

THE CONSTITUTIONAL CONDUCT GROUP

Stocktaking Initiative



Report of the first Zoom Meeting

4th September 2020.

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OPENING REMARKS: MR. DEB MUKHARJI [00:16.43]

Welcoming all participants to this first Zoom meeting Mr Mukharji said that some members residing in Delhi used to meet occasionally and this Zoom call provides us an option to reach many more members from all over the country.

He said that he would use this opportunity to remind ourselves, and particularly those who joined later about how this group came together, somewhat spontaneously in the summer of 2017. This was a time when many of us were feeling depressed, with the news of repeated instances of lynching, attacks on universities and NGOs and curbs on the freedom of speech. The letter that was signed by 65 members on the 10th of June was the first step in speaking truth to power, that came to be our motto. We saw as our Vision statement the Preamble to the Constitution of India that represents the core of the idea that is India, as a nation of diverse religions, ethnicities, languages and cultures in a nation that came into being as a democracy in 1947.

Mr Mukharji said that he sees our first and subsequent letters, statements and Conclaves as an assertion of our freedom of speech and conscience which is being subject to assault in many ways, most recently with the Contempt of Court case against Prasant Bhushan and with the curb on the Members of Parliament from asking questions a fundamental duty of the Hon. Members.

He said that it is relevant to ask what the positive outcomes of our efforts have been over the past years. He said that it is difficult to quantify these in today's strictly transactional terms of reference. However some people who have followed our activities have called us the "conscience keepers of the nation", though this would be an over-statement while others have said that we have showed "a light at the end of the tunnel". He said that his view is that our efforts have been to protect and project an alternative vision of India that is very different from the intolerant majoritarianism that is seeking to impose itself.

He said that the purpose of the Zoom meeting was to follow up on the compilation of responses that 41 members had made to a questionnaire that Mr Balagopal had sent out some weeks ago and the discussions that follow are intended to seek ideas for the way forward.

STATEMENT: SUNDAR BURRA [00:23:27]

Sundar spoke to the thread following the 2017 letter that Mr Mukharji referred to in his opening remarks and underlined our consistent opposition to communalism, majoritarianism and authoritarianism. Our focus he said has been on democratic practices and Constitutional issues and recalled the critical subjects that the group wrote on including the murder of a Judge, illegal application of laws, police torture and brutality, suppression of dissent and Ayodhya. He said that the most recent statements and letters related to the biases displayed by Facebook and the allegations that Sudarshan TV was proposing to raise regarding recruitment of Muslims to the IAS and IPS.

Sundar said that at a time when media is so compliant to government positions, our letters and statements have significant countervailing value in the assertion of rights to freedom of expression.

Some of our letters have been written jointly with the veterans of armed forces and the involvement and support of Admiral Ramdas and several other very senior retired Veterans has been significant. The letter regarding the murder of Judge Loya is one where CCG joined with the Veterans. Another letter that CCG brought out documenting several irregularities during the elections in 2019 was signed by 83 others including the Veterans, academics and other prominent people including civil society representatives.

Mr Yogendra Yadav speaking at a webinar in connection with the Prashant Bhushan case, while introducing Sundar mentioned that activists and NGOs learnt many things about laws from the CCG letter issued regarding the Anti-CCA agitation.

Another case where a positive impact was achieved related to the possible mis-identification of several thousand Muslims in Karnataka as non-citizens that came to the attention of our group. The CCG brought this matter to the notice of the then Chief Election Commissioner, who in turn asked the Chief Electoral Officer of Karnataka to enquire into this. This enquiry revealed that the problem occurred due to a software error that had classified people who were not resident at their addresses by as non-Indians. This mistake was rectified following this intervention by the CCG. After the retirement of this CEC we have not had any similar response from the Election Commission

An important development following this was the formation of a “Citizens Commission on Elections” at the initiative of MG Devasahayam with Madan Lokur, retired Supreme Court Justice as the Chair, Wajahat Habibullah as Vice Chair and Sundar as Secretary. The work of the Commission has been on going for a few months and a report is planned. CCG extended support of Rs 50,000 to the Commission for meeting their expenses.

Sundar spoke about the five Conclaves that were organized on various subjects. Apart from the subject of elections these have focused on Hinduism and Hindutva; Institutions of Democracy, Gandhi’s legacy and

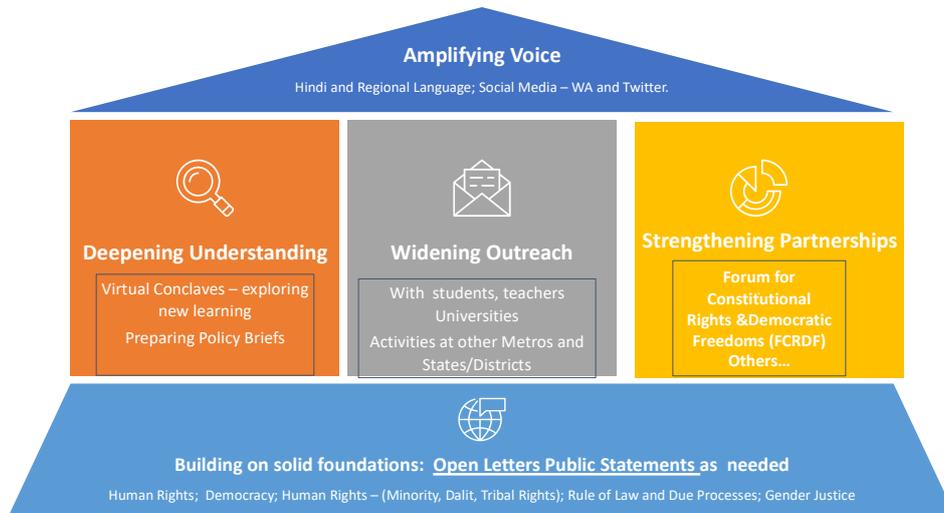
Nehru’s legacy. The Veterans have participated in these Conclaves in terms of speaking at these events and contributing to their organization.

CCG has thus tried to respond to all major developments that have Constitutional impacts including the February riots in Delhi, irregularities and biases in police investigations following these riots, issues strong statements in support of Prashant Bhushan and participated in the recent Jan Sarokars and Janata Ka Parliaments. We now receive regular invitations from other groups to join forces with their efforts and invitations to appear on TV interviews and the like. The CCGs voice is now a recognized presence and voice in the country and the efforts of many of our members have made this a reality.

Introducing the proposed Road Map: Gopalan Balagopal [00:32:57]

Bala referred to the graphic image of the Road Map that had been shared with the group prior to the call, calling attention to its major component pieces:

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He referred to the foundation that is laid strongly with the Open letters, Public Statements, Conclaves and engagement with the Election Commission mentioned by the previous speakers.

Building on these foundations are the three major pillars. The first pillar is about “Deepening Understanding” – of the complex and rapidly changing political, economic and social environment both within the CCG members as also for the benefit of others who would be interested and concerned. The second pillar is about “Widening Outreach” through reaching students and faculty in Universities and colleges as well as by extending CCGs activities to places outside Delhi – both to other Metros as well as other cities, towns and districts. The third pillar is about “Strengthening Partnerships” which will be primarily undertaken through the newly formed Forum for Constitutional Rights and Democratic Freedoms (FCRDF). The final element in the Road map is about “Amplifying Voices” – concerned with expanding our outreach through the Hindi media as well as other regional languages so that we reach the grass-roots audiences more effectively.

Letters and Statements : Meena Gupta: [00:38:47]

Meena considers the letters and statements as the most significant contribution of the CCG. Addressing one of the observations in the feedback that we write “too frequently and on all every subject”, Meena clarified that we have we have issued 31 letters and statements in the period from June 2017 to Aug 2020. We wrote 3 letters 2017; 11 letters in 2018; 9 in 2019 and 8 so far in 2020. Our letters have received positive attention. Even when we wrote three letters in April 2018, this did not result in any letter getting lesser attention and therefore there is little cause for apprehension that we are writing too many letters.

The letters are always written when some members feel strongly that we should respond, and it is only when a minimum of 40 members endorse a letter that it is sent out as coming from the CCG. The length of the letters has been commented upon as some members felt that they may be too long to hold the reader’s attention. The average length of our letters is between 1000 to 1200 words, as the subjects we take up are complex and require a minimum length to express these cogently. An “executive summary” of the letter suggested good, though media like to pick and choose the parts of the letter they use, as we have seen.

There is a view that we should not be perceived as anti Modi as we do not focus on the misdemeanors of state governments and other political parties. While we acknowledge this concern, this perception could have been due to our concerns focusing mostly on the doings of the central government. However, we have written about the encounter killing of rape accused in Telangana and of the rape of young girls and killing of an Inspector of police in UP. We should however write more about other governments and political parties.

Another concern expressed is that some issues we pick up are “left on the wayside”. This is true that this has happened and has happened as we have not followed through, this is because not enough people have expressed interest in them or due to no one coming forward to draft the letters. She said sometimes people are unsure of themselves about drafting a letter and offered an assurance that this is something that does not hold us back after the first letter is done. She noted that a few people have already offered help with writing and encouraged more people to come forward and support this.

Meena concluded with some observations on what we achieve through these letters and why it was important for us to speak up. It is important to speak up when things are wrong. It is also important for us to speak up while we can, as even our right to express ourselves appear to be threatened. It is also important for us to speak on behalf of those who want to be heard but cannot. It is essential for fence sitters to listen to the other side when most of the mainstream media only reflect one side of the story. As “insiders and experts” our voices carry credibility. Our work is widely known and respect and has earned plaudits. The fact that some “group” suddenly appear to contradict us is proof that what we are saying is making a difference.

Deepening Understanding : Gopalan Balagopal [00:47:11]

Balagopal spoke about the component concerning “Deepening Understanding” in the draft Road Map. He said that this was to deepen understanding about the complex and changing socio-political and economic environment that we are in today. This component addresses two constituencies – one being the membership of our group and the other from the people who find our outputs valuable.

One of the core objectives of the Conclaves we organized was about improving our own understanding through subjects like “A fractured polity – the relevance of Gandhi today”, “Hinduism and Hindutva”, “Institutions of Indian Democracy” “The Legacy of Nehru”. Given the advantage of technology of Webinars, we can take forward this learning journey forward much more efficiently in future.

The availability of the texts of the letters and statements and the video recordings of the Conclaves archived in our Website has been found useful by several people who share concerns about the assault on Constitutional values. These also include students and academics who find the archives a valuable record on the history of challenges to democratic processes and constitutional safeguards.

It is clear from the feedback that has come from the Stocktaking exercise that what we say has value as it comes from a group of people with unparalleled domain experience. Therefore, we should continue to offer advice and guidance on critical issues as they become relevant. While our Group would consider the best way to engage with emerging concerns, we believe that our core area of interest will continue to be issues that concern Constitutional Values and Safeguards.

Given the public perception of the rapid erosion of credibility in public institutions calling attention to the vital importance of maintaining the rule of law and due processes, particularly in the functioning of agencies like the following:

- The CAG or the Public Accounts Committee
- The CBI, the NIA, the Enforcement Directorate and the State Police forces.
- The Electoral agencies at the Central and State levels.

Widening Outreach : Sundar Burra [00:54:24]

On strengthening links with students and Universities, Sundar recalled reference made by Balagopal about his contacts with Azim Premji University in Bangalore where there is interest among faculty and students to develop links with the CCG. Sundar also mentioned about the interest in Ashoka and OP Jindal Universities in the NCR about a year ago to introduce a module on Elections and the Constitution. Outlines of the syllabi were prepared jointly with the faculty of Ashoka University. However, this did not take off. He said that the opportunity still exists as there is rich experience and knowledge about this subject available in our Group and these Universities will greatly welcome such a partnership. He believes that it is possible to do this through Webinars, but this basically depends on people who have the willingness and interest to take this forward. If any of the members have interest, we can re-activate these contacts for them to take this forward.

Sundar referred to the responses that have come from the Group to extending activities to other Metros and towns. He said that this activity depends entirely on the initiative of members from these places and we will look forward to them taking this idea forward.

Strengthening Partnerships: Sundar Burra [00:56:54]

Sundar introduced the exciting new development with the coming together of CCG with like-minded individuals and entities under the new Forum for Constitutional Rights and Democratic Freedoms (FCRDF). The Forum Constitutes of six separate entities, each represented by a “Principal Member”.

Aruna Roy of MKSS and Dr Ganesh Devy represent grass-roots organizations. These small groups working directly with people often face the problem of their voices not being heard. This coming together will hopefully address this issue to some extent. Admiral (Retired) Ramdas represents the Armed Forces veterans and have been working in partnership with the CCG in organizing Conclaves where members of both groups have spoken. Justice AP Shah a retired Chief Justice Chairs the Centre for Equity Studies. Several members have interacted with him and his presence with us is invaluable. It is expected that other members of the Legal fraternity will also join him in course of time. Ms Githa Hariharan of the Indian Writers Forum and the Indian Cultural Forum is well known in the literary and cultural space and will help bring people from these areas. It is our intention to eventually build a platform as wide as possible. For the present the Forum is just getting in place and needs to work out its modalities for functioning before thinking of further expansion.

[The first statement of FCRDF was released when more than 400 persons signed a statement endorsing Harsh Mandar on the 10th of September.]

Amplifying Voices: VP Raja [01:01:21]

While endorsing the good work done by the Group in the past three years, Raja raised a question whether some of the outputs appear to be preaching to the converted. As we are a group of retirees, our generation has mostly grown up in the Nehruvian era. What we need to do is to reach those who are “fence sitters” with these Constitutional values as Meena mentioned. It is essential to reach the

students in colleges and Universities as these are the most important places where the issues can be debated.

To bring our outputs in the regional languages is important. A few of our letters and statements have been picked up and translated into regional languages due to their topical importance. It may be worthwhile to make a list of people from our group who can not only translate the statements but also perhaps write articles and so on in the regional languages on the themes we focus on.

While recognizing that social media – WhatsApp, Twitter, Facebook, are important modes of exchange of information and we will need to use these outreaches judiciously, Raja also mentioned that we should be prepared to be trolled on these platforms for expression of views that go counter to the mainstream positions.

Raja also mentioned that our voice gets strengthened with the topicality of the subjects we choose to make our interventions in. He particularly mentioned the integrity of the electoral process and the opaque nature of fund mobilization through Electoral Bonds and the PM Cares Fund as areas needing priority attention.

MAIN POINTS FROM THE DISCUSSION:

Mr Wajahat Habibullah: [01:09:30]

- a. Reiterating the importance of continuing to issue **letters and statements** that has been such an important contribution by the Group, Wajahat felt that it would be useful to have someone take the responsibility for moderating this activity. He suggested that Meena Gupta be requested to consider taking up this role, following her excellent analysis on this matter. Once a subject has been agreed upon by the minimum number of members that the Group should address, the Moderator could assign the responsibility to one or more people who may be on a list of those who have volunteered for this purpose. In this connection he said that he is available for this purpose as he has just finished his book that is due to be released in October.
- b. Wajahat also had important suggestions regarding **outreach through the instrumentality of the Right to Information Act**. He said that students and law students in particular have been increasingly attracted to using RTI to explore important areas of public interest. In this connection he offered the **possibility of a partnership with the Commonwealth Human Rights Initiative (CHRI)**. He said that the CHRI has people of eminence like Sanjoy Hazarika and Maya Daruwala and Justice AP Shah is also associated with CHRI. He could explore the possibility of a partnership between CHRI and CCG if there is interest in this suggestion.
- c. The third suggestion that Wajahat had was regarding **outreach with the Indian American community**. This is based on the wide contacts he developed with groups of Indian Americans during the time he was a Minister in the Indian Embassy in Washington DC. Recognizing that any issue that affects any section of the Indian population is a concern for all Indians, including the influential Indian American community he offered his help to reach these communities in a spirit of unity and non-partisanship.

Mr PSS Thomas: [01:15:15]

- a. The importance of **extending our voices in regional languages** was emphasized. He compared the situation in Karnataka by saying that there is no discussion remotely of the type that we see on English outlets like the Wire or NDTV. He advocated for the translation of the Letters

and Statements that we have already made in all the regional languages and suggested that these be also archived on our website for dissemination. He said that software that can do a reasonably good translation is now available in most Indian languages and the documents can be made ready for upload with a minimum level of editing.

- b. Sundar Thomas suggested that CCG could make an effort to **engage with students (including as Associates)** who can provide valuable research and documentation support to the members in their activities. He believes that such Student Associates will find a lot of value in their association with this Group and also develop a strong understanding and commitment to the causes for which the Group stands.

Mr MG Devasahayam: [01:21:02]

Mr Devasahayam spoke about three areas where CCG could offer significant support to initiatives already underway in critical areas of national concern:

- a. On **Electoral Integrity and Democracy Strengthening**. The initiative of the “Citizens Commission on Elections” has already been mentioned in the first statement of Sundar. This initiative has gathered strength and is addressing five major themes with inputs from top national and international experts. The themes are:
 - I. a) Integrity of the Electoral Rolls.
b) Impact of CAA/NPR/NRC/Migration on Electoral Rolls and D voters.
 - II. a) Compliance of electronic voting with Democracy Principles.
b) EVM/VVPATs before and during polling, storage, counting and declaration of results.
 - III. a) Criminalization and money power.
b) Electoral bonds and their illegalities.
 - IV. a) Scheduling and processes of elections and compliance with the Model Code of Conduct.
b) Role of media including social media, fake news, etc.
 - V. a) Functioning of EC before, during and after the Election.
b) Autonomy of EC to fulfil the Constitutional mandate.

The experiences from the 2019 elections, the involvement of Facebook and the functioning of the Election Commission are all being addressed. A comprehensive report on this is being made ready and the partnership of CCG in taking forward these recommendations will be important.

- b. On **economic policy and the fate of the public sector**: MGD spoke about the series of Webinars which were held where it was clear that the policy of the Central government was clearly to sell out the core public sector enterprises to the benefit of oligarchs. The country will be left with a monopoly or duopoly in key sectors like electricity, railways, coal and oil. Pushing out the majority of the workforce from the organized to the unorganized sector with no social safety nets and the dismantling of the Welfare State as provided in the Directive Principles of the Constitution appear to be on the cards. Opposing these retrograde directions for change is an area where the engagement of the CCG will be important
- c. **Addressing serving members of the All India Services – particularly the IAS and IPS** on their duties to safeguard the Constitution was an area that MGD pointed out that was not addressed in this Stocktaking exercise. He felt that these services enjoyed Constitutional protection under Article 312, and CCG should consider how they can be motivated to stand their grounds in the deteriorating environment.

Mr Brajesh Kumar: [01:29:04]

- a. Need to engage more with the Judiciary and the legal fraternity to join hands with the CCG. No retired CJI came out in support of Prashant Bhushan
- b. On using Hindi language – he suggested that there are good Hindi You Tube Channels like Lallantop which could be good channels for CCG to use. This access may be easier than mainstream Hindi papers and they in turn would appreciate our presenting views there. Other suggestions we need to think more include:
 - a. A Yogendra Yadav article he spoke about the failure of the English speaking elite to reach the Muslim majority. What can we do to overcome this gap?
 - b. We all know of people who are virulently pro Modi. How do we engage with such people in a constructive dialogue?
 - c. We should not look irreligious or anti any religion (particularly not sound anti Hindu)
 - d. Why can't we engage more with non BJP political parties? Why did none of these parties protest against the arrest of the anti CAA peaceful protesters? Can we not motivate them to take a stronger position on such issues?
 - e. BJP spoke a lot about corruption in previous governments. Can we not ask them to detail steps taken to control corruption?
 - f. Can we get some Hindu religious leaders who do not hold majoritarian positions to speak on these issues?
 - g. The position that is taken by many people that Modi is not responsible for any of the problems that the country faces. Can we address this?

Mr Kumar concluded with an offer to help with translations and to be part of any group to review drafts.

The Chair requested Mr Julio Ribeiro to offer some words of advice at this stage.

Mr Julio Ribeiro: [01:34:43]

Mr Ribeiro said that he was happy to be part of the CCG and will be happy to contribute in any way to what we are doing, except that he is not in a position to travel these days.

He said that he and Mr VP Raja were Trustees on an NGO that works on issues relating to children. One of the principles that they follow is that they do not engage with political issues. However, he is willing to re-examine this as it is necessary that young people also be informed about Constitutional issues and challenges.

Mr Ribeiro spoke about the challenges posed by Electoral Bonds that has probably been misused in purchasing legislators to distort the electoral outcomes in several States. As a remedy he suggested that we should consider advocating for a change from the “first past the post” system to one that many countries practice where a candidate is elected only if he or she gets more than 50% of the vote. If no one gets 50% a run-off election is ordered where the top two candidates compete to determine the victor. This system ensures that both communalization and criminalization of elections can be prevented.

A question asked of Mr Ribeiro by Balagopal was about the suggestion of Mr Devasahayam about what can be done to address serving officers to defend Constitutional values. Mr Ribeiro agreed that this is necessary but cautioned that people who address the serving officers should themselves have credibility. He also said that most retired officers are not motivated to take up these type of activity, from his own experience as Chairman of the Retired IPS officers association.

Mr Devasahayam also added that based on the principles of Proportional Representation, the BJP had only secured 25% of the votes of the electorate of India. He said that a report of the Citizen's Commission on Elections is coming where these issues are being addressed and it would be appropriate that this matter is taken up by the FCRDF.

Ms Meera Borwankar [01:43:52]

Offered to support any draft regarding the criminal justice system and collaborate on any discussions regarding policing and the criminal justice system.

She also proposed that the CCG have a permanent Secretariat.

Several aspects regarding the Secretariat was discussed following this and at the request of the Chair Ms Vibha Das Puri prepared a summary of this discussion that is provided here:

Secretariat for CCG

Ms Meera Borwankar suggested that we create a Secretariat to assist the CCG. When it was pointed out that a Secretariat would presuppose a legal being, rather than merely a Google group, she iterated the need for researching key issues and bringing all connected streams of thought together as the role for such an entity. Some other members brought up the access this group now has to the sterling resources available with Jan Sarokar (set up by MKSS of our member Aruna Roy) and the Centre for Equity studies(Aman Biradari Trust of Harsh Mander). In addition, the federated presence of 6 entities of the Veterans, Indian Writers Forum, Admiral Ramdas, Ganesh Devy, can also leverage resources from diverse fields, without having to keep Research associates on our rolls, with all attendant problems. (While partnership with OP Jindal Law university and Ashoka university around the theme of Electoral reform has not fructified as yet, presumably as and when research inputs are required from them, on any issue, CCG could be in a position to make such a request, this is an add on and not highlighted during meeting.)

Vibha Puri Das

MG Devasahayam: [01:56:07]

He mentioned that the interest in having **high quality research support from academic institutions** on the lines of the conversation that Balagopal reported with Azim Premji University in Bangalore and the probability of similar collaboration with the Centre for Development studies in Thiruvananthapuram, will be of great value to our group in addressing Democracy, Economy and other issues. Balagopal was requested to explore this further and if possible, to set up Zoom meetings with both institutions where he could also participate.

FINAL REMARKS FROM THE CHAIR:

Mr Deb Mukharji [01:02:40]

Mr Mukharji asked if there is interest in similar Zoom meetings in future and if so with what frequency. The consensus is that the meetings should be structured on some key issues of concern

and should be held if possible, once in two or three months. Mr Devasahayam suggested that we should encourage more of our members to participate in future.

Mr Mukharji said that this meeting had resulted in several valuable suggestions and ideas that we could take forward. He said that what was clear that what we have been doing has utility and a voice like ours needs to be kept alive in the current environment where the effort is to mute voices like ours. He thanked everyone for their active participation and looked forward to the next meeting.