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STRATEGIC STUDIES**

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PROFESSOR S.V. KOGEKAR MEMORIAL LECTURE

BY

SHRI N. GOPALASWAMI

FREE AND FAIR ELECTIONS : CHALLENGES AHEAD

26th May, 2011

**CENTRE FOR ADVANCED
STRATEGIC STUDIES**

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AIR MARSHAL S. KULKARNI

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Air Marshal (Retd) S. Kulkarni welcomed the dignitaries on the dias and every one present in the auditorium. He said that the Centre has been privileged to hold the Professor S.V. Kogekar Memorial Lecture every year since 2008. The first was delivered by Dr. Dileep Padgaonkar on “Indian Democracy : Its Strengths and Weaknesses”, the second by Dr.Madhav Godbole on “Challenges Before the Fifteenth Lok Sabha” and the third by Mr. Wajahat Habibullah on “Right to Information : Reality and Rhetoric”.

He said that late Professor S.V. Kogekar, a graduate from the London School of Economics and a student of Harold Laski was an educator and an intellectual in the best of traditions. He was a true liberal at heart and was known for speaking his mind fearlessly. He was a firm believer in democracy as enshrined in the Constitution. During Emergency delivering the Kale Memorial Lecture in 1976, he made an earnest appeal against the extension of the term of the Parliament to the powers not to delay the return to normalcy.

Professor S.V. Kogekar joined the Deccan Education Society in 1937 and was life member of the Society. He had been Principal of BMCC and also of Fergusson College, and Dean, Faculty of Mental, Moral and Social Sciences, University of Pune. Intellectually active till end, he used to write book reviews, the last such review he wrote just a few weeks before his death.

Air Marshal S. Kulkarni said that we are fortunate to

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have Shri N. Gopaldaswami, IAS (Retd), former Chief Election Commissioner to deliver the Prof. S.V. Kogekar Memorial Lecture on “Free and Fair Elections : Challenges Ahead”. After 24 years of rich and diverse administrative experience at senior levels in the State of Gujarat he served at the Centre from 1992 to 2004 at very senior positions including as Secretary General, National Human Rights Commission. He was Secretary in the Ministry of Culture and Union Home Secretary before his appointment as Election Commissioner. He served in the Election Commission for over five years. He was the Chief Election Commissioner from 30th June, 2006 to 20th April, 2009. In a career spanning 43 years he earned a reputation for uprightness and hard work and was acknowledged as innovative, responsive, people friendly and technology friendly. He was instrumental in getting “Vedic Chanting” as one of UNESCO's World's oral heritage. He was instrumental in launching of Government of India's programme to unearth, recognize and digitize the manuscript wealth of this country. He oversaw the conduct of elections to many State Assemblies which were appreciated for being violence free and intimidation free, clean elections. He oversaw the preparations for the General Elections to 15th Lok Sabha. During his stewardship, commission successfully implemented many innovations including that of Photo Electoral Rolls to improve the quality of Electoral Rolls and to prevent bogus voting.

Air Marshal S. Kulkarni said that in Professor Dr. SB Mujumdar we have a distinguished academician and educationist, Chancellor of Symbiosis International University to Chair today's function. In appreciation of his long illustrious career, the President of India in 2005 awarded him the prestigious “Padma Shri”. The Vice President of India awarded him in 2009 the “Punyabhushan” award. He is also recipient of prestigious “FIE Foundation Award” and Maharashtra Gaurav

Award. He was also the chairman of the education wing of the Federation of Indian Chambers and Commerce and Industries (2005-2006).

Dr. S.B. Mujumdar has written many standard books and published several papers in national and international journals. He was a member of the Executive Council of the Pune University.

Symbiosis means living together of two different organisms for mutual benefit. Its motto is “Vasudhaiva Kutumbakam”. The world is one family.

Symbiosis today comprises 40 institutes imparting training in diverse disciplines. It has over 27,000 students who hail from all states of India and from 80 different countries. The Ministry of HRD, Govt. of India conferred the 'Deemed to be University' status on 19 institutions of Symbiosis which are now under the ambit of Symbiosis International University. Air Marshal Kulkarni said that we are fortunate that Dr.S.B. Mujumdar, inspite of his extremely busy schedule has found time to Chair today's function.

**PROFESSOR S.V. KOGEKAR MEMORIAL
LECTURE**

**SHRI N. GOPALASWAMI
FORMER CHIEF ELECTION COMMISSIONER**

**FREE AND FAIR ELECTIONS :
CHALLENGES AHEAD**

At the outset I would like to express my sincere thanks to the Chairperson and members of the Managing Committee of Centre for Advanced Strategic Studies for the opportunity given to me for presenting this memorial lecture instituted in the name of Prof.S.V.Kogekar, an intellectual, a multi-faceted personality, a liberal, a man of principles and above all a much-loved teacher. I feel truly blessed.

1. The topic today is challenges to free and fair elections. But before we get into the issue of whether our elections are free and fair and the challenges it faces currently, let us have a look at the highlights of our functioning as a democracy for over 60 years now. Barring an unfortunate period between June '75 and March '77, we are a thriving democracy notwithstanding the grave prognostications, nay even fond hope, that we would fail to be a democracy sooner than later. If many had an apprehension of what the morrow may bring, some were certain that it would be dark.

But the people of India had other ideas. Our Founding Fathers had placed an enormous faith in the largely poor and mostly uneducated countryman – our literacy rate was a very poor 15% at the time of Independence - and trusted them by granting voting rights to every citizen. If Universal Adult Franchise was an article of faith with them, our countrymen and women amply repaid that faith. 15

elections to the Lok Sabha and over 300 elections to State Assemblies have been conducted in the last 60 years and people have chosen their Governments in the best possible way --- through the power of the ballot and not the bullet.

2. We tend to take certain things granted. Adult franchise is one of them. So it is appropriate to remind ourselves at this juncture that in many older democracies women or other sections of the population earned the right to vote many years after franchise was given to men. In Australia, Aborigines were given voting rights only in 1967, a good 71 years after the last of the colonies in Australia gave voting rights to its citizens. In U.K., women won franchise only in 1918-19, long after the country gave its men the right to vote. In India, from day one it was one vote for every citizen irrespective of his status in life, his caste, creed or his educational attainments. We started in 1952 with one box for each candidate and in 1962 it became one box for all candidates. In 1982 the first experiment started with an Electronic Voting Machine and 20 years later in 2004, 10 Lakh EVMs were employed throughout the length and breadth of our country in the 14th General Elections to Lok Sabha. If it took a little over a day to count and declare results in a Parliamentary election in the ballot paper era, now with EVMs, the task is completed in about 8 hours.

3. But it is not all a gloriously happy state of affairs as far as the election scenario is concerned. The system suffers from many aberrations but the only saving grace is that the umpire namely the Election Commission of India is still perceived as doing a good job of delivering elections notwithstanding the many hurdles it faces.

Fragmentation of Polity

4.1. Given below is a statement from information about the vote share of the winners in the last two Lok Sabha elections and many State assembly elections over the last decade.

*Figs in Col.2,4 and 6 are % of Winners scoring less than 50% of votes polled

L.A./L.S.	< 50% *	L.A./L.S.	< 50% *	L.A./L.S.	< 50%
L.S '09	82.50	L.S.'04	59.66	KTK'08	77.67
A.P. '09	92.85	A.P.'04	33.67	Raj '08	82.50
O.R. '09	69.38	Delhi '03	55.66	Delhi'08	66.67
GJ '07	49.45	KL '06	38.57	T.N. '06	81.63
U.P. '07	96.53	BH '05	88.89	MP '08	81.73
MH '09	80.21				

Information collated from ECI sources

It would be noted that in most states a high percentage of winners are scoring less than 50% of the votes polled. When only 60% of the electorate votes, a candidate who actually has been supported by just about 30% of the electorate, becomes a 'representative of the people'. Things get worse when the polling % is even lower at around 45% as happens in states like U.P., Bihar etc. With emergence of many regional parties, many of them caste-based outfits, there is a further decline in the representative character of the MLAs in many states who increasingly have come to represent a part of a section of the population based on caste, creed and communal considerations. Are such MLAs and MPs truly representatives of the people of a constituency when there is a sizeable section of the voters not having preferred them? The election may be free but is it fair on electorate? The First Past The Post system has inherent flaws.

4.2. The problem is further compounded by the low polling in urban areas as compared to rural areas. Within cities itself, there is lower polling in 'elite' or 'educated' neighbourhoods. Given below is some statistical information of polling in cities. Everybody is aware of the anger that spilled over into the streets following the Nov.26, 2008 terrorist attack in Mumbai. Those hands that brought candle lights out on that day however, it seems, failed to get them marked at the polling booths the following summer in the 2009 General Elections to

the Lok Sabha. The polling in downtown Mumbai was an abysmal 22% in some of the booths.

Here is some sample from a couple of state elections.

U.P. 2007	Karnataka 2008	Mumbai 2009(LS)
Lucknow District	Bengaluru District	
Lucknow (W) 27.91%	Dasarahalli 43.8%	Pune Kasbapeth
Lucknow (C) 28.56%	Bengaluru City 44.07%	P.S. No. 149
Sarojini Nagar 43.60%	Byatarayanapura 53.31%	SadashivPeth
(Just 5 Km away)		8.93%
Mohanlalganj 43.00%		
UP State 45.96%	Karnataka State 64.87%	50.73%

4.3 There is also some kind of general disinterest or lesser enthusiasm for Parliament elections as compared to the State Assembly elections.* There are traditionally high voting states like Kerala, Tamil Nadu, Punjab, West Bengal, and most north eastern states etc. and there are states with poor voting record like U.P., Bihar, Rajasthan, Madhya Pradesh etc. Within each state there is the rural-urban divide. Given the relentless urbanization, apathy of the urban voter is a cause for concern. Most youth migrate into cities in search of employment and so a declining percentage of voting in the cities also means poor participation of youth in the democratic process, which does not augur well for the future of the polity and democracy.

*Maharashtra State LS 2009 - 50.73% LA 2009 - 59.39%

5.1. Criminalisation of Politics and Politization of Criminals

A distressing phenomenon is the steady rise in the number of people with criminal records entering the Assemblies(LA) and Parliament(LS). Herein below is a sample from some of the legislatures across the country.@

- **MPS WITH CRIMINAL CASES**

- L.S. 2004 --128(23.57%) 2009 --161(29.65%)
- Change in 2009 over 2004 +25.78%
- MPs with Serious Criminal Charges
- 2004 – 55 2009 – 75 (+**36.36%**)

MLAs with Criminal Cases in L.As of different states

- BH '05 **49.00 %** BH '10 **58%**
- OR '04 **27.89 %** OR ' **33 %**
- MP '03 **15.65 %** MP '08 **23 %**
- KTK '04 **25 %** KTK '08 **18 % Reduced**
- HR '05 **26 %** HR '09 **17 % Reduced**
- MH '04 **46 %** MH '09 **50 %**
- JKD '05 31 % JKD '09 **73 % !!**
- U.P. '07 **38.30 %** GUJ '08 **25 %**
- T.N. '06 **32.91 %** WB '06 **15.31 %**
- JKD '05 **30.86 %** PB '07 **17.09 %**
- AP '09 **24 %** HP '07 **31 %**
- DELHI '08 **39 %** RAJ '08 **15 %**
- @ **Information taken out of NEW/ADR reports**

5.1 It seems that criminals have sought legitimacy by entering politics and the perception of their winnability – winning perhaps more by (their) crook – has led to their getting nomination from most political parties. An election contest where a person with a record of heinous crimes to his credit is pitted against candidates with cleaner record, it can be neither a fair contest nor a free one given the advantage of muscle power in favour of the former. Factor in the inordinate delays in the criminal justice system, the picture is complete. Those charged with offences like murder, dacoity, robbery, rape and worse are now increasingly entering the hallowed precincts of the Parliament and Legislative Assemblies. From 'criminal law-breakers' it is increasingly becoming a case of 'criminal, law-makers'!

5.2. Thanks to the Supreme Court's directives and 'No Thanks' to our Parliamentarians, information about the pending criminal cases and Assets and Liabilities is required to be submitted in the form of an affidavit by every candidate at the time of filing his nomination paper. NGOs, like ADR (Association of Democratic Rights) and NEW (National Election Watch) who moved the S.C., have over the years been diligently collecting this information and publishing it despite the many odds but it is a moot point whether this information gets the wide publicity that it deserves and more importantly, whether this information proves to be any guide to the voting public in influencing their choice. Reluctantly one has to say that it does not seem to be having any impact if one looks at the increase in the number of candidates with criminal record in our legislative bodies. Further, as has been brought out by the ADR/NEW, while there has been a slight decline in the percentage of candidates with criminal records getting nominated, their percentage amongst the winners has shown an increase indicating that they have a better chance of winning which is no compliment to the sense of discrimination exercised by our electorate. May be they have a better threat potential or perhaps the electorate feels that they will deliver better with their 'danda'!

5.3. In this context, it may be mentioned that the Election Commission wrote almost a decade ago to the Government proposing an amendment to the law to prevent people with criminal records becoming candidates. The matter, perhaps understandably, never got a serious look-in till a couple of years ago. The Parliamentary Standing Committee to which it was referred by the Law Ministry was reluctant to go with the proposal on the ground that such a provision can be misused by ruling parties foisting cases against opposition leaders (so much for political morality). But the EC had nuanced the proposal with the recommendation that this should apply to only those accused of heinous crimes like rape, murder, dacoity and robbery etc., where the punishment is imprisonment for 5 years or more and any

charge sheet issued within 6 months prior to the announcement of elections should be ignored but even that did not cut much ice as also the suggestion that the moratorium, if need be, may be extended to 1 year. The fact, that such grave offences are Sessions triable cases and unless there is a prima facie case emerging after police investigation, a Sessions Court would not issue a charge sheet, also failed to convince the opponents to the proposed amendment.

5.4 The Committee, it seems, was also concerned that the proposal, if accepted, will entail a major departure from the law of the land that a person is not guilty until he is convicted by a court of law. This is, to say the least erroneous. The issue was not at all one of pronouncing somebody 'guilty' but simply whether someone charged with serious criminal offence should be kept away from a contest to elect law-makers. That such a step would be a reasonable restriction, in public interest, on the right to contest for political office is, at least to me, in no doubt.

5.5 The only recommendation the Committee found worth making was that proclaimed offenders be not allowed to contest. But the irony of it is that a proclaimed offender is a person who is not living at the declared address and the EC has already instructed that such a person's name should be deleted from the electoral roll because the person would no longer fulfill the condition of being an 'ordinary resident' at the given address.

5.6 The elections that allow candidature by those with a criminal record and that too in heinous offences, can neither be called fair nor free.

6. The Muscle Power:

6.1. One of the aberrations that plagued the election scene in the 90s

was the use of muscle power by candidates to capture booths, cast bogus votes and intimidate voters perceived to be unfriendly, from reaching the polling booth. This was rampant in states like Bihar and U.P where it was practiced in a 'naked' sort of way and elsewhere in more subtle ways. But the peremptory cancelling of polls in polling stations when the recorded polling was 90% and above, initiated first by Shri.T.N.Seshan as the then CEC which later on became an unwritten policy of the EC, brought some relief though tongues used to wag that the fraudsters had learnt their lessons and so used to stop at a carefully calculated 89% to escape EC action! Shri Seshan asked and then fought for Central Police Forces (CPF) being provided for poll duty. The CPF personnel proved effective and so with increasing politicization and consequent ineffectiveness in checking such malpractices, or worse still collusion, by the State police, the demand for CPF deployment has now become so pervasive that all opposition parties in almost all states insist on Central Forces being brought in for election duty. EC also, faced with increasing pre-poll and post-poll violence, drew heavily upon CPF. The elections to state assemblies and the Parliament in the last few years have witnessed deployment of more than 600 Coys (60,000 personnel) of CPF for each phase of the poll in states like U.P, Bihar and West Bengal. In the General elections to the Parliament this figure goes upto 850 to 900 Coys in each phase but over a much larger number of constituencies/states. While this massive deployment has effectively curbed muscle power and has put an end to most booth-capturing ventures, even in states like Bihar, one starts wondering about our democratic credentials when elections have to be conducted under the shadow of guns, albeit of the Government variety.

6.2. Notwithstanding these massive deployments, it is not unusual still to hear of attempts to intimidate voters especially those belonging to the socially and economically weaker sections of the society. While the special efforts were mounted by the EC in

'Vulnerability Mapping' and providing security to these sections of the society, in many cases the fear of post poll violence proved to be a strong enough deterrent. In some places 'ideology' is the driving force for such intimidation. There unfortunately is no clear record of such post-poll violence as, I suspect, such incidents are deliberately misclassified.

7. Money Power:

7.1 Since the early years of elections, that is even before Independence during the Provincial elections in British India, there had been complaints of bribing of voters. The Constituent Assembly debates repeatedly focus on this and the manipulation of electoral rolls as the two important problems. But post-Independence, as the political class became familiar with the election rules and regulations, the attempt to beat the system became more and more sophisticated and blatant. Liquor, saris, dhotis, shirts, T-shirts were added to the distribution list. This has now given way at least in the three southern states, which incidentally have done well economically during the last two decades of economic liberalization, to hard cash as in Tamil Nadu. Since the by-election held there in January 2009, a beginning was made in the 'direct cash transfer' model of bribery in that state. In the recent Assembly elections in TN, an amount of Rs.60 crores in cash was seized by the Election machinery. The innovative methods used to beat the system trying to put a break on this 'bribery' will put to shame the innovative genius of any self-respecting scientist or technologist vying for Nobel Prize. It is anybody's guess as to what % of the total bribe money that figure represented - may be 10% or only 5%. As reported in the Press, there was cash for votes galore in Andhra Pradesh during the 2009 Assembly elections and more so in the just concluded do-or-die by-elections in Kadapa district of that state. Earlier during 2008 Assembly elections in Karnataka, the EC apprehended gift material, liquor and cash worth Rs.45 crores. A top

level politician of a national party blamed the EC then for the cash distribution alleging that the strict monitoring of elections with ban on posters in public places etc., had not only robbed the elections of their colour and pageantry but had also forced the candidates go for direct action to woo voters!

7.2 It is a little kept secret that most candidates spend much more than the ceiling on election expenditure. As succinctly put by a former Prime Minister, every Parliamentarian starts his innings in the parliament with a solemn lie on oath about his election expenditure. According to a recent report, a large number of MLAs, in some recently concluded elections, filed election expenditure statements that showed a total expenditure at around 45% of the prescribed ceiling fiercely proclaiming, albeit a little too cheekily, their adherence to the law of the land!

7.3 It goes without saying that money power is the biggest negation of a free and fair poll. Money power is not restricted to the campaign expenditure alone. It is no secret that parties distribute tickets after taking a 'fee' that ranges from the 'stiff' to the 'mind-boggling'!

7.4 To even a casual observer of the election scenario it would be clear that with economic liberalization and hugely increased spending on development projects, the enormous power of the political office proves to be too great temptation to overcome, for those with scant respect for traditions or probity in public office. Combine this with coalition governments with survival as the sole motive force and weak institutional arrangements to quickly bring to book wrong-doers to book, the picture is complete. Even the lame excuse, of the need to collect funds for the party, is no longer proffered and it is corruption and no-holds-barred self-aggrandisement. If there is any doubt one has only to look at the enormous increase in assets of contesting candidates from election to election brought out by the Association for

Democratic Reforms (ADR)/ National Election Watch(NEW).

Here is a sample -

- Maharashtra 2009 339% (max.9564%)
- **Haryana** 2009 388% (max.5488%)
- Karnataka 2008 797% (max.31526%)
- Bihar 2010 190% (max.33039%)

A candidate who spends enormous sums in his election is merely seeing it as an investment that will earn him manifold returns once he gets hold of the levers of power. Unless our Society manages to ensure that public office does not become an 'office of profit' and unless and until any misuse of public office for private gain is punished quickly and severely, there can be no easy solution to the problem of candidates using every trick to over spend in elections.

At this juncture I must bring to your notice some other 'innovations' peculiar to our elections that hit at the very root of free and fair elections.

8. Election Manifestoes and Freebies

8.1 While political parties have always tried to play to the gallery in their election manifestoes, the recent trend of expanding the list to 'white' goods(can FMCG products be far behind) is alarming indeed. Traditionally the political party manifestoes gave some indication of the development programmes and projects they would concentrate on and, on the side, provided promises of free electricity, free or subsidized food grains to the poor, free mid-day meals to children etc. That gave way to such things as fee concession to all students or girl students, cycle to girl students and so on. Some of them were genuinely welfare measures and others populist but not absurdly consumerist ones. But then a sea-change has come in this scenario now. First it was the promise to supply free TVs by the DMK in Tamil Nadu (2006

General elections) and now both the main contenders for power in the current general elections in the state, the DMK and the ADMK offered a veritable avalanche of white goods -- mixies, grinders, fridges and what have you. Newspapers reported that after the manifestoes were out, the sale of these white goods plummeted in Tamil Nadu as the voters are now not buying these anymore but are waiting with bated breath for the results and the government formation to take home all these free, whosoever comes to power! To hell with such inconveniences as power cuts and the prospects of darker days ahead as investments in power and other infrastructure sectors take low priority. This prospect, of party manifestos becoming competitors to Mega Mall advertisements for white goods being adopted in other states too in the near future to the detriment of the public exchequer being used to fund priority infrastructure projects for the benefit of all, is too scary for words. This competitive wooing of the electorate with promise of consumer goods makes a mockery of elections, governance and democracy.

9. Paid News

9.1 Complaints surfaced during 2007 U.P. General Elections about Newspapers asking for under the table payment from candidates and there was a specific complaint, but only oral, from the President of an important party. In the early days of this 'innovation', newspapers used to publish advertisements as news items but with 'advt' written under it. When the EC started charging that expenditure to the candidate's account, first the letters 'advt' disappeared and later candidates press hand outs themselves were printed verbatim and passed on as news items. This innovation/ practice started first by a respectable national daily was picked up by the 2009 General Elections by newspapers all across the country with some honourable exceptions. But states like Tamil Nadu, Kerala, where each major party and even the factions within a party owned TV channels, were

not affected . It was rampant in the states of Maharashtra and Andhra Pradesh and it was duly exposed by Shri.P.Sainath writing in the 'Hindu'.

9.2. So blatant, nonchalant and absurd was this skulduggery that some dailies published 'news' that prognosticated victory for one candidate on the front page and for his rival, who also 'paid', on the last page!! So much for the much vaunted claim of the (print) media being the guardian of citizen's interests and the 4th pillar of democracy. Some in the visual media also followed suit.

9.3. Subsequently the Press Council of India commissioned a report but in the our true tradition of being a 'soft power', the PCI, allegedly bowing to powerful media interests, failed to name names notwithstanding the wealth of information provided by the two investigating journalists Shri.Pranjoy Guha Thakurta and Shri. Srinivas Reddy. A case filed before the ECI against an ex-CM of Maharashtra for hugely breaching spending limits, using material revealed in the inquiry report is meandering. Stung by the revelations and having been at the receiving end of this loot, the political parties have voiced their concern and support to any measure including legislation to curb this menace.

9.4 The syndrome of 'Paid News' may not end soon given the huge resources committed by contenders to political office at the time of elections in order to access the levers of power for making more 'moolah'. Public offices that have access to huge public funds are now at the disposal of the corrupt and venal. The recent series of scams, if anything, confirms the direction in which our democracy is going. The view that public exchequer is money that is to be handled by the representatives of the people as trustees is now seen as an archaic, unfashionable and unnecessarily sentimental nonsense.

10. Political parties

10.1 Political parties are a necessity in a democratic polity as it is they who form the bridge between the public on the one hand and the political and bureaucratic executive on the other. It is the political parties that help to provide identity to different social groups and voice to political views, synthesize the conflicting claims of different sections of the population and resolve social tensions. However surprisingly the Indian Constitution had no mention of political parties till 1987 when, for the first time, in the anti-defection law (Tenth Schedule to the Constitution), mention was made of political parties. Political parties however are registered under Section 29A of the Representation of People Act 1951 by the EC which made its own rules for allotment of symbols to them. Donation to political parties, by companies from out of their profits, was permitted but it was only in 2003 that the Donor was given exemption from Income Tax, provided the Donee (i.e. the political party) gave a list of Donors to the ECI. The Innovative tax-dodgers exploited the provision and used it for the purpose it was not intended namely, money-laundering. While the major parties still fought shy of revealing the names of Donors especially the big ones, there was a rush for registering new parties and to claim exemption. Many of them were found to have contested no election at all though year after year they received donations. In one test-case, which was examined in depth, it was reported to the EC by the Income Tax department that the party's income was invested in jewellery, shares, and Fixed Deposits! The number of registered parties steadily rose after 2003 and at one point of time the Commission used to receive three applications a week for new registration. To compound matters, the Supreme Court had ruled that ECI could only register and not de-register parties unless specifically empowered in this regard and since Section 29A of the 1951 act does not provide stringent conditions for registration or grounds for non-registration, there is no cancellation of any

registration and so once registered parties can continue in perpetuity. Proposal made by the EC in 1998 to enable ECI to issue orders regulating registration and de-registration of political parties is simply gathering dust in the Law Ministry along with many other reform proposals.

10.2. The income and expenditure accounts of political parties are also not scrutinized and there is no requirement to have them filed before the ECI or to have them audited by auditors approved by the CAG or to have them published in the public domain. ECI has proposed (1998) that it is essential in the interest of transparency and accountability of political parties that their accounts are audited and made available to the public.

10.3. If there is lack of transparency in political party accounts, their record in transparently conducting their affairs, is dismal. Inner party democracy is conspicuous by its absence in most political parties and the periodic intra-party elections to appoint office-bearers are mostly an exercise in obfuscation and sycophancy, characterized more by selections rather than elections. Barring a few exceptions, parties are mostly run as family concerns. The selection processes of candidates for contesting polls are thoroughly opaque affairs and it is alleged that of late there is a stiff asking fee in most parties which ensures that only the moneyed can contest elections. While the nation has a relatively 'young' population, youth do not get a deserving place in political parties and in nominations to the legislative bodies. The few youth there mostly belong to 'political families', the result of careful succession-planning!. The average age of the Lok Sabha members has actually gone up instead of being the other way while lip-service is paid to the need to harness youth power to political office.

10.4 Political parties being the main actors in a democratic polity if

their affairs are opaque and if candidate selection by political parties is based on the caste- community-religion calculus on the one hand and size of the purse on the other, the resultant elections may perhaps be free in nominal terms but it would be anything but fair to the electorate and to the polity.

11. Politicization of the Bureaucracy.

The Indian state placed reliance on, like the British model of Governance system it inherited and fashioned itself upon, a neutral permanent civil service. But 60 years down the line that concept seems to have failed but in a more pernicious way. Over the years the bureaucracy and particularly the Police has been highly politicized and more particularly corrupted. The lower levels of bureaucracy and its cutting edge level officials in Taluka offices and Thanas are perceived always to be 'pro-ruling' party irrespective of the party that comes to power and it behoves every party to curry favour to them thus establishing a mutually reinforcing arrangement. While the EC, in the run-up to elections does transfer the sub-divisional and District level officials and also state level officers perceived to be either ineffective or partisan, it is not physically possible to do the same at the cutting edge level except in rare cases. Increasingly there is the apprehension and consequent clamour of all opposition parties to bring in personnel from outside the state. This has led to a huge deployment of Central Police Force personnel in election after election in every state and keeping of the state police officials at arm's length, a trend that is unfortunate, sad, and should ring alarm bells. Increasingly this problem is surfacing in respect of the hundreds of polling officials. It is mostly the teachers who are drafted for poll duty and while in some states they are allowed to form Unions and therefore their affiliations are known, elsewhere it is an unknown quantity and so the EC has to go to great lengths to curb mischief at the polling station level. There have been many complaints but mostly

voiced after the elections are over that the staff at the polling station played a partisan role. This has over time led to policing the poll staff itself through videography at the polling station, use of micro-observers in large numbers and so on. This is making elections more complicated and also expensive too. But above all it leads to lurking suspicion that the election may not be fair even if free. Rajaji foresaw this state of affairs and earnestly advocated a 6-month period of President's rule in States before the General Elections were conducted. But in this, as in many other issues, he was far ahead of his times and the ideas he mooted that were scoffed at then, are receiving serious consideration now.

12. Summing Up

12.1 The Indian State has been seen in the last 60 years holding elections periodically to elect its representatives to the Parliament and to its provincial Assemblies and because of the sheer numbers involved, and not necessarily because of the quality of its functioning, has earned the sobriquet as the world's largest Democracy. But the many flaws brought out above make it clear that it still is a long way to becoming a Democracy that conducts truly and fully free and fair elections. At best it is still a case of work in progress. A slew of Reforms is a must if the election arena is to be rescued from the morass it has descended into though outwardly there are periodical elections that buttress our claim to being a functioning democracy.

Foreseeing such a state of affairs Rajaji had warned thus -
 "We all ought to know that Swaraj will not at once or, I think, even for a long time to come, be better government or greater happiness for the people. Elections and their corruptions, injustice, and the power and tyranny of wealth, and inefficiency of administration, will make a hell of life as soon as freedom is given to us." And to think that this was written by him 25 years before the country attained Independence!

He further went on to say -

"Men will look regretfully back to the old regime of comparative justice, and efficient, peaceful, more or less honest administration. The only thing gained will be that as a race we will be saved from dishonour and subordination. Hope lies only in universal education by which right conduct, fear of God, and love will be developed among the citizens from childhood. It is only if we succeed in this that Swaraj will mean happiness. Otherwise it will mean the grinding injustices and tyranny of wealth".

(From the 1921-22 prison diaries of Shri. C. Rajagopalachari.)

If reforms are not attempted soon, there is every possibility that our polity will end up as an insufferable tyranny of a few over the many and a sham democracy. And, God forbid, should that happen, we will be only gladdening the hearts of men who had prognosticated thus -

"Power will go to rascals, rogues, freebooters. . . .

All leaders will be of low caliber & men of straw. . .

They'll have sweet tongues & silly hearts. . .

They will fight amongst themselves for power & the two countries will be lost in political squabbles. . . .

A day would come when even air & water will be taxed "

(Winston Churchill 64 years ago had that to say reacting to Indian demand for Independence)

12.2 Electoral Reforms Agenda

12.2.1 First and foremost is the need for a comprehensive **legislation to regulate the political parties** that will provide for strengthening inner party democracy, making their financial affairs more transparent and subject to audit. Only then parties can become true vehicles of a vibrant democracy carrying out with conviction their precious role in a democracy to articulate interests and aspirations of

their constituents and to effectively play the role in conflict resolution.

12.2.2 In modification of the present First Past The Post (FPTP) system prescribing **50% Plus ONE vote** to decide the **winner** is the next priority. This measure has to be **combined with Compulsory Voting**, a provision for a button on the EVM for Rule 49(O) to give effect to 'None of the above' concept and simultaneous elections to the Assemblies and the Parliament. This will over-time bring in higher voter participation forcing the Parties to more carefully select candidates who have an across the board acceptance and also make the winner a truer representative of the constituency. Compulsory voting need not be scoffed at as un-democratic as countries like Australia, Austria (parts of the country) and a few other countries practice it for close to 100 years and as many as 30 odd countries have such a provision but with varying degrees of implementation. There is a specious argument that ours is too big a country to implement such a law. It is nobody's case that one ought to penalize all absentees at the same time. One can start with the 'elite' or the chatterati first! Others can come later.

12.2.3 **Legislation to bar those charge-sheeted for heinous offences** from electoral contests till cleared of the same and simultaneously provide for either special courts or fast-track courts to try their cases as an assurance to them against political vendetta is the next priority. This is not a new thinking and it is not only the Election Commission that has recommended this step but Law Commission and the Committee for Reviewing the Working of the Constitution and lately the Moily Committee on Administrative Reforms have also recommended it. This issue needs no special or laboured emphasis.

12.2.4 The issue of **Money Power**, which is manifested through

bribery, paid news and such other aberrations making the elections far from being free and fair, needs to be tackled effectively if only to see that the Legislatures do not become the privileged forums of the rich and the public office is not utilised for private gain. A strong Lok Pal and Lok Ayukta setup is a dire need if only to ensure that the public offices are not exploited to rob the tax payers' money for private gain, part of which is then pumped into election campaign -use of the money power - to win the election to perpetuate the hold on the lucrative 'office of profit'.

12.2.5 There have been many suggestions as to how to correct this aberration of huge expenditure incurred by candidates in elections and they range from doing away with the ceiling on expenditure to state funding. 'No ceiling' will certainly remove the current fig-leaf of our pretensions about the expenditure-ceilings being adhered to but it will also make it absolutely clear that the membership of our legislative bodies is only for those with deep pockets. But those opposed to the alternative, of **State Funding of Elections**, are wont to argue that state funding would merely become supplementary and the ceiling would in any case be breached. There of course is a valid case for state funding if we are convinced that being rich should not be the sole criterion for contesting for public office. Availability of funds will not be a crucial issue as the funds required for totally meeting the expenditure of all candidates to an election to Lok Sabha based on the average of 15 candidates per seat (as in the 2009 General Elections) would be just around Rs.2000 crores, not an out of the world sum that cannot be accommodated in the Union Budget. This issue requires serious public debate. Simultaneous elections to LAs and LS will also help to cut costs.

12.2.6 The issue of ensuring the neutrality of the election staff especially of the police force are more intimately connected with improving governance in general and probity in administration in

particular. The much delayed reforms in Police administration are a necessity to break the politician-police nexus. Special effort need to be made to break the neta-babu nexus too. Further it would, in the long run, be in the interests of the Commission to draw upon volunteers from the Public to oversee elections which step may be an insurance against biased functioning of the polling staff.

12.2.6 Setting up of fully empowered Lokpal and Lok Ayuktas is a must because no electoral reforms can be successful unless political corruption is tackled firmly as that is at the root of many ills plaguing the election-arena.

12.2.7 Last but not the least, there is a need to ensure the neutrality of the Umpire namely the EC. The selection of the Election Commissioners and the CEC should be entrusted to a Committee which has bi-partisan representation, much like procedure followed in CVC's selection or the selection of members to the National Human Rights Commission. Further it should be mandated by law that the ECs and the CEC after demitting office cannot join any political party for at least 10 years and that they can never be appointed to any office under the state or central government including that of the Governor.

Let me conclude. The challenges to free and fair elections are many but they are not insurmountable and can be overcome provided however there is political will to correct the aberrations. But then since the Reform proposals have been pending for more than a decade now, one is not sanguine that this would happen soon. A civil society stir like the one for the Lokpal legislation seems to be the need of the hour.

Thank you for your patience.

JAI HIND

CHAIRMAN'S REMARKS

PROF. DR. S.B. MUJUMDAR

I am thankful to the Centre (CASS) for inviting me to chair this evening's Prof. S.V. Kogekar Memorial Lecture. This function held in the memory of Prof. S.V. Kogekar has a special significance for me. He occupies a special place in my life and in my heart. It was he who selected me as Professor and Head of the Department of Botany at the Fergusson College. I was called for an interview for the post of Professor of Botany. Prin. Kogekar interviewed and selected me. But I could not get affordable accommodation and hence returned to Kolhapur to continue my service in a local college. After about a month, I received a letter from Prin. Kogekar offering me accommodation on the campus. Prin. Kogekar persuaded a retired Resident Doctor to vacate the house to accommodate me. This noble gesture proved to be a turning point in my life. The events that happened thereafter is history. He was both an icon and idol for me. I take this opportunity to salute Principal Kogekar and offer my respectful tributes to his memory. I would also sincerely thank the members of Kogekar family for giving me this opportunity.

Mr. Gopalswamy has, in his speech, exhaustively and competently dealt with almost all facets pertaining to the Election Commission. He has even suggested remedial measures. With his scholarship, vast administrative experience and in particular, his experience as a member of the Election Commission and as the Chief Election Commissioner, he has identified the fault-lines which, if not attended to promptly and seriously, would make a mockery of the objective of 'free and fair elections'. What needs to be remembered is that the elections have to be both 'free' and 'fair'. I am in agreement with him that for a number of reasons discussed by him, it has not been possible to implement the rectifications and improvements in the system. But one must remember that the Election Commission, in fact the whole election process itself is necessarily a part of the social and political ethos and structure of the country and cannot be immune to the various pulls and pressures which inevitably affect it.

As Ramchandra Guha has, in his 'India After Gandhi' has stated

"India's first election was, among other things, an act of faith. A newly independent country chose to move straight into universal adult suffrage, rather than - as had been the case in the West - at first reserve the right to vote to men of property, with the working class and women excluded from the franchise until much later".

How heartening it is to note that within two years of attaining independence in 1947, the Election Commission was set up and the first Chief Election Commissioner Sukumar Sen was appointed in March, 1950 with a mandate to hold the first general elections - both for Parliament and also for the State Legislatures - in about a year. It also needs to be noted that the Representation of the People Act was passed in 1951. The difficulties and the complexities which had to be surmounted were mind-boggling. But it is a matter of just pride that the Election Commission, right from its start, acquitted itself exceptionally well, notwithstanding the various inhibiting factors. I would like to refer to the observations of B.G. Verghese in his 'Final Draft':

“The first general election which with succeeding elections remains one of the great administrative and democratic wonders of the world encompassing a magnitude and range that is quite unparalleled anywhere. The general election in 2009 had an electorate of around 715 million or something more than the combined electorate of North America, Europe and Russia together”.

What a splendid achievement !

While I would not like to recommend an attitude of complacency,

I feel that there is no need to indulge in as dismal a prognostication as can be inferred from the quotations of Rajaji and Winston Churchill referred to by the eminent speaker.

In fact, there is some encouraging news. Mr. Veerappa Moily, Union Law and Justice Minister assured the Parliamentary Consultative Committee on Law and Justice that during the past few months, regional consultations were held on electoral reforms in Bhopal, Kolkatta, Mumbai, Lucknow, Chandigarh and Bangalore and that too jointly with the Election Commission of India. And this news-item is dated 18/05/2011. Let us all hope that this reawakening to the need for electoral reforms though belated - will result in an increasingly vibrant and effective Election Commission and consequently in strengthening the roots of Indian democracy.

CENTRE FOR ADVANCED STRATEGIC STUDIES

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17.	“The Changing Pattern of India's Relations with America” “Fourth SLK Memorial Lecture” by Dr.Abid Hussain, Vice Chairman, Rajiv	03 Jul. 98

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	Gandhi Institute of Contemporary Studies.	
18.	“Pokhran II and its Implications”	01 Sep. 98
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20.	“The Challenge of Terrorism”	29 Oct. 98
21.	“Foreign Policy Imperatives For Nuclear India”	26-27 Feb. 99
22.	“On Building a Globally Competitive Indian Industry : The Role of Research & Technology” “Fifth SLK Memorial Lecture” by Dr. R.A. Mashelkar Director General, Council of Scientific & Industrial Research,	22 Jul. 99
23.	“Challenges of J&K”	04 Feb. 00
24.	“Indo-Pak Relations : Challenges Ahead”	30-31 Mar. 00
25.	“Insurgency In India - Causes & Perspectives”	28 Dec. 00
26.	“Self Reliant Defence and Indian Industry” “SLK Memorial Lecture – 2000” by Shri K. Subrahmanyam, Converner, NSAB	18 Jul. 00
27.	“Governance In India : Challenges Ahead”	25 Jan. 01
28.	“India and China by 2020 : Political, Economic Sociological and Military Perspectives”	14-15 Mar. 01
29.	“Global Terrorism And India's Response”	19-20 Mar.02
30.	“Globalization And Its Impact” “SLK Memorial Lecture – 2002” by Dr. C. Rangarajan, Governor, Andhra Pradesh	24 Apr. 02
31.	“Governance In India” “Shri N.K. Firodia Memorial Seminar : 2002”	03 Oct.02
32.	“Globalisation And India”	19 Mar.03
33.	“Elections And Democracy in India” “Shri N.K. Firodia Memorial Seminar : 2004” by Mr. J.M. Lyngdoh, former Chief Election Commissioner, Justice B.P. Jeevan Reddy, former Justice of Supreme Court	17 Feb.04
34.	“Comprehensive Security : Need of the Hour”	25-26 Feb.04
35.	“Ombudsman, Lokayuktas, Lokpals ; Concept and Working, with Special Reference to State of Maharashtra”	25 Mar.04

Sl. No.	SEMINAR PROCEEDINGS	Date of Seminar
36.	“Comprehensive Security II : Economic And Internal Security”	03 Mar.05
37.	“India And Its Neighbours : A Regional Security Perspective”	04 Jan.06
38.	“Probity And Propriety In Public Life” “Yashwantrao Chavan Memorial Seminar:2006” by Shri Milind Gadgil, Journalist.	03 Feb.06
39.	“Social Unrest in India : Challenges Ahead” “Yashwantrao Chavan Memorial Seminar:2007” by Dr.DN Dhanagare, former Vice Chancellor, Shivaji University, Kolhapur; Ambassador PV Joshi, IFS Addl.Secy., MEA and presently with Home Ministry for last two years	13 Mar.07
40.	“Emerging World Order And Sino Indian Relations”	21 Mar.07
41.	“Aerospace Power in a Changing National Security Environment” “Air Marshal YV Malse Memorial Lecture:2007” by Air Chief Marshal FH Major, PVSM, AVSM, SC, VSM, ADC, Chief of the Air Staff	28 Jul.07
42.	“Future Environment, Perceived Threat Preceptions And Imperatives in Response” “Brigadier NB Grant Memorial Lecture:2007” by Lt Gen N. Thamburaj, SM, G.O.C.in.C., HQ, SC	02 Dec.07
43.	“Indian Democracy : Its Strengths & Weaknesses” “Professor S.V Kogekar Memorial Lecture” by Dr. Dileep Padgaonkar,	25 May,08
44.	“India's Strategic Environment And Its Implications for Military Modernisation” Air Marshal YV Malse Memorial Lecture by Dr. Bharat Karnad	08 Jul.08
45.	“Indo-US Relations : The Changing Perspective”	22 Oct.08
46.	“Challenges Before the Fifteenth Lok Sabha” “Professor S.V Kogekar Memorial Lecture” by Dr. Madhav Godbole, former Home Secretary, Govt. of India	26 May,09
47.	“Secularism in India : Meaning andPractice” “Yashwantrao Chavan Memorial Lecture”	14 May,10

Sl. No.	SEMINAR PROCEEDINGS	Date of Seminar
48.	by Justice Narendra Chapalgaonkar “Right to Information : Reality and Rhetoric” “Professor S.V Kogekar Memorial Lecture” by Mr. Wajahat Habibullaj, Chief Information Commissioner, Govt. of India	26 May,10
49.	“West Asia : A Factor in India's Security and Foreign Relations”	21 Apr.10
50.	“Essentials of an Aerospace Power : India Context” “Air Marshal YV Malse Memorial Lecture” by Air Marshal PK Barbora, PVSM, VM, ADC, Vice Chief of the Air Staff, IAF	09 Jul.10
51.	“Naxalism and Maoism and Indian Army”	26 Aug.10
52.	“Indo-Pak Relations and The USA”	17 Sep.10
53.	“The Kashmir Imbroglia”	29 Oct.10
54.	“Value System in the Armed Forces” “Brigadier NB Grant Memorial Lecture” By Lt Gen (Retd) Ashok Joshi, PVSM, AVSM	18 Dec.10
55.	“Poverty Alleviation in India : Challenges Ahead” “Yashwantrao Chavan Memorial Lecture” By Dr. YSP Thorat, Former Chairman, NABARD & Chief Executive Officer, Rajiv Gandhi Charitable Trust, New Delhi	13 Jan.11
56.	Prof. S.V Kogekar Memorial Lecture By Gopalswami “Free & Fair Election : Challanges Ahead”	26 May.11