

INTRODUCTION

It is not customary in India to recall with pride the contribution of jurists to national development. Indeed, this may well be one of the major reasons why the very word 'jurist' has been so debased in contemporary Indian discourse. We are beholden to Justice E.S. Venkataramiah for inaugurating what one hopes will become a tradition of remembrance.

No reader of this monograph can remain unmoved by the versatility of B.N. Rau as legal counsellor, judge, law reformer, international lawyer and, above all, constitutional architect. Indeed, even a bare recital of Rau's achievements should make many of his modern day counterparts a little uncomfortable. Rau's career and contribution resonate the virtues of learning. It is unfortunate for the future of Indian democracy that knowledge and power have become adversaries; Rau recalls for us not just the grace which learning brings to power but also the ways in which it enhances the benign face of power. For all those who are now, and in the future remain, concerned with the augmentation of the Indian state's constitutional and legal prowess, Rau's life has a simple message: 'Ignorance of comparative and international law and jurisprudence is no bliss.' Indeed, the knowledge of power is doomed without the power of knowledge.

A critical assessment may suggest that Rau's learning was confined to Anglo-American orbit; but it should be recalled that socialist jurisprudence was at his time still traumatically changeful and the colonial context made access to alternative world-views somewhat difficult, even for him. It is no mean tribute to say that he assimilated the common law tradition with a sure eye to the Indian future, even when the India of his conception remained predominantly a bourgeois liberal vision.

If quest for knowledge brings humility, among Indians it also breeds a good deal of hagiography. This was the

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case, alas, with Rau who was overawed by Justice Frankfurter's undue caution against embodying "due process" in the Indian Constitution. Frankfurter's advice to him was essentially: "Be thou a Japanese!" Rau ultimately adopted the McArthur constitutional formula for Japan which legitimated the deprivation of the right to life and liberty in accordance with the "procedure established by law". Had he lived to see the Indian development, he would perhaps have been among the foremost articulators of due process and he certainly would have celebrated with us its return with *Maneka Gandhi*.

It must remain a matter of conjecture (in the absence of a juristic biography of B.N. Rau, a labour to which Justice Venkataramiah summons Indian law persons) what Rau would have proposed by way of an alternate polity of India, and how he would have visualized the Indian Constitution, had he been wholly imbued with the nationalist struggle for India. Clearly, he viewed the law as a major instrumentality of social transformation and he seemed to believe that the legal order was possessed of a degree of relative autonomy from the economy and polity. Within this, he perceived the task of a jurist as a social technologist, incrementally working towards choices which were incompatible with survival of colonialism and appropriate for the structure of self-governance for a free India. The idea of a jurist as a social architect, speaking to the future, comes alive in Rau's luminous career.

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