

PREFACE TO THE SECOND EDITION

*Every man's work, whether it be literature or music or
pictures or architecture or anything else, is always a portrait of himself.*

Samuel Butler (1835-1902) *Way of All Flesh*, Ch. 13

The Second Edition of my Memoir is going to come out. It delights me, it amazes me. It delights me as my readers have found in it something worth reading. It amazes me to see that my readers found it prudent to read this Memoir of a person neither notable, nor notorious. I am lucky to experience this joy in this phase of time when the habit of book reading is declining fast. My life has been a prickly process of gathering surprises, but, as someone aptly said: "There is no surprise more magical than the surprise of being loved." I am grateful to my readers.

My autobiographical Memoir is, when all is said, my life's graph (*auto + bios + graphein*), and it reveals just what my destiny has made me over more than these seven decades. I know I could not descend deep into myself mainly because the affairs of the world, of which I have been a participative witness, never freed me to pursue that mission. True, my ideas have been determined by my observation-post, and they have conditioned me, and guided me all through. In my assessment, my life is just a potpourri of dried leaves and rose petals in which thorns abound to enrich the rest. As my life, to say in the words of James Russell Lowell, is still being 'woven on the roaring loom of time', my reflections on its chiaroscuro and patterns have been profoundly cathartic, but not final.

I am thankful to the Supreme Court Bar Association for considering 'On the Loom of Time' deserving the grant of the Certificate of Honour. I hope you have gone through, on the first few pages of the book, the insightful comments by Justice S.N. Jha, former Chief Justice of Jammu & Kashmir and Rajasthan High Courts; and Chairperson, Bihar Human Rights Commission; Justice P.C. Agarwal, Senior Advocate, Supreme Court of India, former Judge of Madhya Pradesh High Court; Shri Gopal Subramaniam, Senior Advocate of the Supreme Court of India, & former Solicitor-General of India; and Shri Ram Jethmalani, Member of Parliament, Senior Advocate at the Supreme Court of India, and Professor Emeritus at Symbiosis College of Law, Pune. I am grateful to Dr. Justice Vineet Kothari, the Hon'ble Judge of the Rajasthan High Court, for his MESSAGE on the Second Edition of my Memoir. I am grateful to them for their comments each word of which is precious for me not only as an appreciation of this humble self but as the words of tribute to my land, my teachers, and the cultural ethos in which I grew. I acknowledge gratefully my debt to all those who sent me comments and suggestions on the First Edition of my book to help me enrich and improve this second edition. I owe my duty to express my gratefulness to the eminent Dr. Ashok Seth, and the other cardiologists of his team, who have helped me, over these twenty-five years, to get over my severe cardiac problems the latest episode being on November 12, 2013. God helps in many ways.

The Second Edition of this Memoir is thoroughly revised and substantially enriched edition. Whilst at most places substantial additions have been made, Chapters 29, 30 and the Postscripts to the Second Edition, are wholly new. Most

other Chapters have been updated: viz. 'The Problem of the Black Wealth stashed in Foreign Jurisdictions' in Chapter 26 (at pp. 428-431). The Index of the book has been revised and enriched.

I have appended to this edition seven **POSTSCRIPTS** divided into two Segments. **The Segment 'A'** consists of three Postscripts: the first, outlines some recent developments in the Anti-corruption Movement in our country; the second, sets forth some of my suggestions, made *pro bono publico*, for our Government and citizenry to consider for taking appropriate actions; and the third, mentions some of my core beliefs which shape my worldview and guiding principles. My presentation in the postscripts is cryptic, referential, and precise, but my readers will find them illustrated in, and ensuing from, the exposition in this Memoir that is both an expanded metaphor of my life and times, and a short spectrographic account of things which have mattered most for me, for you, and for all others on our Mother Earth. **The Segment 'B'** consists of three postscripts (**Postscripts IV-VI**) which I conceptualized on the sick-bed in the Room No. 1504 in the Jaslok Hospital undergoing treatment from 30 April 2014 to 17 May 2014 for serious stroke. I watched the 2014 General Election in our Republic on the television. I had occasions to see all the elections held in our free India right from the commencement of our great Constitution. But this Election seemed unique, and enormously interesting. From May 17 to May 26, my mind waded through what I had heard and seen in the media. On May 26, Shri Narendra Modi became India's 15th Prime Minister. His words, his tone and tenor, his verve and *elan vital* suggested that we were at the threshold of a great 'paradigm shift' capable of shaping our response to the challenges we would face in the difficult times ahead. What I felt on the issues led me to compose these postscripts hoping that some of my ideas would make my readers think and act better for our national weal.

You would notice many references to my book, *Judicial Role in Globalised Economy*, published in 2005. It is out of print now. In deference to the wishes of some of my readers, I have put the whole text of the book¹ (the 2012 Web Edition) on my website: (www.shivakantjha.org).

Before I end this preface, something personal. I bless Nandini Choudhary (Gauri), the eldest daughter of my youngest daughter Anju Jha Choudhary. She is a student of the University of Maryland, USA. She bore, for two months (July & August 2014), the burden of proofreading the whole text of about 300000 words with gladness that delighted me. All my blessings for her success and happiness.

Jai Hind.

Vijay Dashmi
3 Oct. 2014

Shiva Kant Jha

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1. The book's **Chapters** are: 1. Towards the Sponsored State; 2. An Opaque System; 3. Not on the Trident of Lord Shiva; 4. The Frontiers of the doctrine of *Ex Debito Justitiae*; 5. Judicial hierarchy and the resultant norms; 6. *McDowell*: the decision and the *ratio*; 7. The Pragmatics of the Right Judicial Role; 8. Reading with Discrimination: on the use of a textbook in a judicial proceeding; 9. A Corporation cannot be an impervious coverlet of gross abuse; 10. Fraud unravels everything; 11. Treaty Shopping; 12. Supreme Court on Treaty Shopping; 13. The CAG on Treaty Shopping; 14. International law and the foreign administrative acts; 15. Treaty-making power; 16. *Quis Custodiet ipsos Custodes*: Who will watch the watchers?; 17. A Morbid story of the Indo-Mauritius DTAC; 18. The Uruguay Round Final Act: A Betrayal of the Nation; 19. Status of a tax treaty vis-a-vis the Statute; 20. A paradigm shift in Tax Jurisprudence; 21. CBDT Circular making power: Frontiers still to be settled; 22. Public Interest Litigation in Revenue Matters; 23. Epilogue.