

MERITOCRACY AND ITS DISCONTENTS

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Hon'ble Chief Justice of India, Professor M.P. Singh, Vice-Chancellor, NUJS, dignitaries, distinguished faculty of NUJS, guests and above all, students, it is truly humbling to be asked to speak on this occasion for several reasons. The most important reason is that convocation includes many things. It marks an important day in the life of an institution, a signal that the institution has completed its part in a pedagogic mission that brought you here. For the students, it is a 'rite of passage' that marks your ascendancy from one stage of life to the next. Convocation is also a celebration of achievement. It is a celebration of the extraordinary talent this institution is about to unleash on the world. One of the reasons I feel humbled is because the talent we have assembled here is truly outstanding. It makes us, those slightly more advanced in years than the students here, seem so behind the times and so inadequate. But this is precisely the thing we celebrate. The coming generation is extraordinary in another respect. It is coming of age at a time when there is immense optimism about India's prospects. There are of course serious challenges. But there is little doubt that compared to any moment in recent Indian history, India has an extraordinary opportunity to flourish and command respect. For the first time in our history there is a sense across different sections of society that rather than being on the receiving end of history we can actually make history. This places enormous responsibility on this generation. At the risk of simplification, let me put the matter bluntly. Your generation – the generation that is now in its twenties – will make or break India. Our dependency ratio gives us a window of about twenty years or so, to try and lift us out of poverty before demography turns against us. We are at a crucial inflection point in history. Societies and institutions are notoriously path- dependent. Like the Titanic, they are not easy to move around. At the moment we are undergoing an extraordinary expansion: of the economy, the state, of our cities, of our infrastructure, of new institutions. What we put in place now will define us for the future. If we don't make it during this period, it is unlikely that history will give us another opportunity. It is now or never. It is your generation that has to bear the burden of 'now or never'. It could be argued that your generation was not born great; it perhaps has not achieved greatness. But when greatness is being thrust upon it, can it rise to the occasion?

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So, as you mark this rite of passage, reflect a bit upon the historical position you are occupying; reflect upon the passage of time that is saying, “The currents are favourable. Can you swim with them? Can you even recognise them?” A little bit of historical self-consciousness is crucial to developing a sense of mission, a sense of the stakes, a sense of the gifts and opportunities we have. But along with a little historical self-consciousness, we also need to reflect upon the deep social forces that are shaping us. In the rest of this short address, I want to reflect on one particular force that has made you who you are and that will shape your professional lives. This is the idea of meritocracy.

The concept of meritocracy is philosophically complex. It embodies the thought that jobs or opportunities should be allocated on the basis of something called ‘merit’ and not on patronage, or identity or some consideration which we think is irrelevant to determining our ‘fitness for purpose’. But I want to just mention and put aside two issues connected with meritocracy. The first issue is: What counts as merit? What is the range of attributes that are relevant to judging that some office or place in society has been distributed according to merit? These are deeply interesting questions which I will put aside for the moment. The second issue is the relationship of merit to affirmative action. In India it is often said that affirmative action is incompatible with merit. This proposition is, in principle, false. It depends on how affirmative action schemes are designed and what their objective is. I am a strong defender of affirmative action. But you have to admit the three basic questions: Who should you target? Why should you target them? How should you target them? These have not been satisfactorily answered. Instead of targeting deserving groups like Dalits, affirmative action has degenerated into a raw assertion of political power. In the name of affirmative action, we are also in the danger of affirming the tyranny of compulsory identities. But in principle, affirmative action is not incompatible with meritocracy; indeed it can be required by meritocracy. If meritocracy is a means of identifying the best, you can be sure that you have identified the best only when you have given all the relevant people an opportunity. In so far as the justification for affirmative action is that it gives people an *opportunity*, it exemplifies the logic of meritocracy, it does not negate it.

It also has to be said that India is far from being a meritocracy, based on several respects. Millions of its citizens are still deprived of opportunity. Although much public recruitment is through some ‘objectively’ verifiable criteria, most of our institutions remain elaborate networks of patronage and are not transparent. If I may be bold enough to say so as an outsider, sociologically speaking, at least in places like Delhi, it is hard to argue that the structure of the legal profession has too much to do with merit. Anti-meritocracy entry barriers to the profession, particularly the litigating side, are still very high, as I am sure many of you have experienced. On the judging side, there is immense consternation about lack of transparency of the selection criteria for judges.

Lack of transparency, however, does not itself make something illegitimate; sunlight can be a disinfectant, but it can also give sun burn. Even if one does not make a fetish of transparency, there are many reasons to think that meritocracy is often not at work in decisions. Sometimes it is not because something untoward is going on. It is simply that a professional group has lost the nerve to exercise judgment. Often professions will take recourse to a principle like seniority, simply because they do not want to exercise judgment; they want an 'objective' criterion. Merit, in the classical sense, requires judgement. But we sometimes create systems like the civil service, where a principle like seniority can count a lot more than merit in the conventional sense. Often we give up on merit because we don't want to exercise the burden of judgment.

So I am not going to claim that India is a meritocracy. But I want to focus a little on the ideology of meritocracy. This is because whatever the practice, meritocracy has become part of the self-justification of elites in our society, as it has as many others. None of the students at this distinguished institution would like to think of themselves as being here for any reason other than merit. Being thought of as part of a meritocracy is elevating; it is also part of our identity. In some ways, this occasion is like a rite of passage for precisely this social ideology.

What aspects of meritocracy as an ideology should we reflect upon? What are the dangers lurking in this ideology? Traditionally speaking, a meritocracy has the following elements that make it both attractive but also potentially fraught with danger. *First*, at one level a meritocracy signals a certain kind of equality. Merit is opposed to non-discrimination. It reflects a society where people are not discriminated against because of certain ascriptive characteristics like class, gender, caste, and race. Meritocracy in this sense entails non-discrimination (though non-discrimination does not entail meritocracy). This is an attractive ideal. *Second*, meritocracy provides a principle of entitlement; it gives us criteria for determining what people should get in a particular context. We often say that the best *deserve* to get a job. In this sense, meritocracy is a criterion of fairness. *Third*, meritocracy seems to provide a basis for efficiency. Society will be most productive if the best people get the job. Now admittedly there is a tension between fairness-based and efficiency-based justifications for meritocracy. Efficiency is a reason for doing something, but it is not a decisive moral reason. To not hire the best because it would be less efficient is not to commit a moral mistake. But to not hire the best if they *deserve* a position seems to us like a moral mistake. We feel it is *unfair*.

Now I want to, for a moment, bracket a deep philosophical question, which is, whether the best deserve what they are entitled to. There is a powerful argument, most vividly expressed by John Rawls, which is premised on the following thought. On this view, fairness cannot be based on 'deserve' because we cannot be said to 'deserve' our attributes. An intelligent person may

deserve a particular position, but do they deserve their intelligence as it were? I am not talking about cosmic fairness in a deep philosophical sense. I am simply gesturing at the fact that part of the self-image of an ideology of meritocracy is that people have a sense that they deserve what they are getting.

So equality, entitlement and efficiency seem like three principles associated with meritocracy. However, there are three other principles which underlie that they are the source of some consternation and worry. The first is that a principle of meritocracy requires a principle of commensuration, in which one individual can be measured against another. There has to be a scale, an index against which talent can be compared. The worry is that within the ambit of a particular situation, we can think of such a scale of commensuration. Those who get the highest marks in an entrance exam deserve to get in. But have we got our measure of commensuration right? Do these measures of commensuration not themselves produce disciplining effects that diminish our possibilities? We seem to perpetually be caught in the following dilemma. If we have broad-based and diverse measures of assessing performance, they cannot be arrayed on a single scale. We will argue over what weight to give to what attributes. There is more possibility of subjectivity. There is also a greater difficulty of constructing an index of commensuration. On the other hand, a principle of commensuration always seems unduly narrow. So what are the measures by which we judge our own worthiness? We need to reflect on this question. A few months ago, the Singapore Education Minister provoked great discussion by suggesting that Singapore was a “meritocracy of exams”, but America was a “meritocracy of talent”. Exams don’t pick out a vast array of unquantifiable forms of talent necessary for a vibrant and creative society. And the Minister was suggesting that Singapore would do well to incorporate other elements as well. The relationship between talent and exams is a deeply vexed one. In an exam system there is the worry that what exactly are we trying to pick out through an exam system?

The second principle to worry about in relation to meritocracy is competition. Many theorists of meritocracy have argued that a meritocracy is likely to be a neurotic society because it will be perpetually marked by competition. Competition is an extraordinary spur to human achievement. But competition as an internalised psychological disposition can also be debilitating. It is very likely that stress levels related to seeking your place in a meritocratic society will increase, not decrease. The sheer pressure of numbers suggests this outcome. We often forget that so far our education system has had limited reach. Once millions of more students start competing to find their place in the objective distribution curve of talent, the pressures will only intensify. If you think pressures in India are great, just read accounts of what China’s national exam system that determines places to universities entails. In theory, you could argue, that stress will not rise with numbers if you have a vast array of institutions, where supply keeps up with demand. But this will

not be sufficient for the stress associated with exams depends upon the consequences attached to not coming out on top. This in turn will depend upon the structure of economic opportunities on offer. The more egalitarian an occupation structure, the less severe are the perceived penalties for not coming out on top. Europe has, in part, escaped the neuroses that meritocratic competition can induce because there is greater background equality. In short, stress is not primarily about education. It is about the economy. And the real debate we need is on the kind of occupational structure we see emerging; and what is the relationship between education and that occupational structure? So in a way, the effects of meritocracy in an unequal society can be more debilitating.

Meritocracy also has two peculiar psychic consequences. One of its unintended consequences is that it inculcates the idea that those who are left behind are somehow less worthy, in turn, creating a new form of inequality. In a way there is a paradox at work here. There is also an argument to be made that over the last twenty years or so, meritocracy has underpinned an ideology of great inequality. As some social observers have noted, people who rise through the system based on an idea of merit also have a greater sense of entitlement to all the fruits of their effort. What is interesting about income inequality in places ranging from the U.S. to China is not the fact that it exists. Rather, it is that society in general and particularly people at the top believed that those at the top deserved what they had. They deserved it, in part, because they rose by the dint of their own talent. There is an odd sense in which privilege has to justify itself, but merit does not. It is perhaps easier to shame an aristocracy than a meritocracy because the taint of undeserved wealth hovers over them. Since the idea of equality of opportunity in education is so aligned with the idea of meritocracy (or rather the two legitimise each other), education is often not seen as the locus of equality.

This little excursus on meritocracy is interesting in relation to the politics of justice for another reason. It is possible that within the upper classes, which have a sense that they have risen on the dint of merit, there is less support for an egalitarian politics. This is because, a society which links achievement to educational attainment also gives the 'achievers' a sense of entitlement. It is perhaps easier to shame an aristocracy by claiming their wealth is undeserved; it is harder to induce guilt in those whose self-perception is that they have attained wealth by legitimate means. While an expanding professional middle class may support the expansion of education, this class may have less patience with any politics of redistribution because it is the very ideology of education that supports their sense of entitlement. In fact there is good evidence to suggest that the unconscionably high degree of tolerance that democracies have for inequality has something to do with legitimising the myth of meritocracy.

Meritocracy can also, curiously disempower the less fortunate in two unintended respects. One, it creates what might be called the ‘escape route effect’. As societies become more open, less marked by exclusions, as elites become more open to recruitment, talented individuals from hitherto excluded groups or classes have opportunities for *individual* social mobility available to them. They can rise and take their places amongst meritocratically recruited elites. This is in some ways a wonderful thing, to be encouraged. We all look for stories and societies where people can rise by the dint of their talent. But the unintended consequence is that such individual mobility can leave *structures* of inequality intact. They can even diminish the urgency of tackling those structures. Precisely, when social mobility becomes possible, we are more likely to legitimise the thought that those who are left behind must be left behind because of their *individual* failings, not because of structural conditions. It is no accident that the democracy that tolerates the highest degree of inequality is also the democracy where the myth of individual mobility through merit is also deeply entrenched. So an open elite, does not necessarily make a more equal society. A society that is open to talent is not necessarily a society that is open to reciprocity. Finally, there is evidence that even meritocratic recruitment finds it difficult to erase advantages of wealth.

So, a meritocracy can also be a society that is driven with nervous anxiety and produces new and deeper forms of inequality. This trend, however, can be exacerbated by one more feature which again shapes us. This is the role of consumption or, to use a simpler word, money. The interesting thing about money is that we rail against it; but we also love. And I think it is worth understanding the deeper sources that consumption plays in a society that is meritocratic and democratic at the same time.

Indian literature has produced vivid pictures of oppression, humiliation and inequality; it is yet to produce a great portrait of the psychological dependencies that the new role of money can engender. Many of our corrupt politicians seem to be political versions of the Great Gatsby. To paraphrase Freud, money is not about money. It is always important, but in times of social change it signals different things. *First*, it is the means and sign of social mobility. Access to state offices is still an important path to social mobility. *Second*, the power of money is intimately tied to a form of democratization. No one can now be assured of their social standing based on rank; all claims to authority are uncertain, and access to material power becomes, in the end, the sole fixed point and source of incontestable value.

In the professions in particular, when old closed guilds break-down, money has the allure of being an ‘objective’ criteria to measure worth. It is strangely democratic, in that it does not depend on any authority or closed peer group for validation. There is some evidence that in some way the crisis of the professions is connected to a rather strange fact. In some ways it is

easy to say, “merit in a profession must be judged by ‘professional’ yardsticks, norms that are appropriate to a profession.” But who makes those yardsticks? What structures of authority sustain them? In a way, a simple yardstick that is not ‘subjective’ and that does not depend upon the authority of closed groups is ‘money’. A top lawyer once said that the satisfaction he gets from his extraordinary income is the only source of validation he has that he is at the top of the profession. This remark is both true and disconcerting. What other form of validation will have the objectivity of this measure? As professions get more ‘professionalised’, more meritocratic, as they move away from closed guilds, this dilemma becomes more acute. No wonder all over the world, from law firms to medical practice to accounting firms, *revenue has become a measure of merit* since it solves the commensuration. I am making this point simply to highlight two things. It is easier to rail against money but harder to know what to do about it. It also points to a deep challenge, that the allure for money as a measure of worth has deep sources, often in admirable impulses. This is strangely corrosive because the meaning of professional accomplishment gets transmuted. Third, a consequence of democratization is not just that it opens paths to mobility; it makes those already privileged fear losing what they have. In a way, ‘middle class’ anxieties have been enhanced rather than diminished by expanding opportunities. The desire of those who want to move up the ladder and the fears of those who might fall down are producing a strange alchemy. Despite ourselves and our better instincts, money comes to be legitimised in ways that are unreasonable. What we are seeing on display is not just greed; it is a society struggling to find a measure of worth. How many of us have not been vulnerable to this struggle? It is in this light that the challenge of the professions needs to be seen.

The first issue is the role of the professions (law, medicine, accountancy, management, academics, etc.) in providing the enabling conditions for a society to flourish. Beyond the State and market, these professional groups, with their own norms and identities are absolutely central to the functioning of any modern society. It could be argued without too much exaggeration that these groups are the principal source of a functional and institutionalised morality in modern societies. These groups are not defined by self-sacrifice. Rather, they are in principle defined by certain activities. They participate in civic life and contribute to society, through their profession. Well-functioning groups will be driven by a respect for the norms and standards of the activity. So, to simplify, lawyers will act as ‘officers of the court’, doctors will be in business of saving lives, accountants exposing fraud, and so on. The existence of professional communities in which norms and standards are maintained are crucial in two respects: *First*, both states and markets rely on them, and *second*, it is largely professional communities that can create compliance to norms.

The biggest crisis we may be facing is not that of the state or market, but is the idea of professionalism. At a mundane level, the *Enron* debacle in the U.S. was traced to the perfidy of accountants and when the full history of the current crisis is written, the conflicts of interest of academics and other ‘professionals’ will play a prominent part. But in India, arguably, the crisis of the professions is the dirty open secret we never discuss. There are good individual lawyers and law firms but the legal profession is in a serious state of professional breakdown. This is not just manifest by high profile cases like those of R.K. Anand. This breakdown is often manifest in daily practice in big and small ways; the Bar Association is hardly the purveyor of professional standards.

Consider one small example. During extensive interviews about the legal profession, I was struck by the fact that only a miniscule portion of prominent lawyers thought it was their obligation to give their clients ‘objective’ legal advice. Of course, lawyers should defend clients if asked to but in the first instance, particularly in civil matters, clients ought to be given an objective assessment of the plausibility of their claims. My colleague, Jishnu Das, along with Jeff Hammer, produced one of the most rigorous studies of the quality of medical advice rendered by doctors in Delhi. While some were dedicated and excellent, the results were startling. The quality of advice, particularly where poor patients are likely to end up, was poor. Similarly, there are huge conflict of interest issues in prescribing certain courses of treatment and so forth. One could go on in other professions as well. The extent of malaise within and across professions varies, but to deny it exists would be setting oneself up for a serious disaster.

The cause of this crisis of the professions is complex. It has to do with everything from the type of education to the internal political economy of these professions. As we focus on states and markets, however, let us not forget that society is held together by and depends upon this whole plethora of intermediate professional groups, and their state of disrepair will subvert any aspirations we have for the state and the market.

The second issue pertains not only to the professions but also more generally to the crisis in government. It is a common sense proposition that incentives matter to people. And much of the discussion of institutional reform, whether of bureaucracies or professions, now has a simplistic mantra: get incentives right. Indeed institutions are pretty much now reduced to incentives. But as Adam Smith knew, there is something paradoxical about the idea that we can create integrity only by incentives. By definition, an individual who responds only (and I repeat only) to incentives, lacks integrity, because their commitment to ends and norms are entirely externally driven; it is as if they can be honest only when they are paid for it.

Societies cannot be held together only by coercion (State) or money (markets). Something more is required. In a broader sense, it requires internalisation of norms and values that set limits on what can be bought and sold. It requires the thought that not everything is merely instrumental. In a narrower sense, the idea of a professional identity was precisely the mechanism by which the gaps between norms and incentives could be filled. Unless professionals have a sense that the norms of their activity ought to have some presumptive claims on what professionals may or may not do, no amount of incentives will work. Again, paradoxically, market societies need an even stronger idea that our professional norms are not something that can be always sacrificed to calculations of interest. If a society, however, sends signals that only incentives matter, it will undermine its own foundations.

Many studies have argued that clarity over the purpose of one's profession, and a sense that society values that profession, is far more promoting of integrity than mere incentives. One of the crises the bureaucracy is facing is precisely that there is no sense of what it is for, that is, no clear articulation of the ends it is meant to serve, no clear professional identity in the true sense. There is a lot of false lament over how the middle classes lack social and civic commitment. But this task is not well served by exalted calls for self-sacrifice, it will be better served by myriads of doctors and lawyers and accountants and journalists restoring moral clarity and romance to their professional practice.

The current sense of institutional disorientation is pervasive, and infects a vast range of institutions: politics, judiciary, civil service, media, academia, corporates, armed forces, the professions. It is almost as if an entire ruling class, and those who have recently joined its ranks, have lost their sense of purpose, a sense of what their institutions are supposed to be about, a sense of their identity and mission. The more pervasive danger we face in these institutions is not corruption, it is a sense of anomie, where fewer and fewer members of these professions can give an account of what they are supposed to be about, in a way that can legitimise them with the public.

So as you enter a society through a rite of passage you might want to reflect on these challenges. The very ideology that has legitimised your place in society, namely meritocracy, can also generate social challenges and social pathologies. The very profession you are about to enter is going through an enormously challenging crisis. How you deal with these challenges will make or break India. I am, however, sure of one thing. You are smart enough and have the ability to rise up to these challenges. Whether you do so or not is up to you.

