

JUSTICE IS WHAT JUSTICE DOES

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Thank you Ajay, Vikram, Chandana and everyone else at Manthan. It is a privilege to be here, and especially in such an incredibly august company. Every one of the speakers is an intellectual powerhouse. Beyond their obvious and coruscating intelligence, each of the speakers and participants have shown us the meaning of the word *courage*, and each of the speakers is, in her or his own say, firmly committed to this thing I will speak about today, *justice*.

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Two years ago, in September 2018, I was invited to speak at a conference in Goa. This had nothing — or, at any rate, very little — to do with law or courts. It was a conference of architects and planners, and the theme of the conference was the *equitable* design of cities. The conference is a biennial event organized by the Charles Correa Foundation, and I was to deliver that year's Charles Correa Memorial Lecture. There were many people from across the globe at the conference — Barcelona, London, South America, the US. For me, though, one person's presentation had the greatest impact. I want to begin today with a

* Judge, High Court, Bombay. Transcript of the address/lecture delivered online on Sunday, 4th October 2020 at Manthan Samvaad 2020.

short description of what I heard and saw from him in Goa two years ago.

The architect's name is Michael Murphy. He is the Founding Principal and Executive Director of the MASS Design Group,¹ an architecture firm with, if I may be permitted a liberty, a definite twist. The entire ethic of this firm is unlike any other I've encountered. Murphy's presentation showed why: He and his firm have worked steadily over the years not to win design competitions but, as he put it, by going back to the community and asking what the firm may do for it. Their work ranges from critical care hospitals in Africa to schools and educational institutions and more.

From Goa to Montgomery, Alabama. All of us know the name and, at least roughly, the location: on the coastal plain of the Gulf of Mexico. Halfway across the world, we know it for its history and its role in the American civil rights movement, segregation, bussing and Rosa Parks.

It is also home today to one of the most astonishing feats of architecture. This is popularly called the Lynching Memorial, but its official name is *The National Memorial for Peace and Justice*.² This was designed by Murphy's MASS Design Group, and the design is a radical leap of imagination, a profound comprehension of the *idea* of justice and physical realization of that vision in a way that is simultaneously deeply moving and utterly horrifying.

The entrance to the complex has large concrete oblongs laid flat on the ground. They look like oversized paving blocks. But they are not. Each one is like a gigantic tombstone, carved with the name of a lynching victim.

In the complex itself, one descends a ramp. Suspended overhead are more of these massive rectangular blocks, one after the other. We are, in this architectural, built-form metaphor, almost literally beneath the hanging of each lynched victim. From across the country, soil from each lynching site is brought and accumulated in a growing series of jars. And at the lowest level is the serenity of water flowing silently down a wall — our tears of shame? Our final repose?

Words do not do this structure — that word again — justice. One day, I have promised myself, I will go there. It will be no tourist visit.

It will be a personal pilgrimage, just like the promise to visit as many Nazi extermination and concentration camps and Holocaust memorials as I can. I dread the thought of this, I truly do. But I believe I must do this, and I must do this to remind myself before I die that there once spread across this world so unspeakable an evil, so terrible an injustice, and to say only two words: *never again*.

Murphy and his firm have another proposal too, one that is equally stunning. I do not know if it has found favour, but this is the concept, and I get this from information online.³ The proposal is for a Holocaust memorial in London, at, I believe, Westminster. During their historical research, Murphy and his team found something unusual. The location or site of Hitler's and Albert Speer's concentration camps — the forced work camps — was no accident. They were located close to granite quarries. Speer needed the granite for his monumental Nazi architecture. What Murphy and the MASS Design Group proposed is this: to take or make six million granite stones, one for each of the six million Jews murdered during the Holocaust, and pile them up in the memorial. Visitors will be invited to light a candle — *and take away a stone*. In Hebrew tradition, laying a stone at a grave is an act of remembrance and symbolizes protection against disturbance. As these stones are taken away, the pile will reduce, diminish. And, one day, years later, every stone will be gone, all of them dispersed around the world. Thus is the memory of horror preserved. And thus do we collectively reaffirm our commitment to peace, tolerance — and continued justice.

It is no wonder then that the MASS Design Group chose as the title of a book that is not so much a catalogue of its work as an explanation of its philosophy: *Justice is Beauty*.⁴

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You just heard TM Krishna, in my view one of our most innovative musicians today, and whose music I follow as much as I can though I have no listening background to speak of in the Carnatic canon. His work transcends any such canonical

borders; you must listen to him to know why. There have been few others like this, MS Subbalakshmi in Krishna's canon, Kumar Gandharva and Kishori Amonkar in the Hindustani. When Krishna spoke of Wagner, he spoke of opposing reactions to that music, and how one reaction is tied to a collective and an individual memory. That is a memory of nothing but injustice, and consider now how deep and wide is the reach of this concept of justice.

Similarly, there is the scarring music of Penderecki, a Polish composer who passed in March 2020.⁵ His *Dies Irae* is a searing lament again invoking the memories of the injustice of the Holocaust;⁶ and this answers Vikram's comment or question of whether music can be distressing or disturbing. This concept or tie-in between the universality of music, memory and justice deserves an analysis of its own. And in that, perhaps we should have a conversation about the polarisations attempted in music. I am not talking about this or that canon or genre. I mean, instead, the attempts to exclude music from a collective consciousness.

As an illustration, some years ago, some cleric — in Kashmir, I believe — said that according to him, in the Quran and in Islam, music is *haraam*.⁷ I felt like saying, are you serious? Listen to an *azaan* and say this again — I dare you. There is an utterly gorgeous and deeply moving rendition of an *azaan* by the Radio & Television Symphony Orchestra of Bosnia-Herzegovina⁸ as the soundtrack for a Mecca segment in Ron Fricke's brilliantly realized documentary, *Samsara*.⁹ Is that not music? Or tell me how with that one egregious comment you just eviscerated the entire history of Hindustani classical music from before Bade Ghulam Ali Khan onward to the vast body of musicians today.

Music, like religion and poetry, is a very personal and individual thing; but it also transcends the individual to define a collective or larger unity.

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I started with this precisely because it has nothing at all to do with what I do at work, and yet has everything to do with a fundamental construct that informs the work — or, perhaps more accurately, *should* inform the work — of every judge everywhere.

“Justice” is not the exclusive domain of courts of law. Indeed, within those usually quiet and sombre precincts, justice and law are often at extremely peculiar odds. There are any number of laws, as in statutes, rules and regulations properly enacted, that, it may well be argued, are inherently unjust. A law that delays compensation for land acquisition, for instance, and there are arguments to be made about the inherent unjustness of rent control law, some topsy-turvy criminal statutes and more.

There is this anecdote about Justice Oliver Wendell Holmes and Justice Learned Hand, two titans of US law. In Robert Bork’s retelling of it, Holmes and Hand had lunch together. They got down to the Capitol, and had parted ways when Hand called out to Holmes, saying, “Do justice!” Holmes stopped and turned. “That is not my job,” he said. “It is my job to apply the law.” Or, in Hand’s own telling of it, “to play the game according to the rules.”¹⁰

This, then, must be not our port of arrival. It is our point of departure, and we must turn to what precisely we mean by “justice”. Or, to paraphrase Raymond Carver, “What do we talk about when we talk about justice?”

To begin to grasp that idea, or that ideal, we must begin with an understanding of why it is important.

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Sir Karl Popper, the Austrian-born British philosopher of science was also a powerful voice in political philosophy. His strong-voiced defence of liberal democracy and his advocacy of an open society are works that continue to be of seminal importance — possibly of greater importance today than ever before with precisely the assault on liberalism that we see the world over.

Among the many holies he took on was Plato, and his views on justice. In *The Open Society and its Enemies*,¹¹ Popper argues against an acceptance of Plato's view that the larger unit — say, a city — is more 'real' and has needs that supersede or over-ride individual needs. This collectivism was, Popper said, central to Plato's construct: the individual had to sacrifice her or his needs to the interest of the State. William Gorton of Alma College in Michigan puts it like this:¹²

“[Plato's] view in turn implied that the city has real needs that supersede those of individuals and was thus the source of Plato's ethical collectivism. According to Popper, Plato believed that a just society required individuals to sacrifice their needs to the interests of the state. “Justice for [Plato],” he wrote, “is nothing but health, unity and stability of the collective body” (OSE I, 106). Popper saw this as profoundly dangerous. In fact, he said, the view that some collective social entity—be it, for example, a city, a state, society, a nation, or a race—has needs that are prior and superior to the needs of actual living persons is a central ethical tenet of all totalitarian systems, whether ancient or modern. Nazis, for instance, emphasized the needs of the Aryan race to justify their brutal policies, whereas communists in the Soviet Union spoke of class aims and interests as the motor of history to which the individual must bend. The needs of the race or class superseded the needs of individuals. In contrast, Popper held, members of an open society see the state and other social institutions as human designed, subject to rational scrutiny, and always serving the interests of individuals—and never the other way around. True justice entails equal treatment of individuals rather than Plato's organistic view, in which justice is identified as a well functioning state.

Now this is of immediate relevance to us and, again, perhaps never more than today. We must ask ourselves, therefore, what is the value of justice to us as individuals and to us collectively as a society? Is it just an ideal, a thing that is nice to have, or is it essential to our continued existence?

Let me approach this another way. Let us consider our species on the planet, and set this in distinction to the very many others that occupy this shared space. What is it, we must ask, that distinguishes us, homo sapiens, from a pride of lions, a pack of hyenas, dolphins,

whales, great apes, animals generally? The answers range widely. Some are facetious: cuisine, for instance, or cooking with nitrogen, cutlery and crockery, taxes, alcohol, recreational drugs, rock and roll, traffic signals. But these are pedestrian incidents of daily living. They are not in and of themselves social differentiators. The question is not what it is we *do* that separates us from other species, but what is the aspect or feature of us as a species that marks us apart. Bertrand Russell conceived of four drivers of the human condition, and these included *desire* and *love of power*.¹³ But

But there are yet two things, I would suggest, most fully provide this distinction and they lie at opposite ends of a spectrum. The first is the *concept* of justice, that unique idea of doing what is right in accordance with, and with reference to, some objective and specifically stated standard. No other creature does this.

The second factor that uniquely distinguishes humankind, and this realization was shocking when it came, and I hope it will just as strongly shock in reiteration, is torture. We are the only species on the planet that derives pleasure in the deliberate infliction of pain and suffering on another creature, even a creature of our very own species. I do not know of any other living organism that does this.

At one level, justice is a social compact or contract, and it binds every one of us. It takes many forms, from the justice of law courts to questions of gender, race, class, history, memory, urban planning — what we might call spatial justice. Tied to this are the two concepts of equity and equality, two similar yet very different words, separated only by two letters, *a* and *l*. Yet those two letters separate two different universes.

Popper's distinction between the rights of the individual and the demands of the larger group is not an easy one. The larger collective may speak to anything from an informal neighbourhood watch or a building society, a religious affiliation or the nation-state. There is undoubtedly an obligation owed by each individual to the larger group, and this means following societal norms, whether or not these are enforced with statute. We must form queues, share in our handling of domestic waste, not honk, obey traffic rules and this goes

all the way up to saying no to corruption and to observing commercial fidelity.

The contest and tension occurs when the demands of the larger collective apparently impinge upon individual freedoms. If, in Popper's analysis, Plato's view, correctly read, was that these individual rights must be subordinated to the greater public need, we may conceivably have an enormous problem in addressing where precisely lies justice.

Strangely enough, the recent Covid pandemic gives us a startling illustration from the United States and elsewhere. We have seen reports — and some quite incredible video clips — of individuals refusing to wear masks and follow protocols saying that it is their right not to do so and yet go about their daily affairs, including meeting others, going shopping and so on. Consider just this instance. Where, in either analysis, lies 'justice'? Is it 'just' to demand that the individual's freedom of choice be abrogated in service of the concerns of the larger group? Do those larger collective norms and demands legitimately operate to deprive a person of individual freedoms? The Covid example may be simplistic. It gets more complicated when the larger collective is, say, illiberal and a brute-force majority. Is the silencing of an individual voice of dissent a legitimate sacrifice for the need of the larger unit?

Viewed like this, justice often presents us with very hard choices to which there are not many correct or universally acceptable answers.

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Our Constitutional ideal is founded on a vision of justice. It starts from the Preamble, where it is the very first ideal we, the people of India, resolved to secure to ourselves: *Justice*, social, economic and political. And in the Articles that follow in Part III of the Constitution, three most remarkably embark on a mission to achieve this aim: Articles, 14, 19 and 21. For a moment, leave aside the rest and consider these three alone; and consider too the *order* in

which they are placed, where each stands in the cascades of fundamental rights. Indeed, let us move upward, from Article 21, the right to life, one that has been expanded by judicial pronouncement over the last many decades, to the perennially debated Article 19 with its individual freedoms and come to what I call the Great Arc, Article 14. I will read it for you:

Equality Before the Law: The State shall not deny to any person equality before the law or the equal protection of laws within the territory of India.

This is stated with admirable compactness and precision but trust me when I say that the whole of it is freighted with meaning well beyond its words.

First, the very caption: equality *before* the law. In times of princes, the common folk were *before the Ruler, the King or the Queen*. Now they are *before the law*. The law is king, the law is queen, the law is our ruler. We are vassals to no human. But, as Cicero said, we are enslaved to the law — and we are enslaved to it that we may enjoy our freedoms.

To proceed. The State shall not ... this is an imperative. Thou shalt not. It is a commandment. It brooks no disagreement. And if there is any doubt about that, the next word, ‘deny’, puts it beyond the pale. Thou, the State, the larger collective, shall not deny ... what? To whom? To any person — not just a citizen, but any person; and shall not deny what?

There is not one prohibition here. There are *two*. The State cannot deny any person, *first*, equality before the law *or* — and this disjunctive is itself important, the word is not the conjunctive *and*, also for good reason — equal protection of laws.

Had it used the conjunctive, we would have had a problem. The prohibition on the State would have been against doing both. It could, therefore, have done one — denied equality before the law — or the other — denied equal protection of laws — but it could not have done both. But that is not how it reads, and with good reason. The Article tells us that the State can do *neither*. Neither one nor the other.

And because it uses this disjunctive, surely it must follow that there is a distinction between the two? What, I often ask my interns and students, is the difference between *equality before the law* and *equal protection of laws*?

To lawyers and jurists who have spent a lifetime with this, the answer is often self-evident. But if we are talking about a broader concept of justice then I believe this distinction, sewn into the main seam of our Constitution, is one that every individual must know and comprehend clearly.

The first part, equality before the law, has its roots in English common law and can probably be traced back to the upending of monarchies and the ascendance of Parliamentary democracy. This is said to be a declaration of equality.

Let me put it plainly. The first part means, long story short, that no one is a VIP. It has a negative connotation: be you ever so high, the law is above you. The law will not discriminate against or for you on the basis only of birth, position, race, gender and so on. All are equal — again — “before the law”.

The second part allows the State some positive leeway to ensure that those who are similarly placed will be similarly treated. Like is treated as like and not unlike. This is the balance to the first part.

But look at this from another perspective. What is this saying except that we, the people of India, have resolved to ensure that all of us are treated with justice? Between us, none can claim exemption from the application of law. But we recognize that we are not all equally placed; and those among us who are disadvantaged must receive from the State protection designed to right those imbalances.

What is this except an expression of ‘justice’? Do we not see, in this one Article, and its 27 words, the entirety of the twin universes of *equality* and *equity*?

This is the brilliance of our Constitution and our Constituent Assembly.

I have been at some pains to point this out because, and I am sure everyone here will agree, it is increasingly my view that, as a society, as a people, we have slipped these Constitutional moorings. I do not think I need to give you illustrations. You only have to take public

transport to a railway station or an airport where some VIP is in what we call ‘movement’ to understand this.

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In his scintillating opening lecture of Manthan Samvaad on 2nd October 2020, Pratap Bhanu Mehta mentioned, sadly only in passing, his friend Professor Michael Sandel of Harvard. I do not know Professor Sandel at all, but for the longest time I have much admired and valued his work and teachings. Not just his books, each one of which is worth reading again and again, even if you find yourself disagreeing now and then, but his approach to teaching and education. He was, I believe, the first to open his lectures to an international audience free.

Consider these passages from his 2009 book, *Justice: What's the Right Thing to Do?*²⁴

The demand that we separate our identity as citizens from our moral and religious convictions means that, when engaging in public discourse about justice and rights, we must abide by the limits of liberal public reason. Not only may government not endorse a particular conception of the good; citizens may not even introduce their moral and religious convictions into public debate about justice and rights. For if they do, and if their arguments prevail, they will effectively impose on their fellow citizens a law that rests on a particular moral or religious doctrine.

Set this against Popper's construct and critique and we have some idea of the dimensions of the dilemma before us.

Later, writing about “Justice and the Good Life”, Sandel says:

Over the course of this journey, we've explored three approaches to justice. One says justice means maximizing utility or welfare — the greatest happiness for the greatest number. The second says justice means respecting freedom of choice — either the actual choices people make in a free market (the libertarian view) or the hypothetical choices people would make in an original position of equality (the liberal egalitarian view). The third says justice involves cultivating virtue and reasoning about the common good. As you've probably guessed by now, I favour a version of the third approach. ...

A just society can't be achieved simply by maximizing utility or by securing freedom of choice. To achieve a just society we have to reason together about the meaning of the good life, and to create a public culture hospitable to the disagreements that will inevitably arise.

It is tempting to seek a principle or procedure that could justify, once and for all, whatever distribution of income or power or opportunity resulted from it. Such a principle, if we could find it, would enable us to avoid the tumult and contention that arguments about the good life invariably arouse.

But these arguments are impossible to avoid. Justice is inescapably judgmental. Whether we're arguing about financial bailouts or Purple Hearts, surrogate motherhood or same-sex marriage, affirmative action or military service, CEO pay or the right to use a golf cart, questions of justice are bound up with competing notions of honour and virtue, pride and recognition. Justice is not only about the right way to distribute things. It is also about the right way to value things.

And yet, in a crisis, just how does one go about valuing a thing like the rule of law or an abrogation of fundamental rights? Every single counter-terrorism programme of every single government anywhere is, as Jane Mayer wrote about the Bush Administration, “a sustained and radical challenge to the rule of law”.¹⁵

What we see, therefore, is a difficult task that confronts us daily as individuals, as persons and as citizens: ensuring justice. This is not just the Gandhian concept of non-violence or the concept of *Ahimsa*. It must be rooted in a conceptualization that, first, doing justice is an individual's Constitutional obligation; and, second, that a failure to strive toward this is going to result in increasing inequity and increasing inequality — precisely contrary to the ethical and moral underpinnings of Article 14. True, that Article prohibits the *State*,

but what is the State, or the nation-state, except that which we make of it or that which we fashion and want it to be?

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Inevitably, any such discourse must bring us around to the matter of courts and, more specifically, judges. This is understandable, because of all the creatures in public life, judges somehow seem to stand apart. They are usually silent, speaking only through their orders and decisions and judgments. Then there is that weird attire and the strange language they seem to speak and write.

Questions of legitimacy and accountability are inevitable. This is not just true of India, but the world over. In *Supreme Inequality: The Supreme Court's Fifty-Year Battle for a More Unjust America*, Adam Cohen argues that the US Supreme Court has consistently over half a century ensured the rise of injustice and inequality in the United States.¹⁶ In a different vein, Richard Fallon advocates a 'good faith' approach to Constitutional interpretation, allowing judges to constantly revise and tweak constitutional interpretation to meet new challenges, especially those driven by new technologies.¹⁷

But closer home, perhaps because it is more familiar, is Joshua Rozenberg's recent book, *Enemies of the People? How Judges Shape Society*.¹⁸ What role do judges play in society? What is judicial overreach, that trope much bandied about today? Are judges 'accountable' and if they are, how?

I am not, mind you, discussing our process of selecting and appointing judges. I am a product of that system, for better or worse. In history, and going back to Biblical times, societies chose as their judges those among them perceived to have certain values: persons of 'virtue'. And this, presumably, meant those of integrity with a certain moral centredness, combined with other qualities thought to be necessary in a judge — wisdom, fairness, patience and so on. But how does one value and assess these qualities in so tumultuous a society as ours?

If you ask me today, what makes you fit to be a judge? Or, why did they choose you? I honestly could not say. I dare say nor could many of my colleagues. A simpler answer is, perhaps to say, it's a job I was willing to do.

Do we render justice? I do not know. We certainly apply the law, as we perceive it — that dialogue between Holmes and Hand again — and between two of us those perceptions may differ very widely indeed. We have a solemn oath, one built into the Constitution, and we do not take it lightly, to which, of course, there are the usual exceptions.

In doing what we do, we are sometimes accused of going too far — of being activist judges. I take solace in Sir Stephen Sedley's fabulous remark, quoted by Rozenberg. *A judge is either active or he is asleep.*

And even in applying the law, the task is never easy. Again, quoting a judge from Israel, Rozenberg says “when judges try cases, they are themselves on trial.”

Do we, as judges, find this thing called ‘the truth’? I doubt it. Even our statutes, as I have said elsewhere in the context of the Evidence Act, do not require it. It only requires plausibility of what, according to our perception, is most likely to have happened, a sort of *Rashomon* kind of determination. As Abir Mukherjee wrote in a splendid yarn set in turn-of-the-century Calcutta, ‘*the truth no more entails justice than high office entails wisdom.*’¹⁹ He goes on: ‘justice can take many forms. You may not even recognise it when you see it.’

The truth is elusive. And justice is no rainbow.

But this is perhaps the reason why the business of justice should not be the exclusive preserve of judges. I do not mean that parties should arrogate to themselves a judicial function. There is a functional difference between what a judge does and being just as an individual in a society based on the rule of law. The latter demands that our every action be informed by fairness to the extent we can do it, and the real test of this is always when it comes at a cost to ourselves.

For a judge, this is often much harder than it seems. You have to take a decision that is correct in law but wildly unpopular. You may

be derided for it. But the popular mood — hang them high, for instance — is not justice. It is not equality before the law. It is a subversion of the Rule of Law. There are cases reported in the press that sicken any right-thinking person. A gruesome murder, rape or, perhaps worst of all, child abuse. As a human, as an individual in society, the instinct of the person whose job it is to be a judge may be to throw the book at the culprit, inflict some savage punishment, bring to bear the full weight of the authority of that office and all that it commands. The challenge before the judge is to *not* give in to this instinct, but to resist it. To step outside oneself, as it were, and to attempt to view the case neutrally and impartially.

Trust me, that is much, much harder than it sounds, and infinitely harder than pushing out a tweet or a Facebook post. But that is the demand of justice. That is what the concept of justice demands of us.

Justice, therefore, is what justice finally does.

Have we, as a society, held to this form of self-discipline? I would argue not, for our society is increasingly individualistic and individual-centric. If we are to advance towards ‘civilization’ — not retreat from it — then we are required to hew to increasingly difficult and higher standards of justice, following an ever-advancing evolution of what, in law, and in ancient texts including from Buddhism, is essentially the ‘neighbour principle’. This necessarily means a move toward across-the-board parity, striving toward equality and equity.

Why have we become so dysfunctional and so inequitable as a society? Is an upper-caste parent’s grief at the rape and torture and torment of her or his daughter greater than the grief of someone perceived to be socially inferior? Do we, at the end of 2020, still believe, as a people, that the feelings, needs, and rights those said or held to be lower in social echelon have *less value* than others? In which direction lies the greater common good?

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That, precisely, is the purpose behind the architectural memorials with which I began this lecture. As Murphy notes in his book, architecture — not readily associated with our notions of justice — just as easily lends itself to peace and justice as it does to violence and injustice. That is why it is important to preserve and not put roads through, for instance, the Sabarmati Ashram in Ahmedabad. Why damage the Ashram complex, even in the name of making it ‘world class’?

Where is the justice in that?

What memory, what history are we keeping?

I know little about the Mahatma. Certainly nowhere near enough. Many have attempted an understanding of this apparently simple man’s infinite complexity. I am not sure anyone has ever had the full measure of him. Yes, I know we have our annual rituals: garlanding portraits and touching the feet of statues one day, and then forgetting all about for the remaining 364 days of the year. And I have a sense that Gandhiji himself would have deplored this and denounced it for the hypocrisy it is.

Even from my limited understanding, it seems to me that Gandhiji was the one figure in history who seemed to embody that meld between the greater good and the individual need in a way that perhaps no one has ever done in modern history. Certainly, there were the historic and epic periods at, say, Dandi or Champaran and these, and his work for the Harijans, spoke directly to the collective need, the requirement of the larger community. But there was, in parallel, a man in a constant struggle of self-realization. I believe that he most fully understood that the needs of the individual are not necessarily opposed to those of the community. That awareness comes to very few. Even fewer are able to put it into practice. It is one of the things that made him the Mahatma. That quest for justice came at a terrible price, to himself, and to his family.

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We in India are indifferent to history. Perhaps we have too much of it, and therefore see no value in it. But understanding and accepting our shared history is an integral part of doing and rendering justice. Of course, all histories have their dark moments. Justice demands we remember those as well.

In my relatively short adulthood, there have been more than enough horrors. I do not suggest that we focus on every single one. But there are those that need to be remembered — the Bhagalpur blindings, the death of the young student in Kerala in the Emergency, Nirbhaya; it is quite a list. And we must do this so that we, too, may look at these again and again in our march toward a more equitable, a more equal, a more humane, a more just society, remember each.

And say to ourselves, *never again*.

Thank you for listening.

— E N D N O T E S —

¹ Home | MASS Design Group — <https://massdesigngroup.org/>

² The National Memorial for Peace and Justice | MASS Design Group — <https://massdesigngroup.org/work/design/national-memorial-peace-and-justice>

³ UK Holocaust Memorial Proposal | MASS Design Group — <https://massdesigngroup.org/uk-holocaust-memorial-proposal>

⁴ *Justice Is Beauty* | MASS Design Group — <https://massdesigngroup.org/justice-is-beauty>

⁵ Krzysztof Penderecki obituary | Classical music | The Guardian — <https://www.theguardian.com/music/2020/mar/29/krzysztof-penderecki-obituary>

⁶ Penderecki: Dies Irae 'Auschwitz Oratorium' [1/5] - Lamentatio (Part 1) - YouTube — https://www.youtube.com/watch?v=w_jvgdAFJIM

⁷ Will Kashmir's Grand Mufti apologise for his fatwa? —

<https://www.dnaindia.com/india/report-will-kashmirs-grand-mufti-apologise-for-his-fatwa-1866866>

- ⁸ Call To Prayer: Radio and Television SYmphony Orchestra of Bosnia-Herzegovina - YouTube —
https://www.youtube.com/watch?v=3_phsDGfYX4. A clip is at: Samsara (2011) - Kaaba - YouTube —
<https://www.youtube.com/watch?v=s-FcljOmfes>
- ⁹ Audio & Video | The official site for the films SAMSARA and BARAKA — <https://www.barakasamsara.com/media>
- ¹⁰ 14 Va. L. Rev. 111-14 (1996) —
<http://uniset.ca/terr/art/dojustice.html>. In a third version, Holmes supposedly said, “Justice? What’s that? That’s none of my business. Law is my business.”
- ¹¹ Popper, Karl: *The Open Society and Its Enemies*; Princeton University Press, 2013. At Amazon.in — <https://www.amazon.in/Open-Society-Its-Enemies-One/dp/0691158134>
- ¹² Karl Popper: Political Philosophy | Internet Encyclopedia of Philosophy — <https://iep.utm.edu/popp-pol/#SH1d>
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