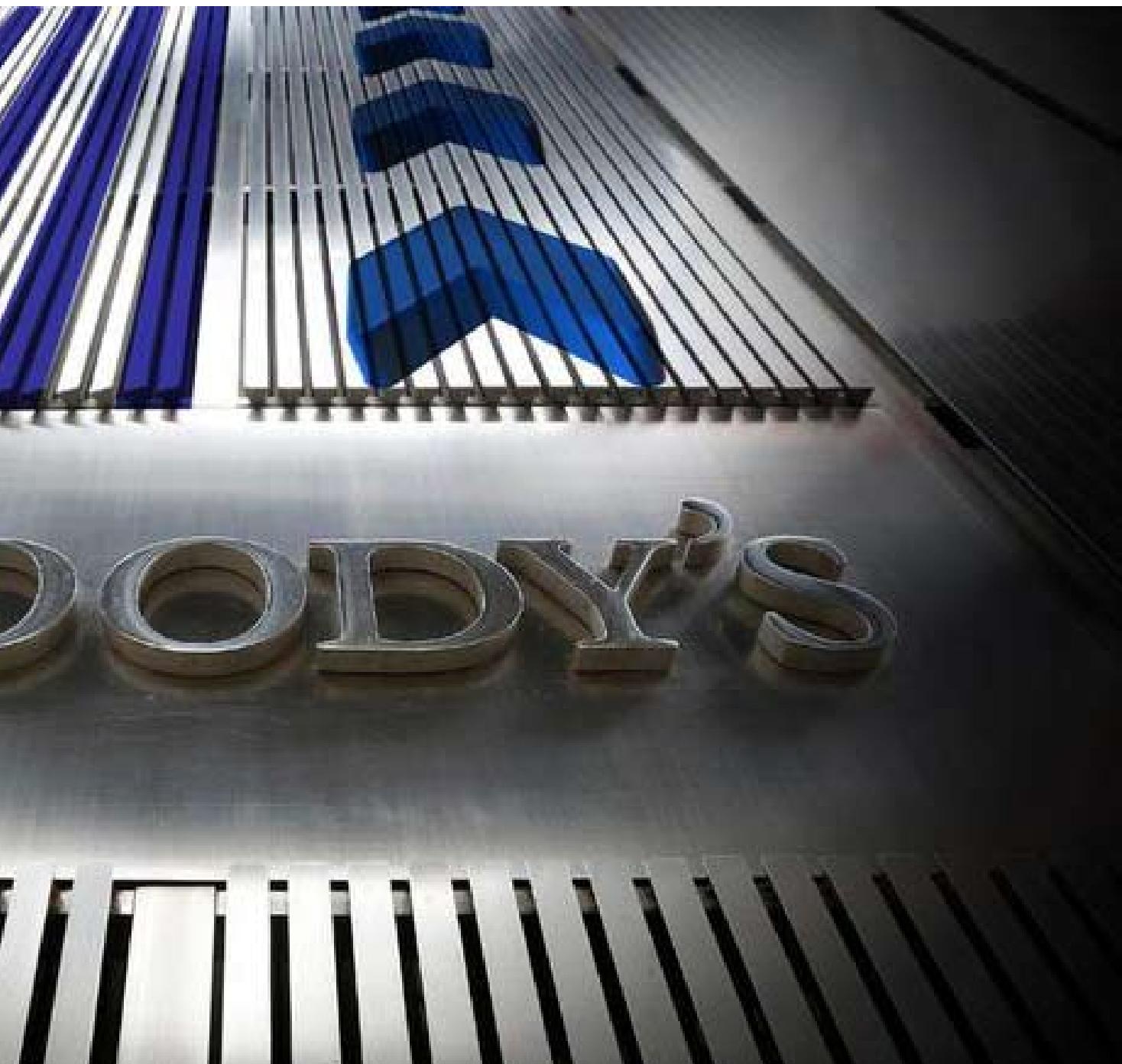
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Secondly, GST was a grand experiment in pooled sovereignty involving the Centre and the States. For the States in particular the new tax was a leap into the unknown and was preceded by concerns over shrinking revenues — one reason why they were loath to give up their claims on the taxes on petroleum

and alcohol. A consequence of this wariness was the inclination to create multiple tax slabs and put too many items into a higher bracket.

India has some important election or another each year. It was perhaps fortuitous for those hard hit by GST that their mounting anger coincided with the Gujarat Assembly election, a time



always conducive to responsive governance. By honing in on the grievances of the proverbial small guy burdened by an uncaring State, the real instigators of the anti-GST stir in Gujarat kept the gaze away from the real issue: The sustained non-compliance with tax regimes, both past and present.

However, what is important to note is that the Government was responsive. Actually, the ability to modify and tweak programmes mid-stream when necessary has been a feature of this Government, as noticed by the frequent alteration of rules to respond to unique situations during the demonetisation exercise.

GST being a joint Centre-State tax, it is impossible for the Modi Government to make changes unilaterally. However, the pressure from below was sufficiently strong to compel the Centre to use all its political clout to persuade the GST Council into making a series of important modifications. Where the Centre has so far been unbudging is on the larger issue of compliance, the basic minimum requirement of an ethical economic system.

In the course of the past year or so, the Modi Government has forced through a series of radical reforms that other Governments lacked the will to push through. First there was the Aad-

haar legislation that is a plug against welfare leakages and a potential anti-tax evasion instrument. Then there was demonetisation that helped provide an address for unaccounted wealth and swelled Government revenues. And finally there is the GST that, perhaps unwittingly, has helped establish the principle of lower tax rates and higher compliance.

Few Governments can boast such a record in so short a time. This explains why the global community feels India is worth looking at afresh.

**Courtesy – The Pioneer**  
**(The writer is a renowned journalist)**

# It's Modi Vs Rest of India

Gujrat Assembly Elections 2017 has once again pitted PM Modi against a combined team of all political rivals

By Prakhar Prakash Misra

**V**ote for him in the December's Gujarat Assembly elections and ensure way for him to be the Prime Minister of India in 2019. That will save the Hindus and the India, appeals the Indian American Intellectuals Forum. December is a very crucial month for the Prime Minister Narendra Modi of the State of Gujarat, for the Hindus in India, and for India as the country. The State Assembly elections in Gujarat are scheduled for December 9 and 14 – and the results will be announced on December 18.

In India, Narendra Modi is an embodiment of courage and valor. He is a powerful orator, a consummate communicator and a forthright thinker. He is a fearless fighter, a legend who understands how to capture the collective imagination of the people he wants to lead. In spite of the mean and mendacious media blitzkrieg launched against him by anti-Hindu Congress Party in collusion with the dangerous combination of anti-national radical Islamists, Leftists and foreign-funded NGOs, Narendra Modi has not only stood strong, but has also made them eat the humble pie.

Gujarat under Narendra Modi, the "Lion of Gujarat" and now "Lion of India" has blossomed in the last two decades and has become the growth engine of India. Modi has completely transformed the state's economic and political landscape. He is punctilious in his thoughts, deeds and actions and runs the state like an efficient CEO. Prime Minister Modi's performance is similar to his past though the team Modi operating in Delhi lack national vision. The inputs of RSS are seen on foreign, economic and defense policy resulting in dilution of power of the ministers in the Modi's cabinet. However the PM

and PMO has grows in stature and the power is centralized to PMO. In a state, this can work but for a large country like India, decentralization is required to improve governance.

When he first took over as the Chief Minister, Gujarat had a power shortage of 2000 MW, but now it is a power surplus state. Gujarat actually contributes 16% to the country's overall industrial production. Agricultural growth of Gujarat is at 11%; the rest of India it is barely 4%. In a quantum leap, in April 2012, Narendra Modi dedicated to the nation 600 MW of installed solar power projects, including the Asia's largest solar park with 214 MW generation capacity. With achievements like these, Narendra Modi has established himself as the man with vision, mission and conviction.

Prime Minister Modi has systematically altered the economic, foreign and defence policy of India. The relentless fight against corruption is pushed to limits even at the expense of taking unpopular decisions namely demonetization and GST implementation, gold and property are targeted to absolve black money from the system. The foreign policy has taken a complete turn wherein India has forged practical alliance with USA, Israel, Japan and Australia to set up strategic partnership. The Indo pacific alliance is commercially and diplomatically viable option to challenge new emerging forces in the world. Modi government understands the concept of great democracy must have great military hence the defence forces are priority sector for the present government.

Recently, the prestigious "Time magazine" featured Modi on its cover page. Financial Times, another world-class publication, applauded Gujarat's growth under Modi in glowing terms.

Policically speaking, over eighty three

Gujarat under Narendra Modi, the "Lion of Gujarat" and now "Lion of India" has blossomed in the last two decades and has become the growth engine of India. Modi has completely transformed the state's economic and political landscape.





percent of India's population or Nine Hundred Ninety million people in the country are Hindu. Yet, shamefully, the country was being ruled by the minorities till Congress UPA government was in power who is barely 18% of the population count. India is the only country in the world where its minorities namely the Muslims and the Christians — have ganged up together to enact laws that decide how the Hindu majority should behave in their own country! It is truly a matter of great regret and shame that Hindus are taking this injustice and tyranny lying down!

For all practical purposes, the over-all Hindu people and India as the country are presently under a state of siege. Unknown to the common public, that siege has been laid with the help of radical Islamists, jihadists, and Marxists. The chief aim of this insidious conspiracy is to demoralize and denigrate the Hindus and their organizations... and encourage the centrifugal forces to balkanize India into several mini-pakistans. Almost all Hindus have already been driven out of Kashmir. Over 30 million Bangladeshi Muslims have infiltrated into Assam, West Bengal and other neighboring states. The states like Assam, Bengal, and Kerala are witnessing a big demographic change. No

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matter how strongly we deny it, the unfortunate fact still remains intact that the "demographic conquest of any land is the most permanent form of a conquest."

Discrimination against Hindus in India is rampant. Top Hindu temples like Tirupati and Sabrimala are taken away from Hindu hands — through the legislation — and given to 'secular' civil servants for managing them. From the religious offerings of Hindu devotees meant strictly for the Hindu issues, the bureaucrats unfairly dole away Rs. 690 crores a year as the Haj subsidy alone.

Amidst all this gigantic plunder and loot, there is a hope for our country. The only way out is if the honest and courageous leaders like Narendra Modi manage to remain into the driver's seat... and, maneuver the country away from the sure doom and disaster waiting ahead. If you want to restore the dignity to India, if you wish to put Bharat Mata on the pedestal of glory, if you want the country to be a super-power in real terms, then be with Narendra Bhai Modi ...

**(The writer is OE's Political Editor )**

# India-US ties to get stronger under Trump

By S Rajagopalan

A day after the meeting between Prime Minister Narendra Modi and President Donald Trump on the sidelines of the ASEAN summit in Manila, the White House has affirmed that India-US relations are set to get stronger under the stewardship of President Trump.

White House Principal Deputy Press Secretary Raj Shah, speaking to a group

of Indian reporters on Monday, alluded to Trump's "liking" for Modi, remarking that the Indian Prime Minister was among a few world leaders that President Trump "just likes and gets along with".

"The US and India are going to have a strong relationship and it's going to get stronger under this President," said Shah, who is the highest-ranking Indian-American official in the White House and the first-ever member of the

community to be assigned a key public communication responsibility in the President's team.

Pointing to the strong fundamentals driving the US-India relationship, Shah said, "India is a natural ally of the United States, because of the shared commitment to democracy and to counter-terrorism, and because the region is so vital to the US security."

As recent developments suggest, the Trump administration's earnestness





about having a robust relationship with India also stems from Washington's increasing push for a "free and open Indo-Pacific", much to the chagrin of Beijing, which sees the emerging US-India-Japan-Australia as a challenge to its own assertive moves in the region.

The Indo-Pacific dimension was also highlighted in a White House readout on the Trump-Modi meeting, saying "the two leaders discussed the comprehensive strategic partnership between the United States and India and their shared commitment to a free and open Indo-Pacific region".

The bilateral defence dimension was highlighted by the statement, noting that the two leaders "pledged to enhance their cooperation as Major Defence Partners, resolving that two of the world's great democracies should also have the world's greatest militaries".

Vice-President Mike Pence, meanwhile, administered the oath of office

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to Kenneth Juster, the newly-appointed US Ambassador to India whose nomination was recently confirmed by the US Senate. "Congrats, Ken Juster, the new US Ambassador to India!" Pence said in a Twitter post, adding, "The ties between the United States and India run deep, and @POTUS & I are confident that with his leadership, integrity & experience, Ken will build an even stronger partnership that will benefit our nation & our people."

Juster, who will be succeeding Richard Verma at the Roosevelt House in New Delhi after a gap of more than 10 months, is expected to head to India shortly in preparation for the visit of President's daughter and senior adviser Ivanka Trump, who will be leading the US delegation to the Global Entrepreneurship Summit in Hyderabad this month-end.

**(Courtesy The Pioneer - With inputs from PTI).**

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# World Bank rankings are deceptive

By Kapil Sibal

The Finance Minister's self-congratulatory press conference on India having jumped 30 places in the World Bank rankings for 'Ease of Doing Business' made national headlines. Perhaps that was the objective, in the wake of disturbing evidence from across the country, of the adverse impact of demonetisation and hasty implementation of a flawed GST on small and medium businesses, a large number having wound up in, or are in, dire straits. The ease of doing business to the creamy layer of businesses might cater to the well-being of conglomerates at the top of the pyramid, but for the vast majority directly dependent on the informal economy, these rankings have no significance. For businesses in the informal sector, ease of doing business still remains a distant dream.

The World Bank study focuses on

The World Bank study focuses on the largest business city in each of the 190 economies covered by the Doing Business Project (DBP). From 2015 onwards, it incorporated a second major business city for eleven most populous economies.

the largest business city in each of the 190 economies covered by the Doing Business Project (DBP). From 2015 onwards, it incorporated a second major

business city for eleven most populous economies. This year, the cities covered by the DBP in India were Mumbai and Delhi. The DBP was persuaded to a great extent by the passage of the Insolvency and Bankruptcy Code as well as the e-filing of returns on the basis of which our economy jumped 30 places in 'Ease of Doing Business' rankings. It is obvious, therefore, that the World Bank, by its own admission on the limitations of this exercise, was not concerned with businesses struggling to survive across India, and which form the backbone of the Indian economy. It is when the small and medium scale enterprises in the informal sector find it easy to do business, have the ability to access credit, are liberated from the trappings of corruption at the local level, are able to easily obtain water and electricity connections with uninterrupted supply and have access to a myriad other related services facilitating their conduct of





business, then alone will the people of India congratulate the Finance Minister for a dramatic turnaround in India's business environment. This creamy layer project for ease of doing business, unconcerned with the rest of India, is a farce.

The textile business in Ludhiana in Punjab, Bhiwandi in Maharashtra, Tirupur in Tamil Nadu, the small and medium businesses across towns like Agra, Meerut, Varanasi, Kanpur etc. in UP, the leather factories in Tamil Nadu and other small businesses doing multifarious activities are reeling from the after-effects of the cash freeze, which has impacted the pace of economic growth. It is sad that a nation as large and as populous as India has to catch at straws and latch on to the World Bank's ranking, which is oblivious to the reality of business in India, and then tom-tom about the reform process.

Even though confined to just two cities, the DBP actually looks at various parameters ranging from starting a business, dealing with construction permits, securing electricity, registration of properties, access to credit, protection of minority investors, ease of paying taxes, cross-border trade, en-

forcement of contracts and insolvency issues. The impact of GST and demonetisation on these business parameters was not part of the report. However, without assessing the impact of hasty and ill-thought decisions, India still ranks 181 out of 190 with reference to construction permits, 154 for registering properties, 156 for starting a business, 164 for enforcing contracts, and 146 for trading across borders. Had this data been prominently highlighted, the Finance Minister would have hesitated to address the Press.

The World Bank bases its data, to arrive at the rankings, from four main sources of information — relevant laws and regulations, expert respondents, respective governments and World Bank's regional staff. An important missing link is the feedback at the firm-level, which alone could have gauged whether reforms aimed at ease of doing business are working to their benefit.

As far as insolvency legislation is concerned, though in place since December 2016, its impact is yet to be seen. In the case of ease of filing income tax returns through e-filing, this has been an ongoing resolve, hardly attributable to any unique initiative by this govern-

ment. The insolvency legislation was also work in progress when this government came to power in 2014.

India has a long way to go. It would be in the fitness of things for the government to lay out a roadmap for businesses at the bottom of the pyramid and work hard to address their issues. This involves the participation of the state government and all its administrative units to work in tandem, which will help businesses to stand on their feet. To time the press conference for sending a message that this government has done something unique to transform the business environment in India was yet another attempt to influence voters, both in Gujarat and Himachal Pradesh.

Electoral victories inherently are not permanent. What is required and expected of a government is to both lay and strengthen the foundations of the wherewithal necessary to do business in India. It is to give permanence to that foundation, which should be the aspiration of any Finance Minister.

**KAPIL SIBAL:** The author is a member of the Rajya Sabha, and a senior Indian National Congress leader. Views expressed are personal.

# ROYALLY POLITICAL PURGE IN RIYADH

## A political thriller played out in Saudi's royal family

By Kabir Taneja

The recent turn of events in Saudi Arabia have been nothing short of a Hollywood thriller with Family, King, Princes, neighbouring countries and missile attacks all thrown into the mix for good measure. Eighty-year-old King Salman Abdulaziz Al Saud, in a political liquidation, rounded up 11 princes of the royal House of Saud, along with various Ministers and officials in what was marketed as an "anti-corruption" initiative in which prominent royal members were arrested and "jailed" in Riyadh's notoriously luxurious Ritz-Carlton hotel. This included globally influential names such as billionaire investor Alwaleed Bin Talaal, who has close ties with various American industrialists and owns five per cent of social

media site Twitter. Over the span of 72 hrs starting November 3, a purge was underway, ballistic missiles were fired towards the Saudi-capital Riyadh from Yemen, Lebanon's Prime Minister Saad Hariri resigned (on television) from his post from Saudi Arabia, accusing Iran of medaling in internal Arab affairs before disappearing from public eye, Yemen's incumbent President Abdrabbuh Mansur Hadi, who also took up refuge there months ago, was reported to be under 'house arrest' (Saudis released pictures of a meeting with Hadi in attempts to refute such rumors). Two other princes were reportedly killed, one in a curiously timed helicopter crash near Yemen and another, rumored to have been shot while resisting an 'attempted arrest'. This tragedy-ridden Shakespearean-theatre makes King Salman the conduc-

tor of a never seen before 'tri-purge', orchestrating political changes in his own country, Lebanon and Yemen simultaneously.

Understanding the politics of the Saudi monarchy is no easy task, with over 9,000 members in the royal family, Saudi politics is a never-ending series of internal turmoil and power-struggles.

However, most analysts agree that the recent events are King Salman's strategy to clear way for the 32-years-old heir-apparent, Prince Mohammed Bin Salman. It is believed King Salman has already started the process of aiding Prince Salman to the throne, his son from his third spouse, transferring power by the end of 2018. The start of the said process was highlighted by social reforms with Saudi Arabia agreeing to allow women to drive, a long-stand-

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ing issue of contention. It has also allowed women to attend sports events at stadium. These changes come on the back of waiting for the accession of a young King, who will preside over a very-young and globally well-connected Saudi population on the cusp of a post-oil economic and social order, and a corrupt royal system against which sentiments had been latently bubbling for a long time.

The challenges for the Saudi monarchy in the decades to come are plenty. Currently, the Saudi youth have it relatively easy, with various social schemes keeping them occupied, thanks to the





petro-dollars, however, Riyadh has (finally) decided to move beyond its dependence on a singular mode of finance and approach models, such as those embraced by its neighbours, specifically Dubai.

This would require relaxed norms and a better global positioning to attract foreign investments, foregoing its rigid and suffocating rules that curtail freedom and basic human rights for its citizens, specifically women. The announcement of Saudi Aramco, the country's national oil company, which at a point few years ago was worth more than India's GDP, going partially public to raise money came as a surprise to many. However, it implanted the narrative of slow but drastic changes taking place in the kingdom, both politically and socially. This is highlighted by examples such as the steadily increasing domestic oil consumption in the country, thanks to domestic population growth. A robust and rich domestic economy is critical for Riyadh, both to keep a check on its young population and till a certain degree secure the House of Saud's own future.

Geo-politically, the Saudis are continuing to make attempts to rein in the growing Iranian influence in the region,

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**This would require relaxed norms and a better global positioning to attract foreign investments, foregoing its rigid and suffocating rules that curtail freedom and basic human rights for its citizens, specifically women**

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something that Prince Salman, the world's youngest Defense Minister, has reiterated during the purge in an effort to stamp his own authority. Saudi concerns in regional West Asian dynamics have heightened over the past few months with Iranian influence growing at a rapid pace. The question around Syria and future of the said conflict has now been pretty much decided, with President Bashar al-Assad expected to stay, with the help of the Russians and Iranians. Iranian Islamic Revolutionary Guard Corps (IRGC) and Hezbollah-

backed militias are today already prevailing interest groups in large parts of Syria, with Tehran also wielding significant power in Iraqi and Lebanese politics along with running a indirect war in Yemen. The recent failed Kurdish referendum also saw Iran's influence shine through over contentions between Baghdad and Erbil regarding the control of Kirkuk after its liberation from ISIS, while the Saudi — Qatar diplomatic standoff pushed Doha to increase its engagements with Iran as well.

Despite collusion of regional interests, the exact reasons and future outcomes of this purge remain unclear. The narrative of an anti-corruption drive remains strong, but also begs the question whether this is the start of greater transparency in Saudi Arabian affairs or greater turmoil. Riyadh is banking on US President Donald Trump to back it to the hilt, specifically against Iran, on the pretext of which its regional overtures could be marketed as legitimate political tinkering to an often-naive new White House. How this purge plays out in reality, is anyone's guess at the moment.

**Courtesy The Pioneer (The writer is an Associate Fellow with the Observer Research Foundation, New Delhi)**

# LIVING HAPPY AND JOYOUS LIFE

The art to live life from Swami Vivekanand & Swami Paramahansa Yogananda

By Prashant Tewari

In modern fast paced society, stress is a silent killer. The developed nations are struggling to cope up with the growing human individuality crisis. A learned teacher can guide us to learn contentment in life, leading to extreme happiness. Both Swami Vivekanand and Paramahansa Yogananda were great masters of humanity. No ordinary man surely is worthy of this spiritual title. But now and then, there appears on earth one of the noble lineages of God-realized souls to carry out the plans of Divinity and establish righteousness on earth.

## Why Saints?

Saints and sages occupy a central place in the Indian spiritual tradition. The saints and sages are an integral part of what is called Hindu or Sanatan Dharma. Their elevated souls exemplify beliefs and their lives in totality. These elevated souls exemplify the essence of the spiritual treasure trove that is continued in the vast and varied spiritual literature in Sanskrit and in the other languages. From among the exalted and emancipated souls, first Swami Vivekanand and then Paramahansa Yogananda appeared on the Indian scene to bring solace to the people in the Indian continent and the world at large. Both these masters worked untiringly throughout the period they lived on earth and helped to awaken people from their long slumber of centuries. Their contribution to the cause of uplifting human consciousness is no less than those of great incarnation of God who took birth on earth only under divine command.

## How to live?

It is not our fate that decides where your life is going. It is all about how you



take life and where you take it to. All of us are born in this world like beautiful clay models ready to learn all talking, walking, eating, drinking and so many other lessons and habits. We go back from the earth saying good bye to life as hardened solid figure. During the course of life, through experiences gained by growth in the years, we start

seeing the world according to our own perceptions. We create meaning, we create friends and enemies. We create our own truth – right or wrong.

The nature of life is to grow towards an ever perfect and joyous expression of itself. Each living cell has a nervous system, no matter how rudimentary. The more develop the nervous system,



the more it will express the qualities of the pure consciousness – intelligence, creativity and bliss. Life, its substance and purpose, is an enigma, difficult yet not unknowable.

Presently, the humanity is passing through a very critical phase of transition from old values to new values getting developed through moving forward in the field of information technology. Being in its initial stages of development, the information technology is however, having its adverse effects on the young minds. The family way of life, peace and understanding are getting affected. Technology is being misused by anti social elements bearing far reaching effect on how we live today.,

### Way of Life?

Hinduism is not a religion commonly understood terms comprising set of dogmas and belief but it is proven way of life which has helped mankind from millennium to know its true nature that of the infinite which is its source. Hinduism is the most tolerant religion in the world because its one transcendent God includes all possible goals

### Why Guru's guidance?

Swami Vivekanand had handsome

## Swami Vivekanand teachings mainly centered on the following ideals:

- Preach unto mankind their divinity and how to make it manifest in every moment of life
- Education is the manifestation of perfection already exists in a man. Education through which character is formed, strength of mind is increased, the intellect is expanded and by which one can stand on own feet
- Whatever you think you will be
- We want strength and more strength in life. With weakness comes ignorance and with ignorance comes misery
- Purity, patience and perseverance are the three essentials to success
- Religion is realization not talk nor doctrine nor theories
- Religion is manifestation of divinity already in man.
- They alone live who live for others.
- The gist of all worship is – to be pure and do good to others
- It is love and love alone that I preach. I base my teachings on the great Vedantic truth of the sameness and omnipresence of the soul of the Universe

face, magnetic presence and wonderful oratory. Never before did an oriental make such an impression on the global society. According to him, nothing else is necessary except love, sincerity and patience. Life is only growth i.e. expansion, love. All love is life; it is the only law of life: all selfishness is death and

this is true here or hereafter. For more than 100 years the work has continued and Ramakrishna Mission is now a well established institution helping everyone to work for One's own liberalization and for welfare of the world. The mission has rendered yeoman service in all fields for upliftment of masses fulfilling

the dream of great Master-Mystic, Prophet, Disciple, Lover of humanity, Patriot, friend, beloved Swami Vivekanand.

## **Swami Paramahansa Yogananda –**

Paramahansa Yogananda used to explain: Knowing God is not only a privilege and a divine duty but a practical necessity. The guru is the awakened God awakening the sleeping God in the disciple. He gives us all we need to rouse the divine image within: methods that take us beyond the restless mind to touch the infinite consciousness that sustains us: timeless truths for spiritual living amongst the ever shifting values of this world. Swami said – Education must provide life building, man making, and character making assimilation of ideas.

Meditation is strictly prescribed by Yogananda ji to delay cell decay, regulate blood circulation and improvement of heart function. The lungs gets extra oxygen, senses get subdued. Perfect state of meditation being human's true nature, sooner or later; humanity has to learn this lesson to remain on the path to progress. The path of a human life can be identified by -

**1 Man's Eternal Quest**

**2 Divine Romance**

**3 Journey of Self Realisation**

### **Why Meditation?**

The joy felt in meditation reveals the presence of Eternal joy spread over all creations. The light seen in meditation is the astral light from which our tangible creation is made. – Paramahansa Yogananda Spirituality for a common man may best be termed as science of the soul. It is reaching beyond all sciences. The soul keeps us alive and guides our live on earth and is a part/reflection of the infinite consciousness pulsating through whole creation, commonly understood as God. Knowledge of this science can help us lead happy, contented, joyful and purposeful lives on earth. The greatest help to a spiritual life is meditation (Dhyana) – Meditation is a instrument of spirituality.



## **Paramahansa Yogananda teachings mainly centered on the following ideals:**

- Life here on earth appears futile and chaotic until we are anchored in the Divine. Do not concentrate upon ephemeral worldly goals and human attachments.
- Make your inner self a temple of God; Make it a temple of the mystic life of the universe. Then you are king of everything and not attached to anything.
- A man of realization sees God in all.
- Yoga is the scientific process by which everyone reunites with Spirits.
- Yoga/Meditation is the highest form of activity that man can perform, and it is the most balanced way to find God.
- Make religion real by scientific methods. When you do you will see that religion is no longer a myth but a scientific certainty.
- No matter what religion you follow, ask yourself? Am I happy? What is my highest duty? How can I find peace and bliss?>
- Plain living and high thinking should be your goal. Your ever readiness to help others without distinction of sex, creed or caste will make your heart big enough to receive all humility. Break the boundaries of selfishness and include in it all living beings and universes – everything.

# MEANING AND SCOPE OF DEBT



## Are proceedings under insolvency and bankruptcy code, 2016 governed by the provisions of limitation act, 1963? Part II of an open debate

**Dr UK Chaudhary**

In the previous Article, I discussed about the applicability of the provisions of Limitation Act, 1963 in respect of the proceedings under the Insolvency and Bankruptcy Code, 2016 (IBC) before the Adjudicating Authority, which is Hon'ble National Company Law Tribunal (NCLT) and suggested that since NCLT is duty bound to follow the principles of natural justice and the rules framed for its working under the IBC and the Companies Act, 2013 and it will be appropriate for NCLT as 'Adjudicating Authority' to follow the principles of public policy that enforcement of rights and obligations must not be permitted to remain influx and indefinite period of time keeping in view the provisions of Limitation Act, 1963 and which enshrine the aforesaid public policy as part of principles of natural justice.

Irrespective of the conclusion in the previous Article that Limitation Act, 1963 shall be applicable on the proceedings before the Hon'ble NCLT

even if the said section 433 of the Companies Act, 2013 would not have been made applicable on proceedings under Insolvency and Bankruptcy Code, 2016, there is another very important aspect which needs academic discussion as to whether what is the true meaning and scope of the word 'debt' in true commercial sense as defined under the Insolvency and Bankruptcy Code, 2016.

Such academic discussion assumes importance in view of various recent judgements/orders passed by the Hon'ble National Company Law Appellate Tribunal, New Delhi (NCLAT), where it is categorically held that provisions of 'Limitation Act, 1963' are not applicable to the proceedings under the IBC. For the paucity of space, I have not reproduced the observations in all such cases, but just summarised the said judgements and made some suggestions for further consideration:

In speculam Plast Pvt. Ltd. vs. PTC Techno Pvt. Ltd., the Hon'ble NCLAT observed as under:

The question that arises for determination in these appeals is:-

"Whether Limitation Act, 1963 is applicable for triggering 'Corporate Insolvency Resolution Process' under Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as "I&B Code")?"

In answering the above question which was framed by the Hon'ble NCLAT, it held as under:

"For determination of the issue, it is to be noticed as to whether 'I&B Code' is a 'self-contained Code' or not."

The Hon'ble NCLAT then relied upon many observations of Hon'ble Supreme Court of India in 'M/s. Innovative Industries Ltd v. ICICI Bank & Anr', 2017 SCC OnLine SC 1025' and on the basis of the said observations in the aforesaid case, the Hon'ble NCLAT then examined as to whether the provisions of Limitation Act, 1963, which is general legislation on the law of limitation, shall govern the proceedings of initiation of corporate insolvency resolution process and thereafter under the IBC.

Relying upon the judgements of Hon'ble Supreme Court of India in the case of 'Mukri Gopalan v. Cheppilat

Puthanpuravil Aboobacker (1995) 5 SCC 5', and 'Hukumdev Narain Yadav v. Lalit Narain Mishra (1974) 2 SCC 133', it held that "from the decision of Hon'ble Supreme Court in 'Hukumdev Narain Yadav v. Lalit Narain Mishra (1974) 2 SCC 133', it is clear that even if there exists no express exclusion in the special law, the court reserves the right to examine the provisions of the special law, to arrive at a conclusion as to whether the legislative intent was to exclude the operation of the Limitation Act, 1963 or not."

The Hon'ble NCLAT then goes to great length to examine various provisions of the IBC to reach a conclusion that legislature intent is to exclude the provisions of Limitation Act, 1963 from the proceedings under IBC. The Hon'ble NCLAT then examined the issue of stale claim and effect of delay and laches in filing the proceedings under the IBC, based on such a claim and observed that:

"Learned Amicus Curiae rightly contended that there should be a time limit for raising claim, including money claim. In this regard, it is desirable to refer the definition of 'Debt' and 'Default' as defined in sub-section (11) and (12) of Section 3 of the 'I&B Code', and quoted below:-

"3(11) "debt" means a liability or obligation in respect of a claim which is due from any person and includes a financial debt and operational debt;

3(12) "default" means non-payment of debt when whole or any part or instalment of the amount of debt has become due and payable and is not repaid by the debtor or the corporate debtor, as the case may be"

From the aforesaid definition, it is clear that 'debt' is a liability or obligation in respect of a claim which is due from any person and includes a 'Financial Debt' and 'Operational Debt'. It is further clear that when whole or any part or instalment of the amount of debt has become due and payable and is not repaid by the debtor or the 'Corporate Debtor', it amounts to 'default'.

Now, the question arises, whether a person can claim any amount due from another, a 'Corporate Debtor' after long delay on the ground that Limitation Act, 1963 is not applicable?

To decide the aforesaid issue, it is necessary to notice the Doctrine of Limitation and Prescription, as held by jurists and Hon'ble Courts. The Doctrine of Limitation and Prescription is based on two broad considerations.

First, there is 'a presumption that the right not exercised for a long time is non-existent and second that the object of fixing time limit for litigation is based on public policy, fixing a life span of legal remedies for the purpose of general welfare.'

.....

Further, on the basis of 'Salmond; jurisprudence, 12 Ed and judgements of Battley Vs. Faulker (1820) 3 B & Ald 288 and Rajinder Singh Vs. Santa Singh, AIR 1973 SC 2537, and N. Balakrishnan V M.A. Krishnamurthy, (1988) 7 SCC 123, it held that,

"in view of the settled principle, while we hold that the Limitation Act,

## The Hon'ble NCLAT then goes to great length to examine various provisions of the IBC to reach a conclusion that legislature intent is to exclude the provisions of Limitation Act, 1963 from the proceedings under IBC.

1963 is not applicable for initiation of 'Corporate Insolvency Resolution Process', we further hold that the Doctrine of Limitation and Prescription is necessary to be looked into for determining the question whether the application under Section 7 or Section 9 can be entertained after long delay, amounting to laches and thereby the person forfeited his claim. If there is a delay of more than three years from the date of cause of action and no laches on the part of the Applicant, the Applicant can explain the delay. Where there is a continuing cause of action, the question of rejecting any application on the ground of delay does not arise. Therefore, if it comes to the notice of the Adjudicating Authority that the application for initiation of 'Corporate Insolvency Resolution Process' under section 7 or Section 9 has been filed after long delay, the Adjudicating Authority may give opportunity to the Applicant to explain the delay within a reasonable period to find out whether there are any laches on the part of the Applicant. The stale

claim of dues without explaining delay, normally should not be entertained for triggering 'Corporate Insolvency Resolution Process' under Section 7 and 9 of the 'I&B Code'. However, the aforesaid principle for triggering an application under Section 10 of the 'I&B Code' cannot be made applicable as the 'Corporate Applicant' does not claim money but prays for initiation of 'Corporate Insolvency Resolution Process' against itself, having defaulted to pay the dues of creditors. In so far it relates to filing of claim before the 'Insolvency Resolution Professional', in case of stale claim, long delay and in absence of any continuous cause of action, it is open to resolution applicant to decide whether such claim is to be accepted or not, and on submission of resolution plan, the Committee of Creditors may decide such question. If any adverse decision is taken in regard to any creditor disputing the claim on ground of delay and laches, it will be open to the aggrieved creditor to file objection before the Adjudicating Authority against resolution plan and for its necessary correction who may decide the same in accordance with the observations as made above."

The aforesaid observations make it clear that Hon'ble NCLAT decided that IBC is a complete code by itself and it by implied legislative intent exclude the applicability of the Limitation Act, 1963. It is also made clear that delay and laches beyond a reasonable period of above 3 year in filing application for triggering initiation of Corporate Insolvency Resolution Process may be a ground for dismissal of such petition in given circumstances, if delay and laches are not explained to the satisfaction of the Adjudicating Authority. However in this regard it not only contradicted itself from other observations, but also made a sharp departure from these observations in case of section 10 petition by corporate debtor itself.

It may be noted that 'Speculam Plast Pvt. Ltd.' was then followed by Hon'ble NCLAT in deciding more appeals, namely Ellora Paper Mills Ltd. & Anr Vs. Ajitnath Steels Pvt. Ltd.; Sanjay Bagrodia Vs. Sathyam Green Power Pvt. Ltd. and Labdhi Enterprises Vs. Baramat Agro Pvt. Ltd.

From the aforesaid it is clear that one issue which was neither raised nor answered, still needs consideration. It is whether 'bad debt', 'dead debt', 'unenforceable debt' or 'unrecoverable debt', can be used as 'financial debt' and 'operational debt', to initiate corporate



insolvency resolution process (CIRP) under IBC or default can occur for not praying such 'debt' if any demand is raised in respect thereto. In my personal opinion, the question framed in the above cases was itself incorrect and hence conclusion reached is also incorrect in law, particularly in view of many judgements of the Hon'ble Supreme Court and many high courts, where it was clearly held that a 'debt' which is not enforceable in law or fact cannot be revived for the purposes of 'winding up' proceedings under the provisions of Companies Act, 1956. There are no two opinions that 'winding up proceedings', like 'initiation of corporate insolvency resolution process' are also not proceedings for recovery of a debt and that if corporate insolvency resolution process (CIRP) fails, then corporate debtor must be ordered to be liquidated under the provisions of IBC, like 'final winding up order', leading to distribution of assets of the corporate debtor to its all stakeholders. It may also be noted that, whereas the Hon'ble High Court, in winding up proceedings had the discretion to finally winding up the company or not, there is now compulsory liquidation of corporate debtor if corporate insolvency resolution process fails for any reason. Hence the ultimate net result of both processes was and is the same. In my opinion, it will be commercial absurdity and far from the truth to state that any person who files a claim before

In view of the above, the following observation of the Hon'ble Supreme Court and Hon'ble Delhi High Court are very apt to reproduce, regarding the meaning and scope of 'debt' even in the proceedings which are not recovery proceedings, like winding up and CIRP under the IBC.

Insolvency Resolution Process (IRP) does not wish the recovery of that claim by seeking repayment under CIRP or under liquidation process.

In view of the above, the following observation of the Hon'ble Supreme Court and Hon'ble Delhi High Court are very apt to reproduce, regarding the meaning and scope of 'debt' even in the proceedings which are not recovery proceedings, like winding up and CIRP under the IBC.

In Karnataka Steel & Wire Products and Ors. Vs. Kohinoor Rolling Shutters

& Eng. Works and Ors., the Hon'ble Supreme Court of India held that;

..... In the impugned judgment, the Full Bench of the Karnataka High Court has recorded its conclusion that the provisions contained in Section 458A of the Companies Act does not confer a fresh cause of action and, therefore, if the time for the claim is already barred under the relevant provision of the Limitation Act, then the appointment of official liquidator on an application being filed for winding up of the company, would not revive the barred date. It appears that the aforesaid view of the Karnataka High Court is in agreement with the decision of the Madras High Court in 63 Company Cases 749 and is in variance with the two Full Bench decisions, one of Delhi High Court in MANU/DE/0038/1978: AIR1978Delhi158 : AIR1978Delhi158 and the other of Kerala High Court in MANU/KE/0009/1989 : AIR1989Ker41 : AIR1989Ker41 . In the absence of any authoritative pronouncement of this Court on the question, it would, therefore, be necessary to examine the different views expressed by different High Courts as well as the relevant provisions of the Companies Act, and to find out which view is correct.

2. Under the provisions of the Companies Act, a winding up proceeding commences by presentation of a petition as provided under Sub-section (1) of Section 441 of the said Act and at any

time, after the presentation of a winding up petition, the Court may appoint the official liquidator. Under Section 446 of the Act, once an official liquidator is appointed, then all legal proceedings against the company can be proceeded with only with the leave of the Company Judge and subject to such terms as the Company Court imposes. Under Sub-section (2) of Section 446, it is the winding up Court which gets the jurisdiction to entertain any suit or proceeding by or against the company as well as any claim made by or against the company. Section 458A merely excludes the time in computing the period of limitation for any claim. The aforesaid section is extracted herein-below in extenso for better appreciation of point in issue:

"Section 458A. Notwithstanding anything in the Indian Limitation Act, 1908 (9 of 1908) or in any other law for the time being in force, in computing the period of limitation prescribed for any suit or application in the name and on behalf of a company which is being wound up by the Court, the period from the date of commencement of the winding up of the company to the date on which the winding up order is made (both inclusive) and a period of one year immediately following the date of the winding up order shall be excluded."

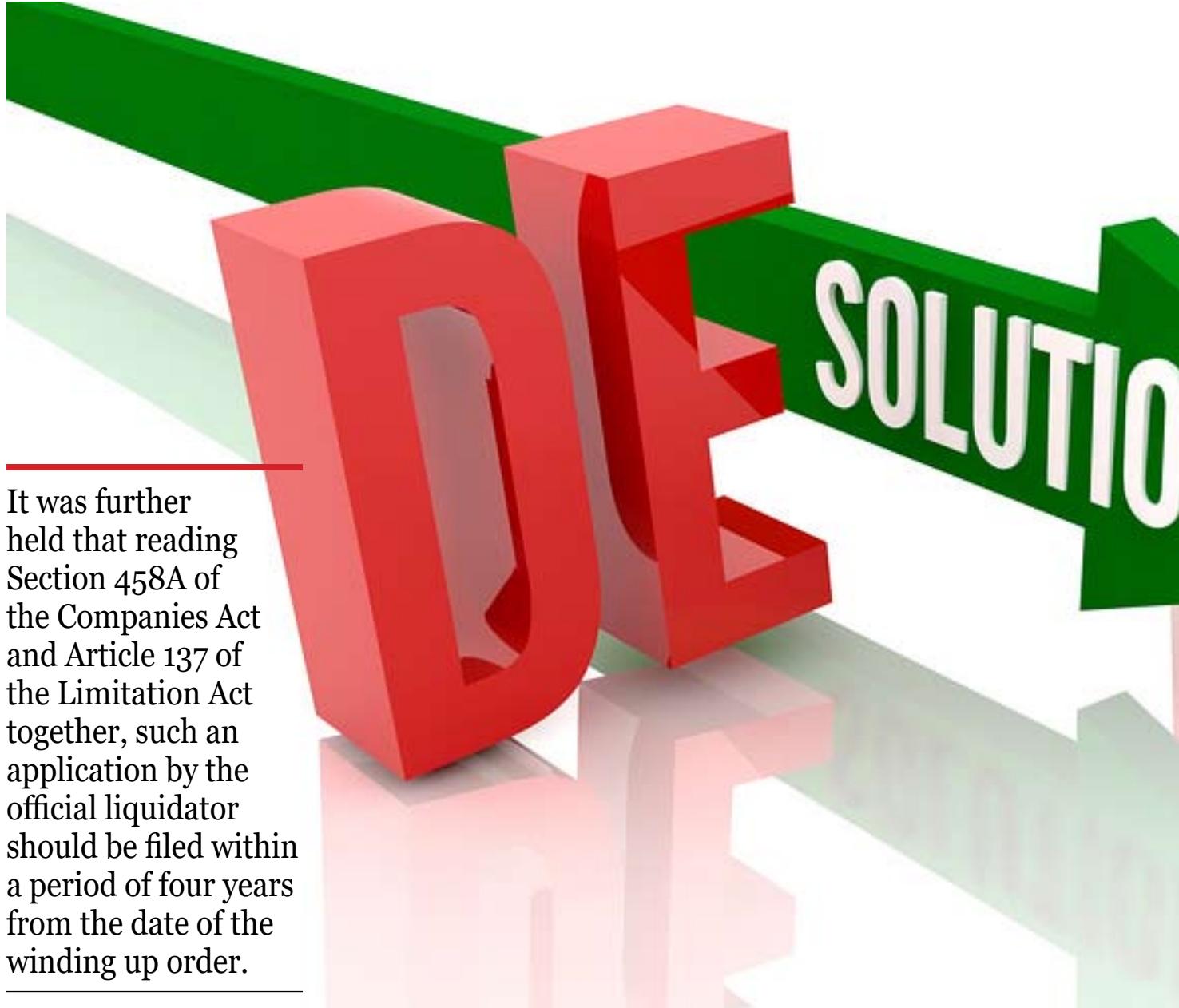
**In the case of Faridabad Cold Storage & Allied Industry v. Official Liquidator of Ammonia Supplies Corpn. (P) Ltd. MANU/DE/0038/1978 :** AIR1978Delhi158 , the question for consideration was as to what is the period of limitation for a claim filed under Section 446(2) of the Companies Act and what is the starting point of the said period of limitation. It was held by the Full Bench of Delhi High Court that any such application in respect of a claim filed under Section 446(2) of the Companies Act is covered by the residuary article under Article 137 of the Limitation Act and the period of limitation is three years from the date when the right to apply accrues. The Court further held that the right to file a claim petition under Section 446(2) in respect of a claim enforceable at law on the date of the winding up order, arises on the date the winding up order is passed. The period of limitation of three years would, therefore, be from the date of the winding up order, after giving full effect to the provisions of, and the benefit of Section 458A of the Companies Act. The point in issue in case in hand is something different than the point that arose for consideration and was decid-

**Under Sub-section (2) of Section 446, it is the winding up Court which gets the jurisdiction to entertain any suit or proceeding by or against the company as well as any claim made by or against the company.**

ed by the Delhi High Court. The order Judgment of the Delhi High Court in the case of R.C. Abrol & Co. Pvt. Ltd. v. A.R Chaddha & Co., MANU/DE/0039/1978 : AIR1978Delhi167 , the question of consideration was whether for an application under Section 446(2)(b) of the Companies Act, the provisions of Article 137 of the Limitation Act would apply or not and the High Court answered the same in the affirmative. That is not the dispute in the case in hand inasmuch as there is no dispute about the applicability of Article 137 of the Limitation Act to an application filed for enforcement under Section 446(2)(b) of the Companies Act. So far as the Judgment of Kerala High Court is concerned, in the case of K.P. Ulahannan and Ors. v. The Wandoor Jupiter chits (P) Ltd. , the question for consideration was whether the time prescribed under Section 458A of

the Companies Act would be excluded for computing the period of limitation for a claim petition being filed under Section 446(2)(b) of the Companies Act read with Article 137 of the Limitation Act. In the aforesaid case, the Full Bench of Kerala High Court came to hold that the starting point of limitation for claim under Section 446(2)(b) is the date on which the winding up is passed or a provisional liquidator is appointed and Article 137 of the Limitation Act applies to such proceedings. It further held that the effect of Section 458A of the Companies Act is that the period from the date of commencement of winding up of the company to the date on which the winding up order is made and a further period of one year are to be excluded in computing the period of limitation. But where a claim which was barred on the date and winding up petition is filed, would revive on account of Section 458A of the Companies Act was never raised or considered in the aforesaid case. In a latter decision of the Delhi High Court however in the case Liberty Finance Pvt. Ltd (In liquidation) v. Pandit Radha Mohan and Ors. MANU/DE/0080/1978 , Ranganthan J, as he then was, considered the question, which is the subject matter of consideration in the case in hand and held that the expression "any claim" occurring in Section 446(2)(b) of the Companies Act means, "a claim which is legally enforceable and, therefore, a claim which had become time barred on the





It was further held that reading Section 458A of the Companies Act and Article 137 of the Limitation Act together, such an application by the official liquidator should be filed within a period of four years from the date of the winding up order.

date of presentation of the winding up petition cannot be described as a legally enforceable claim and the provisions of Section 446(2)(b) do not enable the official liquidator to file or receive claims which had been quietened by the lapse of time." Where there is an enforceable claim as on the date of the winding up petition, the official liquidator can make an application under Section 446(2) and such an application will attract the provision of Article 137 of the Limitation Act. It was further held that reading Section 458A of the Companies Act and Article 137 of the Limitation Act together, such an application by the official liquidator should be filed within a period of four years from the date of the winding up order. To the same effect is the Judgment of the Punjab and Haryana High Court in the case of Maruti Limited (In Liquidation) and Anr. v.

Parry and Company Ltd., 1989 CC 309.

3. On a plain reading of the provisions contained in Section 458A of the Companies Act, it is crystal clear that the aforesaid provision merely excludes the period, during which a company was being wound up by the Court from the date of the commencement of the winding up till the order of winding up is made and an additional period of one year immediately following the date of the winding up. In other words, in respect of a legally enforceable claim, which claim could have been made by the company on the date on which the applications for winding up is made, could be filed by the official liquidator by taking the benefit of Section 458A of the Companies Act and getting the period of four years to be excluded from the period of three years, as provided under Article 137 of the Limitation Act.

The Legislature, by way of an amendment, brought into force the provisions of Section 458A, so that in official liquidator, who is supposed to be in custody of the assets and liability of the company, would be able to file a claim on behalf of the company, (SIC) legally enforceable on the date of the winding up, after excluding the period, indicating under Section 458A of the Companies Act, so that the company or its shareholders will not suffer any loss. But by no stretch of imagination, the said provisions contained in Section 458A can be construed to mean that even a barred date or a claim which was not enforceable on the date of the winding up, would stand revived, once a winding up application is filed and order is made by virtue of Section 458A of the Companies Act. We, therefore, affirm the view taken by the Karnataka High



ristic purposes, he would be shown as a debtor. In other words, would be illogical to say that a debtor or an employer, holding on to unpaid dues, should be given the benefit of his showing the amount as a liability, even though he would be entitled in law to say that a claim for its recovery is time barred, and continue to enjoy the amount. The second reason why the assessee's contention is unacceptable is because with effect from 1-4-1997 by virtue of Finance Act, 1996 (No.2), an Explanation was added to Section 41 which spells out that "loss or expenditure or some benefit in respect of any such trading liability by way of remission or cessation thereof" shall include the remission or cessation of any liability by a unilateral act by the first mentioned person under clause". The expression "include" is significant; Parliament did not use the expression "means". Necessarily, even omission to pay, over a period of time, and the resultant benefit derived by the employer/assessee would therefore qualify as a cessation of liability, albeit by operation of law.

9. The submission of the assessee that no period of limitation is provided for under the Industrial Disputes Act, as a result of which it is exposed to liability at any time, is insubstantial and unpersuasive. This is because in *The Nedungadi Bank Ltd. vs K.P. Madhavankutty* MANU/SC/0049/2000 : AIR 2000 SC 839 the Supreme Court held that even though under the Act no period of limitation has been prescribed, a stale dispute one where the employee approaches the forum under the Act after an inordinate delay cannot be entertained and adjudicated. In view of the foregoing reasons, the question of law is answered in the affirmative, in favour of the revenue, and against the assessee; consequently the orders of the Commissioner (Appeals) and the impugned order of the ITAT are hereby set aside. The order of the Assessing Officer is hereby restored. The appeal is allowed in the above terms without any order on costs."

From the aforesaid it is clear that a 'debt' which is rendered unrecoverable under the provisions of Limitation Act, cannot be claimed in commercial sense and that such debt can be written off as bad debt and even form part and parcel of profit and loss of a commercial enterprises for the purpose of Income Tax and Companies Act. Now reverting to the provisions of IBC it may be noted that pursuant to the provisions

of section 3(11) of the IBC, debt means a liability or obligation in respect of a claim which is due from any person and includes a financial debt and operational debt. The word 'due' used in the definition of 'debt' signifies that the debt shall be an enforceable debt. In other words, the debt shall be legally due and recoverable. The said intention of legislature becomes clear from the definition of 'default' provided in section 3(12) of the IBC. In terms of the provisions of Section 3(12) of the IBC, default means non-payment of debt when whole or any part or instalment of the amount of debt has become due and payable and is not repaid by the debtor or corporate debtor, as the case may be. Hence the

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## The submission of the assessee that no period of limitation is provided for under the Industrial Disputes Act, as a result of which it is exposed to liability at any time, is insubstantial and unpersuasive.

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word 'due' signify that the debt shall be legally enforceable against the corporate debtor and the word 'payable' signifies that the debt shall be recoverable in fact and in law. In other commercial sense it should be 'alive' and 'living' debt. In this regard, the following words of the Hon'ble Supreme Court in the case of M/s Innovative Industries require special attention of one and all;

"It is at the stage of Section 7(5), where the adjudicating authority is to be satisfied that a default has not occurred in the sense that the "debt", which may also include a disputed claim, is not due. A debt may not be due if it is not payable in law or in fact."

Accordingly, the question here arises is that can the debt shall be considered as duly recoverable for an indefinite period of time for the purpose of the proceedings under the IBC. If the rationale of the judgement passed in *Speculam Plast Pvt. Ltd. Vs. PTC Techno Pvt. Ltd.* is to be followed then a holder of an unpaid debt which became due and payable 3 years or more in the past but not enforced in law, in presenty can also be

Court under the impugned Judgment and dismiss these appeals. There will be no orders as to costs.

**The Hon'ble Delhi High Court, in CIT Vs. Chipsoft Technology Pvt. Ltd. has held as under:**

8. Two aspects are to be noticed in this context. The first is that the view that liability does not cease as long as it is reflected in the books, and that mere lapse of the time given to the creditor or the workman, to recover the amounts due, does not efface the liability, though it bars the remedy. This view, with respect is an abstract and theoretical one, and does not ground itself in reality. Interpretation of laws, particularly fiscal and commercial legislation is increasingly based on pragmatic realities, which means that even though the law permits the debtor to take all defences, and successfully avoid liability, for abstract ju-

used as 'financial debt' or 'operational debt' to initiate proceedings under IBC and as a result of the same, the Adjudicating Authority will entertain such petitions under IBC which debt otherwise in law are unrecoverable claims, dead debts and lifeless, unenforceable claims, under the law of limitation. This certainly can not be the intention of the parliament to make dead debt alive and enforceable for the purposes of IBC, nor is such interpretation permissible in law.

It is a serious question to ponder as to whether a person who cannot claim the amount of his debt by filing a suit for recovery because his debt is debarred by law of limitation, can be allowed to file a petition under IBC even as his claim of debt is not legally recoverable due to the law of limitation and enjoy the satisfaction of such a claim either as part of CIRP or under the liquidation if CIRP fails for any reason. A debt which becomes due shall be considered as legally payable or recoverable within the time limit prescribed under the agreement executed for such debt transaction and, if such time limit is not prescribed under such agreement, then the same shall be recoverable within the reasonable period of time. What shall be considered as reasonable period of time is prescribed under the Limitation Act, 1963 and hence the same shall be followed. A debt, the recovery of which is barred by limitation, cannot be considered as legal debt for the purpose of proceedings under IBC as such debt has no longer remained payable. It is neither due nor repayable. It cannot satisfy the requirement of 'default' which is essential requirement of triggering corporate insolvency resolution process, under the provisions of sections 7, 9 or 10 of IBC.

Even under the earlier Companies Act, 1956, in a petition of winding up on the ground of inability to pay debt, the debt which were time barred were not considered even though there is no specific provisions under the said Act which provides about the applicability of Limitation Act, 1963 on the proceedings of winding up before the Hon'ble High Courts. It is also pertinent to note here is that the Companies Act, 1956 also uses the word 'due' and 'payable' which were tested and interpreted by the various Hon'ble High Courts from time to time. In various judgements passed by the Hon'ble High Courts of respective states, it has been held that a creditor whose debt is barred by limi-

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tation cannot file a petition for winding up of a company on the ground of its inability to pay debt since his debt is not legally recoverable.

In Interactive Media And ... vs Go Airlines Limited, the Hon'ble Delhi High Court has held that a winding up petition will be maintainable when a company is unable to pay the debt which is due and payable. The debt should be one which is legally recoverable and is not barred by the law of limitation.

In another case of Niyogi Offset Printing Press Limited versus Doctor Morepen Limited, (2009) 149 Company Cases 467, it was held that "27. The claim of the petitioner for recovery of the amount has become barred by time. If the petitioner files a suit for recovery of the said amount, the suit will be dismissed as barred by time. If the claim of the petitioner to recover the amount has become barred by time, it will not be appropriate to initiate the process of winding up of the respondent company. Under Section 433(e) of the Companies Act, 1956 the machinery for winding up cannot be allowed to be utilized merely as a means for realizing debts due from a company which is also barred by time. Consequently there are no grounds to initiate the winding up proceedings against the respondent company. The petition, therefore, is without merit is liable to be dismissed. The petition, therefore, is dismissed."

In another case of Vijayalakshmi Art Productions vs Vijaya Productions Pvt. Ltd., 1997 88 CompCas 353 Mad, 1996 (2) CTC 396, the Hon'ble Madras High Court also held that:

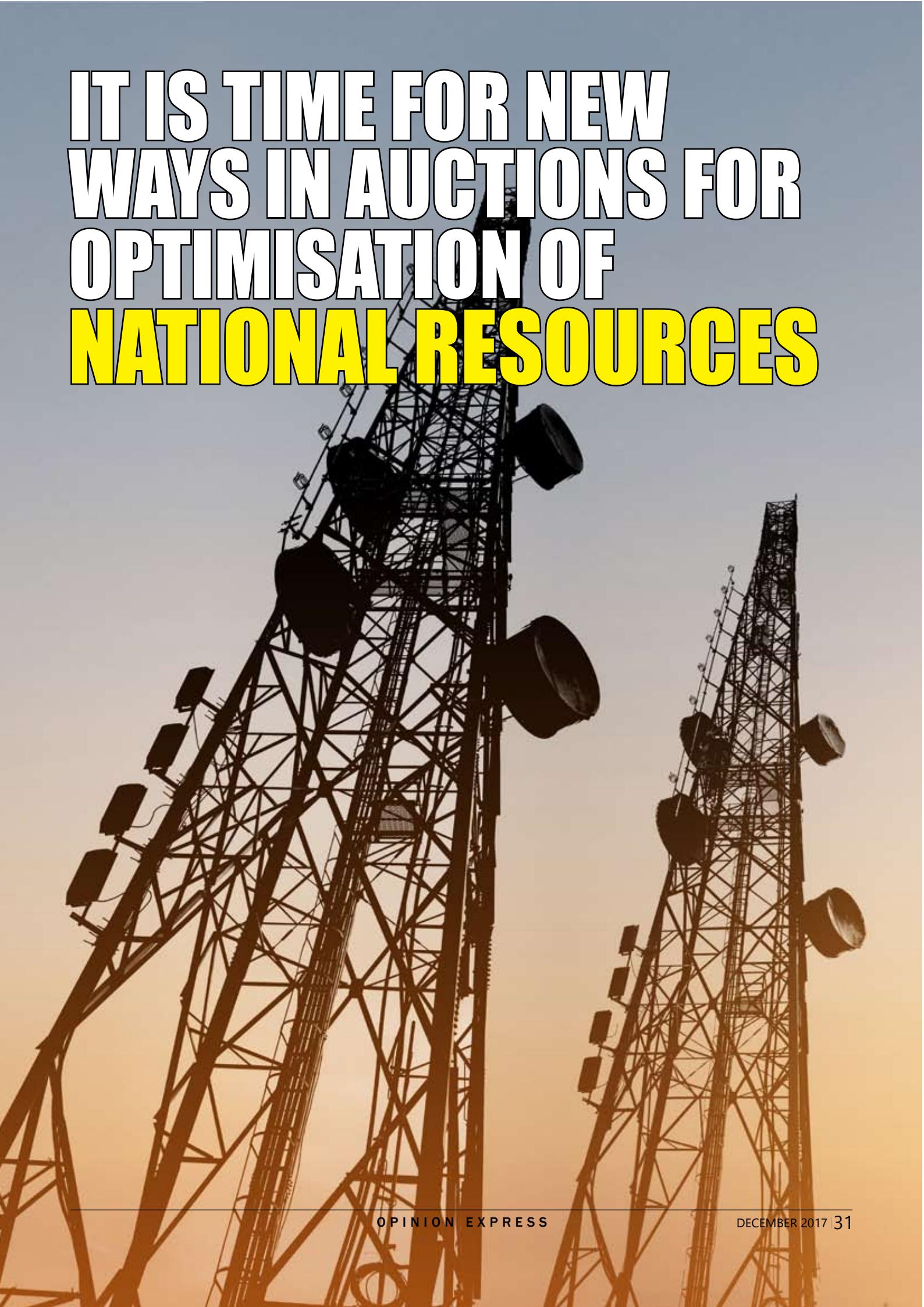
"In the summary enquiry under section 433 at the stage of admission before deciding as to whether winding up proceedings should be initiated the court to ascertain whether, inter alia, the claim made by the creditor is barred by limitation or whether it is legally enforceable. If the claim made by the creditor is on

the face of it not one which can be enforced, it is unnecessary to examine as to whether the claim is a genuine claim, and as to whether the respondent has a bona fide and reasonable defence on the merits to the claim. The right to apply for winding up under section 439(b) is a right conferred on the credits and not on any person, however anxious that person may be, to have the company wound up."

What was true in commercial world in the case of winding up petition under section 433(e) of the Companies Act, 1956 should be true for the proceedings under IBC. Under the Companies Act, 1956, the debt which were 'due and payable' was the basis for determining the filing of winding up petition and similarly, under the IBC, a default, on the occurrence of which proceedings under IBC can be initiated, is said to be made in payment of debt when there is non-payment of amount which has become 'due and payable'. A debt when become payable and not demanded within the time period prescribed, cannot be claimed from the creditor by filing a case before the adjudicating authority. The debt of such person cannot be considered for payment even at the time of liquidation of such company and hence shall also not been considered as 'financial debt' or 'operational debt' for the purpose of initiation of IBC proceedings. It is my fervent plea that issue be correctly examined on the basis of commercial reality and on the hypothetical basis. In my personal view there is nothing which is self sufficient and can operate in vacuum, even if it is a code by itself. IBC is also another law of the land like others and must pass the test of ground reality and commercial wisdom and public policy.

*(The writer is a senior Advocate & president, NCLT Bar Association New Delhi)*

# IT IS TIME FOR NEW WAYS IN AUCTIONS FOR OPTIMISATION OF **NATIONAL RESOURCES**

The background of the poster features two large, dark silhouettes of telecommunications towers against a warm, orange and yellow sunset sky. The towers are filled with various antennas and satellite dishes, creating a complex pattern of lines. One tower is in the foreground on the left, and another is partially visible behind it on the right.

# It's time, we must stop plundering of natural resources

J Gopikrishnan

In India action on allotment of natural resources streamlined after the land mark Judgment given by Supreme Court Judges GS Singhvi and AK Ganguly in 2G Spectrum scam and subsequent Presidential Reference given by the then Chief Justice of India SK Kapadia in 2012. It was the outcome of the public interest litigations filed by BJP leader Subramanain Swamy and noted lawyer Prashant Bhushan.

Though in 2001, telecom spectrum was auctioned; subsequent allotments were done through arbitrary ways leading to the 2G Scam and huge anti-corruption wave in the country and ended up the process of streaming the auction

**The auction ended on the very first day due to the non-cooperation of bidders. There were many reasons for this collapse. First – People in Government wanted to teach Supreme Court a lesson which cancelled all 122 2G licenses and started monitoring 2G Scam probe**

of natural resources like spectrum and coal by the intervention of Supreme Court and expose by Comptroller and Auditor General (CAG) of India. In 2003 Government reiterated that auction should be conducted in future. But till 2G Scam was blown out of proportion people in Government and corporates and lobbyists preferred arbitrary allotments in crooked ways. The auction became mandatory from 2010 with the auction of 3G and BWA spectrum (somehow called as 4G). From 2010 to 2016, the country's exchequer earned more than Rs.3.6 lakh crores.

Meanwhile in 2012, people in Government and corporates collapsed the 2012 auction directed by Supreme Court. The auction ended on the very first day due to the non-cooperation of bidders. There were many reasons for



this collapse. First – People in Government wanted to teach Supreme Court a lesson which cancelled all 122 2G licenses and started monitoring 2G Scam probe. Second – All the Corporates don't want to increase the price of the spectrum and would to control the price of next mandatory auction in 2014.

So auction in ended on the very first day. Look at the money got from the failed auction. Just 19 licenses were sold for Rs.9400 crore. Compare this figure with Raja's 2G scam where 122 license were allotted to in fraud way and got only Rs.9200 crore.

Similar was the money arrived in the exchequer through auction of coal mines after the Supreme Court and CAG interventions. Sadly across the World, people in Government and Corporates unite in getting natural resources like Spectrum, Coal, Water etc. There are many ways be found out to curb the spirit of auction. Look at the 2010 auction of 3G airwaves. There was a cartelisation by certain corporates to curb the prices. Tata, Aircel, Idea all were involved. We have seen the controversies in the BWA (so called 4G) auction and back door entry of Mukesh Ambani.

There is no doubt that same kind of cartelisation happened in auction of coal mines too. There was a mutual understanding between corporates in 2016 spectrum auction for not bidding for 700 MHz spectrum. The fact of the matter is this kind of No: 2 games happen only with the blessing or approval of people in Government.

These kinds of practises can be

curbed only through more transparent and scientific ways in auction, which is now adopted in many western countries. Now it is time for the Country to look for new transparent ways to curb the 'Jugad' or tricks in the auctions to curb the pricing.

In USA, Spectrum auction is through a very better way known as Dynamic Spectrum Arbitrage. There are many scholarly articles available in internet about Dynamic Spectrum Arbitrate which provides huge revenue to the exchequer. This kind of model in many similar ways is used in many democratic countries which encourages Public – Private – Partnership (PPP) Model like India. In India, sadly or unfortunately, PPP Model at last turned out to be a area for playing tricks by Private Partner and Government is supposed to be the sole burden taker. Classic example on this regard is the scooting of private partner (Anil Ambani Group) from the Delhi Airport Express Metro.

In Dynamic Arbitrage Model practised in Western countries, the natural resources always belong to the Government and private partner is only a distributor of the services generated from the natural resources. But in India, Government always shy away from the custodian responsibility. But let us hope, our country would also come out with such progressive and transparent mechanism in conducting auctions to get maximum revenue.

**(J Gopikrishnan is Special Correspondent with 'The Pioneer' daily)**

# INDIA AND BRAZIL – HOME WITHIN A HOME

A peek into the life of Brazil's most famous city

By Carlyta Mouhini ( Maria )

**B**eing from an Indo-Brazilian origin and as a resident of Mumbai, I was absolutely thrilled when the Editor of 'Opinion Express' told me to write an article on delectable country Brazil from my own perception as I lived there for a considerable time in Rio and hence to guide the readers of the absolute 'Virginal Brazil' to the Indians and the world

## The journey beginning with Rio-De-Janeiro ....

A background brief on Rio - The site of Rio de Janeiro was founded by Portuguese explorers as they entered Guanabara Bay on the first of January, 1502. Since the bay was considered the mouth

The present day city of Rio sits within the long shadow of one of the world's newest seven wonders. My soul will always remain attached to 'MtCorcovado'. As suddenly you will feel that you have all the air in the world around you and all for yourself, but... you can't breathe it! The Corcovado and the statue of Christ the Redeemer (in Portuguese Christo Redentor) that sits on top of it, is certainly the most important monument.

of a river, the city was named in honour of the day, Rio de Janeiro, or River of January. French traders also settled in the Guanabara Bay area, in an attempt

to gain an economic and strategic foothold in Brazil. After two years of battles (1565-67), the French were expelled and the site of Rio was moved up onto





a hill, later known as Castle Hill, for protection from further invasions. Rio grew on the exporting of sugar cane, grown on the surrounding plains. Eventually gold and diamonds were found in the Mines Gerais area. Many Europeans moved here after this discovery and in 1763 the capital was moved from Salvador to Rio, further increasing its prominence.

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breathe it! The Corcovado and the statue of Christ the Redeemer (in Portuguese Christo Redentor) that sits on top of it, is certainly the most important

monument. The statue is a magnificent example of Art Deco sculpture. It was completed in 1931, 9 years late as it was supposed to be built in 1922 in honour of Brazil's 100th year of independence. The statue stands 38 meters high and looks out eastward towards Sugar Loaf Mountain. It was designed by Heitor da Silva Costa, a Rio engineer and sculpted by Paul Landowski, a Polish-French sculptor out of reinforced concrete with soapstone layers covering it. .

With his unblinking eyes and his all-encompassing outstretched arms, Cristo the Redeemer welcomes all to the city he overlooks. In Rio, Cristo is everywhere you look, your eyes will instantly



be drawn to his high dwelling presence above and you will find you are mesmerized by him...even if you happen to be a Jew, Muslim, or Atheist. Because this particular Cristo pays no mind to your religious views...rather he offers majestic, panoramic views of one of the most magnificent cities in the world for all those who will heed his call. The views from Christ the Redeemer are well...quite frankly there isn't anything that can be written that can properly describe the deep purple ocean spilling up against the curvaceous coastline with oval shaped mountains rising high into the sky...so why even bother? But I will say this be sure to go on a sunny day...

if you don't you may end up feeling like your head is in the clouds...quite literally. Cloudy days often mean you views of Rio will be views of a milky white mist. So check the ten day weather before planning your visit. Speaking of which heeding his call consists of many options including tour groups, taxis, or buses all of which end up at the train station. But the reward of ascending up to bask in his presence does have a cost \$36 real to be exact, for a round-trip ticket that will take you to the stairway to heaven....220 steps to be exact. And for those who don't feel like putting in the effort there is an elevator as well. But do yourself a favour (unless you're

in a wheelchair) and take the steps to the top and know this, once you get to the top you will have your reward.

For those who are on a budget take the 584 bus which runs through almost all the tourist areas and deposits you right at the train station for a mere \$2 real. It's the best deal in town! I have visited the Corcovado (means hunch-back) many a times coz of its magnetism that also included Sugar Loaf Mountain (and getting stuck in traffic jams so you have been warned!). The tour included the price of going up to the statue at the top of the 710 metre by way of a rack

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railway that takes you along the edge of Rio's stunning Tijuca Forest. I visited the monument in the late afternoon, just before sunset. It was very crowded and it was hard to manoeuvre around the base of the statue. Still the views were stunning. You can see all Re De Janiero from here, including the famed Copacabana and Ipenema beaches and the world-famous Maracana football stadium where the World Cup football (WCF) 2014 was held. A Highlight - Brazil is the spiritual home of football. The passion for the game here is incredible and so we believe that the 2014 World Cup was the greatest ever.

The mountain is located in a very safe area of Rio, all surrounded by Military Schools and Fortress which reminds a little bit of West Point in the States, right next to the Pão de Açucar you can see the cute Vermelha Beach where the Portuguese first set foot in 1503 and a very green and magnificent



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trail which provides a great surprise in your day called PISTA CLAUDIO COUTINHO!

The Christ the Redeemer is subject to regular restorations and more minor maintenance work. As you can imagine standing on top of an exposed hill in a polluted city, the statue is subject a great deal of environmental hazards. It must be quite an effort to keep it as white as it is. If you are going on your own, the cost of your visit is R\$36.00. It is open daily from 8:30am to 8pm. It is usually very busy here with tourists buying all kinds of souvenirs in the overpriced shops. One can get there via taxi but there is a bus 583 and the subway. Don't forget to take pictures of the city from this great vantage point. There are many ways of getting up there but i would recommend taking the little train as that takes you through some really nice nature on the way up the mountain and you have some great views from the train too.

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This might be a good idea since the lines for the trains are very long. We did not do this only because we didn't want to make the poor guy wait for us, hoping that we will come back to pay him.

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Cab ride with tip from Ipanema Beach to Corcovado is \$15.50 Reals = \$5.82 US dollars ( 1 Dollar is 60 INR ). The cab driver might ask you if you want to be driven up to Christ and then he will wait for you, and then drive you back. This might be a good idea since the lines for the trains are very long. We did not

do this only because we didn't want to make the poor guy wait for us, hoping that we will come back to pay him. We also wanted to take all the time we needed taking pictures for my friends who were touring Rio from across the Globe. Tickets on the train that takes you to Big J is \$30 reals a person = \$11.26 a person. Tickets are timed, so if there is a big queue you might have to wait a half hour or more before hopping into the train. The clouds might clear like it did for us. It is very crowded up there when you take pictures so be prepared to elbow some grandmothers.

A personal experience I would like to share with my readers ....We were offered a tour to take us here and Sugar Loaf for 210 Real but as it turns out we were pleased we headed here on our own by taxi . It was so easy to do and gave us the time we wanted to explore. We also saved a bundle! We flagged a taxi and it took us 30 minutes in traffic and 28



real to get there. The driver offered to wait (saying he would turn off the meter). There are lots of taxis so this is not necessary .The train was running so we were taken to the top by a shuttle bus .The entrance fee is 17Real .At the stop are 200 steps or an elevator to take you to the top .We opted for the later and it was better !! By the way the cab driver didn't turn off the meter...see how that unfolded in my Sugar Loaf Tip!

The roads leading to the sculpture are closed according to the Brazilian Environment Ministry. Landslides, rock fall, dampened trees obstruct the traffic. A never experienced Rainfall, because of which almost 250 men died, has hit the Brazilian metropolis. One of the leading highlights of Rio are its beaches, such as Copacabana, Ipanema, Leblon and so many others and Guanabara bay along with Rio of the Samba, the Caipirinhas, the Cariocas ( local boys /beach boys ), The Carnival, the Bossa nova ( latin

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rhythm ) , The girl from Ipanema( famous Jazz song ) and many other things that we could see in this fantastic place! Even a little walk, you can have a great idea of the Carioca way of life! I'm not a Carioca, I was born in Niteroi (which I like very much) 70 miles away fm Rio connected by world's spectacular bridge overlooking the Rio coastline, but I have a special passion because Rio is always beautiful and Rio is something that you must see it for yourself!

The Bay Area covers the most populated areas of Rio and the Ocean holds the well off part of the population in a way. Sure that neighbourhoods like elite Botafogo ( where we have our resident ) , Flamengo or Laranjeiras (traditional districts of Rio) can be found there but you can also find the city centre, the port of Rio and many industrial areas around the Bay, on the other hand the best neighbourhoods of Rio and also the most touristy spots can be find around the Ocean like Copacabana, Ipanema, Leblon or Gavea and Jardim Botanico, and if you continue following the ocean you can also head to the west part of the city where the famous Barra da Tijuca is located. A day at the Sugar Loaf, here, it is named PÃO DE AÇUCAR, will be the best option for you to understand the city, you will also notice that it is the landmark which starts the entrance of Guanabara Bay, and you can see on the other edge the so beautiful Holy Cross Fortress in Niteroi which is another city of the State, and also the second most important city of Rio de Janeiro.

### **Favela (Indian counterpart of 'Dharavi' in Mumbai)- Reality facts**

Favelas are a fact of life here. Many Cariocas realize the difficult conditions that people who live in favelas have to face. Along with that it is understood that the great majority of those people are good people. A favela is a place with drug lords, crime, and chaos but it is also a home to many people. Keep that in mind. When you go on you are 'Fave-

la Tour' keep in mind that these are real people living their day to day life. A favela is not a zoo for people from first world countries to quickly drive through so they can say they've been there. You have to actually live or visit consistently a place to really know it and its people. And contrary to popular belief, the people of the favela see no money from these tours. If anyone sees the money it's the drug lord. Why don't you guys just hand your purses directly to them? Now I'll get off my soap box :-)

### **SAMBA N CARNIVAL.....**

Brazil is usually thought of as the country as the most exuberant and exciting carnival celebrations. The celebration originated in the Catholic countries of Europe as a party before the coming of Lent – the forty days Christ spent in the wilderness. It was traditional for the celebrations to end on Ash Wednesday when people then respected the period of abstinence for forty days. The term 'carnival' is thought to have originated from the Latin 'carne levare', meaning 'to remove meat', as eating meat would have been prohibited during Lent. Nowadays carnival is not seen as a religious celebration but more of a street party with lots of music and dancing. The annual carnival celebrations take place between the Saturday and the Tuesday that precede Ash Wednesday. The most famous Brazilian carnivals are held in Rio de Janeiro and Salvador. In fact, the Guinness Book of Records maintains that the Salvador carnival is the biggest street party in the world! The most important events of carnival in Rio, and probably of all Brazilian carnivals, are the samba parades. All samba parades have a theme and a storyline, performed by a samba school known as Sambadrome'. The preparations for the samba school competitions begin many months before the event as elaborate costumes are designed and produced over a period of months while decorated floats are constructed to participate in the carnival parade. ( An exact



précis which I gathered from Reverend Fr.Savio in our Good Shepherd Church-4 Bunglows -Mumbai when I went for the recently concluded Easter Sunday Mass )

Food Outlet in Copa Cabana (Cup and Saucer) – My favourite eatery outlet and always recommended)

All over Brazil the staple food is meat dish oriented, sea food, brown rice, black beans and of course ‘pao’ (bread) But If you want to try a real Brazilian Barbecue (Churrascaria – meat dish) then you must try ‘Sol de Marius’ which boast of an admirable spread of delicious sea food, varied meat steaks and culinary and of course the all famous Copa Cabana Salads but not to forget the the lip smacking desserts!. You pay a set price and then the waiters come around with various types of meats on skewers/swords that they serve by cutting it from the skewer. There is also a big salad bar which is nice but don’t fill up on it.

When you are done eating you flip the disk in front of you over to the red side so the waiters know to stop bringing you food.

Sol De Marius is a bit pricier than most restaurants in Rio but it is worth a visit if you want to experience a real ‘Brazilian Churrascaria’! The price; however tends to go a bit on the higher side - R\$650 for three people! That’s three seafood flat rates at R\$175 per person, one Caipirinha (Brazil’s local brew), two beers, one glass of wine and three aperitifs (starters) ! It’s always preferable to try the innumerable normal ‘steak houses’ in Brazil along the

beach strips if the ‘tourist pocket’ wants to remain economical and affordable

### WHERE TO SHOP .....

Rio has many recommendable shops in the form of regular street market located under the large highway overpass, which protects most of the vendors from the hot sun as well as the hard rain. Weekends are alive than the weekdays with lots of vendors and shoppers. There are lots of old antique items, old coins and various collectors’ treasures, clothes, food, etc. There are lots of ‘Cariocas’ so do mind your valuables and watch for pickpockets! (Similar to India). Rio DeJaneiro has considerable rows of tourist shops too. Most of the typical gear you would like to buy for friends and family can be purchased at the beach in Cocacabana or Ipanema. Items include beach towels, swimsuits, soccer jerseys etc. Just about everything you could want can be found on the beaches and for a great price. The best places for paintings or art work can be found across from the surfers at Ipanema on the boardwalk. Great stuff!

On the outskirt of Rio there is ‘Rio Sul’ which is a shopping mall that will take care of your every Brazilian made fashion need. If I had a full day to spend there, I’d come out with a hundred bags, and almost all of them would be full of shoes. The clothes are great too. Foreigners will go wild for the prices, which are about half what you’d pay for comparable goods at home. This is high-quality stuff, for the most part, all Brazilian-made and all fabulous. It is a shopping mall on the outskirts of Rio

but easily reachable on subway. Reach the Estacio station and change from Line One to Line Two and get off at Del Castilho station. The station has a pedestrian flyover that goes straight into the mall. The mall is big and has many stores, Brazilian and international brands which are cheaper than usual.

Hippie Fair or Flea market ( the kinds you would find in Goa ) is an outdoor flea market every Sunday (during daylight) where tourists can buy all kinds of things where one can buy t-shirts, jewellery, handicrafts, belt, purse, suitcase, local paintings, musical instruments, Yes, you can bargain with the vendors to negotiate a lower price. Most of them do not speak English and I derived that there may be a huge ‘problem ‘with tourist not equipped with a bit of Portuguese dialect!. We are in a country with 200 million Portuguese speaking people, you know that when you go to Brazil. So please do a crash course in Portuguese or carry English to Portuguese speaking dictionary. It’s always HANDY and you will not feel handicapped!

So when you are not sure of something, like everywhere in the world, ASK and when necessary ask again, ask for someone who speaks good English, there are always few vendors who will do it! The Rio -Brazilians are fantastic people, always in a good mood and in Rio always in for Samba, they are very kind and want to help where ever they can! Very proud also and for some it’s difficult to confess they don’t understand you! It’s impossible to describe how wonderful life is here and how content I am when I live in Rio, It’s just what I always say, I can live 50 years here, and when I just see the Cristo in Corcovado, I just stop and think that I’m happy to be in Rio and more than that how I feel to be Brazilian with an amazing Indian blood! Because, when we think about Brazil, the first place that comes up in our minds is Rio! Come and visit Rio – The Land of Rhythm ( Ritmo ) and nature !

If JESUS CHRIST is from Rio de Janeiro then GOD is Brazilian!. It is not New York ...but I can say that I always leave my heart in Rio de Janeiro!!! :) My heart is here; all the ‘valued energy’ that I have is rooted HERE!

**(The writer is a leading Indo-Brazilian Columnist on International Diplomatic issues and Politics, World Trade /Tourism/Heritage/Music and Global Fusion Vocalist (ICCR) /Songwriter)**

# Priti Patel – A Rising Star of British Politics?

## A fascinating story of her rise in British politics

By Kapil Dudakia

The international media have gone to town over the storyline of Priti Patel, the British Member of Parliament who is of Indian origin. Having met Priti many times and getting to know of her politics as well as her community heritage, I felt that maybe the time has come for the world to learn a little bit more about Priti. I will also throw in the mix how I see developments taking place over the coming months and years in British politics.

Priti is the daughter of Sushil and Anjana Patel, a Gujarati couple who fled the then increasingly dysfunctional Uganda of the tyrant Idi Amin to take refuge in the UK. She was a bright spark who observed, listened and learnt from her surroundings. The family settled in Hertfordshire and whilst it has now become a cliché, her parents engaged

### Kapil's Kaleidoscope

in setting up a series of Newsagents (or as some might say, the typical British corner shop) which has now become so synonymous with Asians in the UK. Whilst her parents worked hard, Priti settled into her new environment and focussed on education. It wasn't long before family and friends noticed her natural instincts in learning new things and applying what she had learnt. Her mathematical ability allowed her to grapple easily with numbers, but then she was the daughter of a shopkeeper after all. Her parents and grandparents were people of faith. Every time they visited the Mandir little Priti would be alongside them, as usual, learning of the values imbued in her by her heritage faith. Most people don't know this, but as a child Priti was in fact present when the foundation stone for the now world-famous Neasden BAPS Mandir was laid.

The rising star knew of no boundaries to halt her aspirations. She attended Watford Grammar School for Girls and then went on to studying Economics at



Keele University. However, her interest in politics meant she also went onto to do a postgraduate in British Government and Politics at the University of Essex. Her education marked the road ahead and though she spent many years working in the private sector, her ambition to become a politician was overpowering. It was only a matter of time before she would make the transition to becoming a fulltime politician. Her big break came during the tenure of PM Cameron. He saw the huge talent that resided in Priti and encouraged her to take that final step. At the 2010 general

election, Priti stood for the Conservative seat of Witham, a new constituency in central Essex, and won with a majority of 15,196. She has gone on to win the seat again and in 2016 increased the majority to 18,646. In the time she has been an MP, she has worked in various positions including, Exchequer Secretary to the Treasury, Minister of State for Employment and more recently, Secretary of State for International Development. She is therefore now known with the ministerial title of the Rt Hon Priti Patel MP.

You might be forgiven in thinking

that this was all plain sailing for Priti. So let's put her achievements into some sort of perspective. She was the first Gujarati to sit on the front benches. First Indian woman to have achieved this distinction in the UK. The first British Hindu woman to secure such a high position in any British Government. Priti had to break not one, but several glass ceilings in getting to where she is now. She speaks her mind, sometimes a little more forcefully than a politician should, but knowing that she speaks with integrity and an honest perspective is reassuring in the world of politics that is mired by sleaze and deals. She rises above all of this and does what is good for her country, Great Britain. However, she has not forgotten her roots either. She has become a champion for Indians not only in the UK but also in India itself. I remember the 2014 Indian elections that had turned toxic. The media on the subcontinent had become political and it was clear to the bystander that it had become anti-Modi. The western media took this lead and without even checking facts started to undermine and discredit the then CM Modi. It was Priti Patel who stood alone as a British MP and denounced the biased media. She even wrote to the world-famous BBC, the so-called custodians of news integrity, that their coverage of the Indian election was biased and very anti-Modi. Where politicians fear to tread, Priti seems to step forward and get on with it. It is not just that she is fearless, she is self-reassured in knowing that her dharmic values imbibed since childhood, will hold her in good standing. More recently on a family holiday to Israel she took time out to meet the Israeli PM and a number of high profile



individuals. Her motivation, to ensure that the bond between the UK and Israel remains strong. The media did not see it that way and it became clear that the knives were out. For the first time in British history a front bench minister resigned for actually doing a damn good job of protecting the interest of her nation. History will judge her as a hero, I am sure of that.

So what is really going on in British politics today. The Conservative Party are of course in power, but not with a majority so are always watching their backs lest their policies get derailed. This also means that the Prime Minister is not seen by her Party, Parliament and the nation to be in a strong position. All self-evident of course. And with Brexit on the horizons the pressure cooker is well and truly boiling away, almost out of control some might say. In these circumstances a strong, self-confident, articulate, intelligent Member of Par-

liament begins to be seen as a threat to the establishment. Priti Patel fits the bill and had secured the support of significant numbers of back benchers in Parliament, as well as having a unique connection at the grassroots. Such a person had to be taken back a peg or two and we saw how that was done. Of course, this also means we have firm evidence that the rising star of the Conservative Party still remains a force to be reckoned with, and someone who even whilst sitting on the back benches commands attention of not only her Party, but that of the opposition.

Consider this, Priti Patel went on a holiday to Israel. Whilst there she had some 12 meetings with people of significance in Israel including the PM of Israel. Now let us all just think about this logically. Do you honestly think that a high-profile Minister like Priti Patel could have gone to a high profile sensitive destination such as Israel, and have some 12 meetings with senior figures including the PM of Israel – and there are people actually claiming they had no idea? As far as my common sense tells me, those who should have known, must have known. They just waited and waited until the time was right and guess what? Mysteriously there was a leak to the leading News agencies and the whole thing was blown up. The weak in Parliament conspired to undermine Priti Patel because they saw her as a threat to their cosy cabal. The Israelis must be wondering what madness possessed the Brits in hounding out a politician who was doing a lot of good for the nation.

In my view this has actually strengthened Priti Patel's position and I have no doubt, Priti remains the person to look





out for over the coming years. Her day will come, probably sooner than some might think.

So what do we make of the British-Indian relationship now? After all it was Priti Patel (with support from PM Cameron) who galvanised a mediocre relationship between the two countries into something that is now seen as very powerful. Britain still has a lot to do before India will fully commit. Quite obvious when you think about it. After all India represents the biggest global phenomenon under PM Modi leading the largest democracy to super power status over the coming decades. Any country with an ounce of intelligence will realise that being on good terms with India is the pre-requisite to their own economy doing well. Annoy India, and you can kiss the future growth of your country away. Whilst one Indian leads the largest democracy in the world, we have another person of Indian origin who can and will become the very powerhouse of this bi-lateral relationship in the UK. Only then can we assure of a good future for Britain post Brexit.

So what do we make of the Britain of today, and possibly of it over the coming years? Brexit will take place March 2019, with or without trade agreements with the EU. Britain is much better placed to ride this storm out than most countries of Europe. So don't believe the rhetoric coming out of

the EU of their own bravado and how they will teach the UK a lesson. They all know that in trying to undermine the UK, they risk destroying their own economies. We have already seen the rise of the far right across Europe. Let us be very clear, the proportion of voters in various countries of Europe that vote for far-right parties is significantly higher than anything similar in the UK. For example, in France Le Pen secured some 25% of the popular vote only recently. Germany today is falling apart because of Angela Merkel's reckless immigration open door policy and the far right AfD is on the march. She still has not managed to form a Government and there is now every risk that the country will go back to the polls again. If they do, the far right will increase their share of the vote yet again. We see the same pattern across many prominent European countries. The lesson is simple, if a nation stops listening to its people then it will drive some of them to the extremes. The underlying tones of Europe have always been based on race and white supremacy. If modern Europe under the hand of Merkel allows this ugly head to rise again, trust me, it will be central Europe that will pay the heaviest price. As far as Britain is concerned, we have our own minor issues (nothing compares to what you find in Europe) and whilst the Alt-left have tried everything to stoke up trouble, the people of

Britain are wise and the vast majority are not taking the bait. Unfortunately, we do see large numbers of these Alt-left extremists taking hold of various parts of the Labour Party. The Labour Party as we have it today comes across to most Indians as anti-India, anti-Modi, pro-Pakistan, supporter of Kashmiri separatists and very much dependent in many seats on the bulk votes from the Pakistani community.

For us in the UK, if the Conservative Party wins the next general election then I see great progress between our two nations. However, if by some misfortune of fate we end up with a Labour Government, then I fear their rhetoric may well turn into disastrous policies. And with that we can kiss the positive relationship of our nations away. So I say to Indians in India, the Labour Party in the UK is akin to the Indian National Congress in India. You now know which side the bread is buttered, choose your friends wisely, or forever regret your choices.

I end my explorative observations on the state of play in Europe by answering the question that was set at the top of this piece. Priti Patel – A Rising Star of British Politics? And the answer is a resounding Yes. As they say, watch this space and if you really want unadulterated non-PC commentary and observations, **follow me on twitter at: @kdudakia. At your peril!**

# THE END OF AN ERA

## Mugabe's removal from power prevents a dynastic legacy in African politics

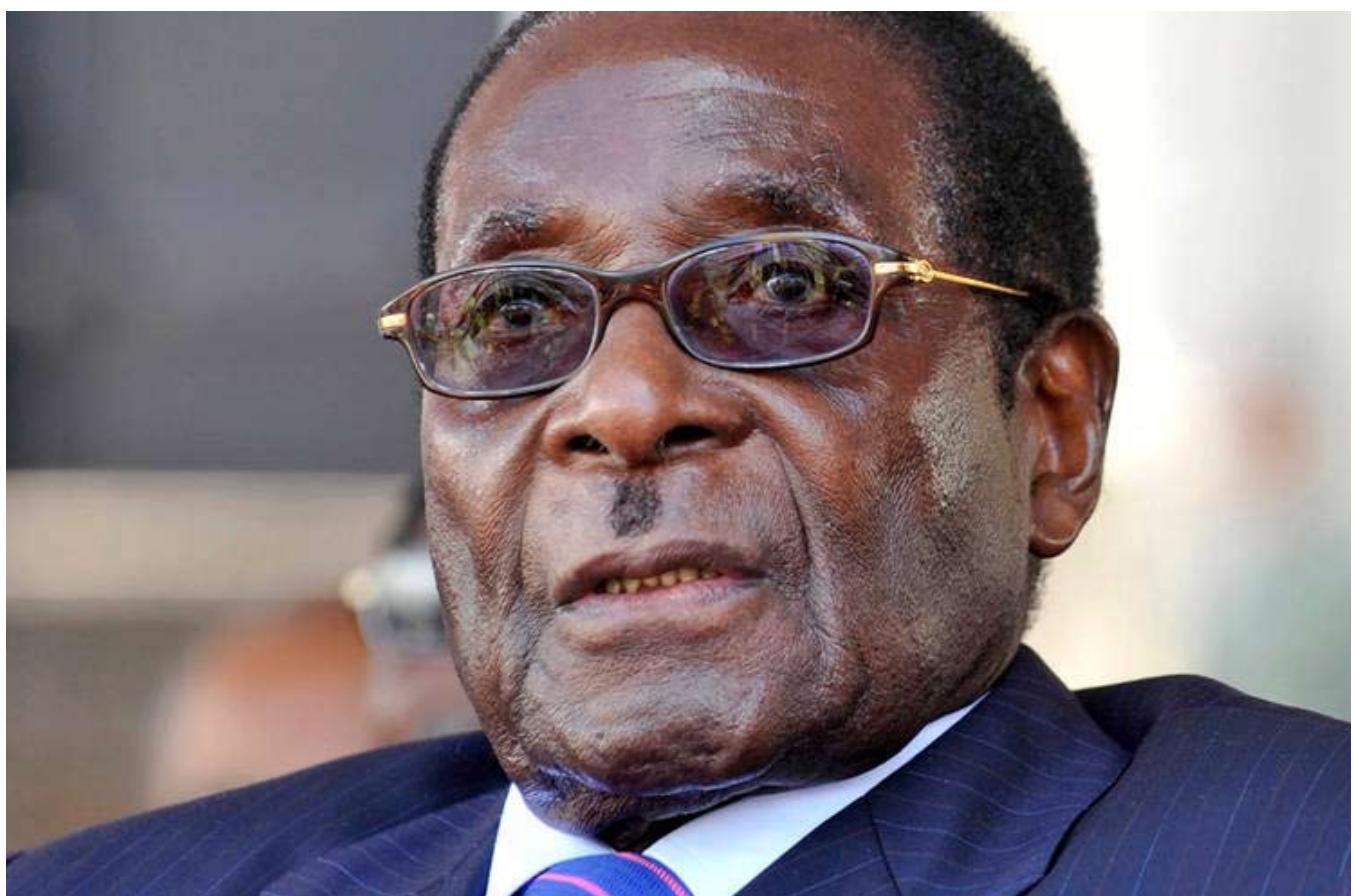
OE Political Bureau

**R**obert Mugabe will be remembered as the man who never wanted to give up power, and that will be slightly unfortunate. He was a freedom fighter and was the man responsible for ousting minority white rule in what was once called Southern Rhodesia. He led the Zimbabwe African National Union (ZANU) backed by China's Chairman Mao in a low-level conflict with the segregationist state, whose unilateral declaration of independence in 1965 was in response to British Prime Minister Harold Wilson's attempt to move the country towards majority rule. This was finally achieved in 1980 when the nation-state of Zimbabwe was formed after years of conflict. However, even though he was a hero of that nation's independence, he became a tyrant. Like many other parts of Africa, tribal loyalties were greater than national identity and ZANU was identified

with Mugabe's tribe, the Shona. A low-level civil war with the Zimbabwe African People's Union (ZAPU) associated with the Ndebele tribe eventually led to a massacre of over 10,000 citizens. Yet, Mugabe's reputation was not tarnished by these moves, and also managed to neuter all his rivals, particularly Joshua Nkomo. And for the first half of his rule, Mugabe, despite being a committed socialist of the Maoist variety, kept Zimbabwe growing and maintained peaceful race relations with the white minority. But with disgruntlement among his rural support base at the slow pace of economic growth for them, he began a policy of appropriation, often violent with several white-owned homesteads attacked. And despite international condemnation, he was unrepentant. With a wink and nudge, South Africa's ruling party, the African national Congress (ANC), backed him.

However, even South Africa's patience began to run thin as the appropriation

policy started to have an impact on Zimbabwe's economy and tens of thousands of Zimbabweans crossed into South Africa exacerbating economic issues in that country. Matters became so bad that it is estimated that over 95 per cent of Zimbabwean youth are unemployed. But even then, Mugabe stayed onto power, often using violence and the state's police and Army to stay in power even as he turned 90. But it was the love of his second wife, Grace Marufu, whom he wanted to succeed him and that is what finally turned the military against him. Much like other African dictators Mobutu Sese-Seko and Muhammed Gaddafi, Mugabe had outstayed his welcome and driven his country to the precipice. By preventing a Mugabe dynasty, the Zimbabwean military can pull the country. Blessed with natural resources and immense natural beauty, Zimbabwe can recover. One only hopes that the military and political leaders of the country now can save that nation.



# Indonesian beauty queen crowned Miss International 2017

Indonesia's Kevin Lilliana was crowned Miss International 2017 on Tuesday at an event held at the Tokyo Dome City Hall. This year, a total of 71 women participated in the beauty pageant that was won by Kylie Verzosa of the Philippines in 2016, reports Efe news.

"It's like a dream come true. Indonesia, we made it," said the 21-year old Lilliana, adding she would use her win to promote world peace and cultural exchanges.

The other finalists of the 57th edition of the pageant, held in the Japanese capital for the fifth consecutive year, included Chanelle De Lau from Curacao (first runner-up) and Venezuela's Diana Croce (second runner-up).

Two other finalists, Japan's Natsuki Tsutsui and Australia's Amber Dew, won the awards for best national costume and Miss Perfect Body respectively. Lilliana also won the award for being the best-dressed contestant.



# MADDY IS MAD ABOUT FILMS

## A fine actor who bridges the north-south divide

R.Madhavan, popularly known as Maddy is riding a wave being the only actor in India who leads charmed life as a star in Bollywood and Kollywood. He has acted in more than 50 movies and also won few Filmfare awards. He is not only an actor but has worked as a film producer, as a writer for few of his films, hosted television programmes and has been a prominent celebrity endorser for multiple brands. He is one of the few actors in India who garners pan-Indian appeal, with his success in establishing himself in the North and the South Indian film industries. He is noted for his contributing activities and promotes various causes such as environment, health and education. Interestingly, last year, Madhavan's critically-acclaimed movie, Irudhi Suttru (Tamil remake of Saala Khadoos) was screened at the Prestigious International film festival and met with a fabulous response from global people and the media.

**Nithya Ramesh Model, Actor and film critic interacted with R.Madhavan for Opinion Express Magazine.**

**How are you enjoying your recent success of Kollywood release Vikram Vedha?**

I'm really happy with the movie Vikram Vedha making a big hit at the box office in India as well as overseas. It is nice to know that the audiences are adapting the new and different genres of movies that are made these days which is taking our Indian cinemas to the next level.

**What is the most extreme change to your personality, hair, body weight, etc that you have done to prepare for a role?**

Saala khadoos was an immense transformation for me. It was tough and it took a year for me to work and get right for the character to look like a retired boxer. I had to grow my moustache and hair. It was well worthy effort that I had put in.

**How do you choose a script?**

I listen to hundreds of scripts, but it has to excite me and at the same time my role should fit within my parameters. I look for scripts that are intelligent, age appropriate and which would fit in the right experience that the audiences are looking for.

**Is it true that you have to change yourself in order to be accepted into the entertainment business?**

No not at all. One has to be unique to be accepted. First you need to understand that like everybody else you are unique too in some or the other way, you should always be inspirational and have the ability and strength to portray the role assigned to you. That is when you will be accepted by the audience. If you have qualities that the common

man wants to have after seeing you then you don't have to change yourself.

**If you were offered two movies simultaneously, one of which is a commercial movie with a reputed director and will make a huge gross worldwide whereas second one is a truly artistic film which requires great method acting and which may not be a box office hit, but will earn huge accolades for you and your entire team in a long run ... what would you choose?**

The commercial movie as I am strong believer of Box-office hit.

**How do you prepare yourself so that you'll bring the right amount of realism and emotion to a scene?**

I try to own the scene. If a scene is given to me, I don't try and do it like somebody else would have done it. I don't want to do it like my critics or other actors who might have already done that sort of scene. I want to make it "The Madhavan's" so being within the character that has been defined helps me to try and make it my own. Therefore I think it becomes unique and one can achieve the right amount of realism and emotion to a scene.

**You are one of the few actors from South to have made a successful career both in Hindi and Tamil industry. Could you please elaborate?**

I was lucky born a Tamilian and was brought up in the Hindi backdrop and this worked as the biggest strength for me to get into Bollywood. I'm more of a Hindi north based guy and I always write my dialogues in Hindi as my Hindi is good and there was never a doubt that I was not a Hindi guy.

**Does history interests you? What historical figure would you be interested in portraying some day?**

I'm a historian. (Laughs) To be honest I was always interested in history and knowing the past in simple terms. I believe in this saying "those who do not know history will forever remain nothing more than a child". I would love to play Alexander The Great. He was spectacular and inspires me the most. He conquered most of the world when he was 32 and died fairly young. He was arguably the most influential ruler in history I would say.

**Tell us about what you're working on now?**

I am doing a Bollywood flick Chanda Mama Door Ke. I have my next year kind of full and got a couple of films in Tamil and a biopic which will be made in both Hindi and Tamil as well, also probably the remake of Vikram Vedha in Hindi.



# Creativity is a key for innovative cinema – Ravi K Chandran

Ace cinematographer reflects on his 26-year journey in film world

Indian cinematographer and director, Ravi K. Chandran has worked on Tamil, Malayalam, and Hindi movies. He has won the Filmfare Award for Best Cinematographer for movies such as Virasat, and Black, and the Filmfare Award for Best Cinematographer - South for Kannathil Muthamittal. His best known works in Bollywood are VIRASAT (1997), Dil Chahta Hai (2001), Yuva (2004), Paheli (2004), Black (2005), Fanaa (2006), and Saawariya (2007). Ravi has won two Filmfare Awards and one Southern Filmfare Award.

**Ms Nithya Ramesh Model, Actor and film critic interacted with Mr Ravi K Chandran for Opinion Express Magazine.**

■ **Do you have a favorite experience in your work as a Director of Photography? What film are you most proud of?**

There's nothing like a favorite film experience because every film is by itself an experience, I have been shooting since 26 years, still everyday when you are on the set there is always a new challenge like light may not be correct or rain during shooting, some actors have to leave by certain time so in the morning we will be shooting the night scene or in the night we will be shooting a day scene according to the script all these issues happen. Everyday it's an exciting shoot only if you don't see your work as a problem then it's not a problem. When you start seeing your work as a problem then it is a problem.

My favourite films are 'Dil chahta hai', 'Black', 'Kannathil Muthamittal', 'Ghajini' and 'Saawariya'. 'Virasat' is an important film in my career. Each film has got a plus and minus but every film is part of life. You spend almost a year in a film. So if I do 20 films then 20 years of my life is gone. That is very crucial period of life. You have to leave



your youth, family and go and travel, you end up eating food on roads, rains. Basically it is very important journey in every film and every film is an important film in life or career. So that's how it is. I'm very proud of 'Virasat', 'Kandukondain Kandukondain', 'Black', 'Kannathil Muthamittal', 'Minsara Kanavu' and 'Saawariya'.

■ **What type of film would you love to work on that you haven't worked on yet?**

See I haven't worked on a periodic film like 'bahubali' with a lot of special effects and action film. I like that kind of film and it would be very exciting to do those kind of films.

■ **What do you look for when hiring your main team?**

I normally work with the team who are with me for 2 or 3 years. When recruiting new team we generally ask for what kind of interest they have. I talk to them, I get to know what kind of interest they have in

cinematography, what they actually want to become and what they really mean by they are interested in cinematography. Some people come and say that they like cinematography a lot and love it but if I ask them tell me a good cinematographer in India or internationally, they don't know. They wouldn't have watched any of those films of great cinematographers but they have all the updates about new film of their favourite actor or actresses. They know where to get good food but they don't know about the job they want to do. It is like I love music but I don't who is Illairaja or A R Rahman. If you were interested then you would know or find out about your interest. This generation has access to the best of internet, make use of it and seek for the information where your interest lies. Why I have to say this is because I come from a village, I used to come to Chennai to read about America's cinematographer and then to become that I came and got registered myself for the American library. So every week I used to go and read and that is the kind of interest one should have. If you are interested in that subject then you should know much about it in depth. If I want to know the top 10 cinematographers in the world then I google it and watch their films. If I want to know about the lenses in the market then I buy it and test it. I grow with the technology.

For upcoming cinematographers I would like to say it is an evolving process. If you want to learn cinematography then you should learn the basics, composition, structure, colours and art of cinematography. Also there are many books available on the internet buy them online or borrow books and read them. The main thing is that you should read and get to know what you are dealing with.

#### ■ Where do you see the future of camera/lighting technology in film?

It's growing every day. There's no limitation. It is like a cocoon, you don't know what it is. It just keeps growing. I would say technology is growing so much that you can shoot a small movie or video with 4K resolution on phone. New technology like virtual cameras, 360 degree camera and others are doing great in the market. Technology will never stop and will only keep growing.

#### ■ What film, besides the ones you've worked on, have you seen the most times in your life?

I have never watched my films



Some people come and say that they like cinematography a lot and love it but if I ask them tell me a good cinematographer in India or internationally, they don't know. They wouldn't have watched any of those films of great cinematographers but they have all the updates about new film of their favourite actor or actresses.

again and again. If I do then I would want to redo the entire film again (.... laughs....)

#### ■ What according to you is film making all about?

I would say that the film making is a privilege and not everybody can get a chance to do a film that was the case earlier because you had to rent cameras, equipments, processing till editing the footage. Now everything can be done on phone. If you want to be a film maker, you can shoot everything on your phone and see whether you can tell a story effectively. Editing, sound design can be done on phone and computer and these are the two things that you will be requiring to make a film.

#### ■ How can one be a successful director?

If you want to be a director just make one Short film and see whether you can tell a story and if you are successful at that then try and tell more stories and upload them. Stories come from life and not from anywhere else. So you should look around for stories in life. Take personal stories that always translate into something else otherwise it will never work. If it is about thriller then there

are thousands of movies made on that genre all over the world. If you think you are doing it for the first time, they have done it all. You name a subject they have done it all, unless you say something unique about your story in personal voice only then people look up to it and notice.

Say 'Dil chahta hai' is a personal story and was told brilliantly on screen and that's what inspires me. It is difficult to direct without knowing the environment, body language. People think it's very easy and it is not at all easy trust me

#### ■ How do measure an achievement in the film world?

I would like to say that there are no shortcuts for achievements. You have to get in depth and study about what your interest lies in because for every achievement you will be judged. For example there is a difference between a taxi driver and a professional race driver. To be a professional driver you need to learn the art, then practice, and then go on the tracks. You will have a coach to train you and he will judge you if you are eligible to race. And at the race you will be judged to win. So you will be judged everywhere and at every step. (....signs off....)

# MANUSHI CHHILLAR IS CROWNED MISS WORLD 2017

Thanks to her success, India equals Venezuela for producing maximum number of beauty queens

India is a factory of producing beautiful girls – quoted a media person covering Miss World event. An Indian medical student has been crowned Miss World following a glamorous event in China, making her country the joint-most successful nation in the pageant's history along with Venezuela. Manushi Chhillar became India's sixth winner of the prestigious beauty show, following in the footsteps of successful Bollywood actresses Priyanka Chopra and Aishwarya Rai. Chhillar's win means that India and Venezuela have both won the competition a record six times each over the course of its 67 year history.

The 20-year-old beauty winner is a trained Indian classical dancer who enjoys painting. The Miss World website also says that she hopes to open a chain of non-profit hospitals in rural areas.

Miss India Manushi Chhillar wins the 67th Miss World contest final in Sanya, on the tropical Chinese island of Hainan on November 18, 2017

Contestants hold hands and pose during the 67th Miss World contest final in Sanya, Chinese on Saturday





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