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India: Remarks on a Story of Hope and Despair  
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The story of India, as we know it, starts with a river deep in the Himalayas, called Indus. Long before the pyramids of Giza, before Mesopotamia, before the Mayan civilization – almost 10,000 years ago – there stood an enormously well-developed civilization on the banks of that river. We call it the Indus Valley Civilization. At its peak, it comprised of about 5 million people. For most of the modern times, however, the fact of the civilization was unknown to Western scholars. It was merely a subject of Indian religious scriptures, local stories and of myths.

Then about a 100 years ago, its ruins were being dismantled to produce debris to lay the modern railways. Some archeologists objected. They found that Mohenjo-Daro, one of the uncovered parts of the Indus valley civilization, showed well-developed cities, with colleges, parks, communal baths, play grounds, language, arts, music, chariots, houses with kitchens, pottery and agriculture. The cities had sophisticated sewage system, with sewers large enough to walk in. All sewers were connected to city-wide drainage system. Each home had a latrine. I mention this because in today's India, more than half of its people defecate in the open. Each city block had one or more water wells. Again, I mention this because today, almost 250 million Indians have to travel more than a quarter of a mile to get drinking water.

The excavations of Mohenjo-Daro show no centrally directed organizing influence over the cities - no kings or queens. In the thousands of seals and other evidences found, there were none that depicted killing or hunting. No signs of war and conflict. Clearly, a unique times and place in the otherwise violent history of mankind. And it showed that people were well-fed and all houses were mostly similar. There were no palaces. No ostentatious wealth. And some of seals appear to be like coins, indicating a possible system of coinage. I mention this because in today's India, nearly a third of the population of 1.2 billion people lives on less than half-a-dollar a day.

Then, at some point about 4,000 years ago, Indus changed course. So did many other Himalayan rivers. The cities were abandoned. Those who stayed back, mostly perished for want of water. And those that abandoned the region, went in search for fresh sources of water. So did many other people from across the other side of the Himalayas. And unlike the citizens of the Indus valley, the people from across the Himalayas, were violent, used iron, and had chariots with fast wheels. The search for water took them all to the valley of another great river - the Ganga. The Indo-Gangetic Plain was and remains one of the most fertile regions of the world. There they met a people who apparently had walked or sailed their way from Africa when the oceans were shallow. "If Adam came from

Africa,” they say. “then, Eve came from India.” No wonder, then, that the Ganga is a sacred river to the descendants of those people even to this day. Even as I speak, I know there is always a bottle containing the waters of the river Ganga in my home. And if I were to die suddenly, my near and dear ones will douse my face with that water.

The civilization that developed around the Ganga was among the most prosperous in the world for a long time. Indeed, historical economists conjecture that India’s GDP was the largest in the world until 1,500 AD, when it was overtaken by China and then by the European colonists.

The Indus continues to be an important river in modern-day Pakistan. Its origin lies in Mount Kailash up in the Himalayas. Mount Kailash is - to this day - the most sacred place for the followers of the Hindu God Shiva and to Jains.

One characteristic of these people who lived across the river Indus and those that lived in the Indo-Gangetic Plains was that they lived in small, independent, republics. Hundreds of republics. Each, with their own language, customs, dresses and of course, gods. Each strong enough to defend against a neighbor not against an invasion from a larger, alien armed force. Only once in while during the last 3,000 years, were they led or held together by a powerful central ruler. And even when they had such a monarch, that central leadership rarely tried to make one nation out of these disparate people. It let them be themselves, so long as they owed allegiance to the central command.

The idea of one India – or for that matter, the idea of Hinduism as one religion – is really quite new. Two men – Mahatma Gandhi, and his protégé, the secular and liberal Nehru – principally helped create the myth of one people, of unity in diversity, and wrought the modern nation of one India. Through a non-violent awakening that had no parallels in history other than their own roots in the peace-loving Indus Valley Civilizations.

These men – both lawyers – together with the industriousness and zeal of another lawyer – one trained at Columbia University law school – a son of an “untouchable” – Bhim Rao Ambedkar – gave Indians their first self-written Constitution in all history.

“We the people of India,” its Preamble said, “having solemnly resolved to constitute India into a sovereign democratic republic, and to secure to all its citizens: Justice – social, economic and political; Liberty – of thought, expression, belief, faith and worship; Equality – of status and of opportunity; and to promote among them all Fraternity, assuring the dignity of the individual and the unity and integrity of the Nation, in our Constituent Assembly this 26<sup>th</sup> day of November 1949, do hereby adopt, enact and give the ourselves this Constitution.”

The message here is clear – the experiment that is India is rather new. Its Constitution provides for three branches of government – the legislature, the executive, and the Judiciary. Unlike the U.S. Constitution, however, these three branches were not created equal. The legislature had the supreme power – it could rewrite the Constitution. And Nehru’s imperious daughter – Indira Gandhi - did precisely that and gave to herself the power to suspend parts of the Constitution. Of course, she was thrown away. The nation

learned valuable lessons from that experience. Yet, today, the relationship between the three branches continues to evolve. There is a general deficit of laws, and an excess of discretion in the application and enforcement of laws that exist and are being made. The three branches periodically run into crises on fundamental issues of governing a modern nation. For all its antiquity, they appear as issues of first impression. Yet, India has managed to avoid catastrophe, unlike its sibling, Pakistan, with which it shares millenniums of its history.

The new mantra of course, is “economic reforms.” The phrase is a polite way to say that the country’s assets are generally up for sale. There are all types of constituencies today – those that want the sale to go on continuously, and those that do not want it at all, and shades in between. New laws get sporadically added – almost always these are drafted by the Executive in response to lobbying by a constituency, including foreign investors, and get voted in the Parliament along party lines. But most decisions continue to be made by the Executive. The old laws – many decrepit - continue to be in dire need of simplification and of transparency in their enforcement. In short – these are remarkable times to be a lawyer and India remains a remarkable laboratory of contradictions and of hope and despair.

Thank you.

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India has 22 official languages, and 400 smaller tongues and dialects

India gave birth to four world religions – Hinduism, Buddhism, Jainism and Sikhism

India welcomed Christianity long before Europe embraced it