



No more leeway

The RBI must set an example on transparency, and serve the national economic interest

The Reserve Bank of India has been given a “last opportunity” by the Supreme Court to stop being in “contempt” of the court’s clear and unambiguous order of December 2015. Ruling on a batch of contempt petitions against the RBI, a two-judge bench directed it to furnish all information relating to inspection reports and other material sought by Right to Information (RTI) petitioners, save material exempted by the court’s earlier order particularly on the grounds that it had a bearing on the security of the state. The bench made it clear that “any further violation shall be viewed seriously”. The banking regulator has repeatedly tried to stonewall multiple requests seeking information ranging from the names of wilful defaulters on bank loans worth hundreds of crores of rupees, to the bank-wise breakup of mark-to-market (MTM) losses and the losses in foreign currency derivatives contract cases. The Central Information Commission too had, in November, directed the then RBI Governor, Urjit Patel, to show cause “why maximum penalty should not be imposed on him” for the central bank’s “defiance” of Supreme Court orders on disclosing the names of wilful loan defaulters. The RBI was ticked off by the CIC for failing to uphold the interest of the public and not fulfilling its statutory duty to depositors, the economy and the banking sector, by privileging individual banks’ interests over its obligation to ensure transparency.

At a time when the level of bad loans at commercial banks continues to remain worryingly high, worsening their combined capital to risk-weighted assets ratio (CRAR), it is inexcusable that the RBI continues to keep the largest lenders to banks, the depositors, and the public in the dark on the specific loan accounts that are endangering the banking system’s health and viability. The RBI’s latest Financial Stability Report shows that the industry-wide CRAR slid to 13.7% in September 2018, from 13.8% in March 2018, with the ratio at the crucial public sector banks declining more sharply to 11.3%, from 11.7% over the same period. For a banking regulator that never tires of stressing the need for greater accountability from the numerous public sector banks, the RBI’s reluctance to be more transparent is perplexing. Even its latest Disclosure Policy, posted on its website on April 12 after the Division Bench had concluded hearings in the contempt case and reserved judgment, continues to direct its departments to withhold information that was expressly ordered to be shared by the December 2015 order. As the CIC aptly observed last year, the central bank’s intransigence and repeated failure to honour the court’s orders ultimately undermines the very rule of law it seeks to enforce as a banking sector regulator empowered by Parliament.

Downbeat diesel

The government must be more proactive in shifting vehicles to cleaner fuels

The decision taken by Maruti Suzuki, India’s largest passenger vehicle manufacturer, to eliminate diesel models from April 1, 2020, when the Bharat Stage VI emission standard is introduced, mirrors emerging global trends. Although diesel has powered India’s commercial transport segment for decades, its fortunes are declining for several reasons, beginning with the narrowing of the price differential with petrol. It has lost its shine in Europe, the world’s biggest market for diesel cars where sales of even well-known marques have fallen during 2018 by 20%. In a variety of mandated and suggestive ways, car-owners are being nudged towards petrol and alternative fuels. The diesel emissions data scandal involving carmaker Volkswagen dismayed many consumers. Given the prevailing economics and diesel’s reputation as a dirty fuel that adds to pollution from cars, buses and freight vehicles, auto companies see a weak business case to upgrade them. Maruti Suzuki’s decision makes it clear that in spite of being a strong past performer, this fuel is riding into the sunset as far as the personal vehicle is concerned. This outcome should be welcomed for the positive impact it will have on air quality and public health.

Automotive emissions, especially in congested cities, have risen due to steady economic growth, proliferation of vehicles and more vehicle kilometres travelled. In Delhi, for instance, the effect of shifting the three-wheeler and bus fleet to Compressed Natural Gas during a four-year period from 1998 improved air quality, but the gains were quickly negated by a rise in overall vehicle numbers, especially those run on diesel, besides a rise in other sources of pollution. Marking the steady deterioration in air quality, one study found that people on the road in Delhi had 1.5 times greater exposure to the city’s average ambient air pollution level. Diesel emissions pose hidden hazards, too. Besides the harmful fine and ultra fine particulates that they contain, the vehicular exhaust adds to ground-level ozone formed from nitrogen oxides and hydrocarbons combining in the presence of sunlight, seriously harming respiratory health. The national plan to shift to higher quality BS VI grade fuels may offer some mitigation of pollution, but that can only be a respite. Improving air quality in the cities requires a transformative planning approach guided by the singular objective of reducing the use of polluting vehicles. Such a policy would prioritise less-polluting and alternative fuels for vehicles, but more important, encourage walking, cycling and using public transport. This is the direction that many world cities are taking. Paris, Madrid and Athens have announced a prohibition on diesel vehicles by 2025, while London has made it more expensive for older vehicles to enter the city. India has to chart its own equitable and accessible green path.

An ineffectual angel

The judiciary’s rhetoric has little purpose if it evades cases that call for it to enforce the grand principles of democracy



GAUTAM BHATIA

The transition from a colonial regime to a democratic republic was one of the most singular achievements in Indian history. In her magisterial *How India Became Democratic*, Ornith Shani details the Herculean efforts that went into pulling off independent India’s first general election. By stipulating in the Constitution that elections must be conducted on the basis of universal adult suffrage, our framers transformed an entire population from subjects to citizens in one sweeping stroke. It was an achievement that many doubted would be possible, but one whose success should make us all proud.

Free and fair elections

At the heart of this achievement is the citizen’s right to vote. It is through the vote that the democratic legitimacy is periodically renewed and the foundations of the republic remain stable. But it is not simply the act of voting that is enough: rather, voting must take place as part of a free and fair election. And for that, there must exist a number of institutional factors and conditions, all of which, taken together, culminate in that final act of the voter casting her ballot.

The Indian Supreme Court has recognised this basic principle. In many judgments over the years, the court has set out the enabling conditions that guarantee that voting remains a meaningful activity. These include, for example, the citizen’s right not to be arbitrarily denied the vote (the court has,

therefore, held that voting is a fundamental freedom guaranteed under Article 19(1)(a) of the Constitution); the right to know (thus, requiring compulsory declaration of certain information by candidates); and the right to a secret ballot (that has prompted the court to order the inclusion of a NOTA, or None of the Above option). As the Supreme Court has reminded us many times, public faith in the electoral process is crucial to the continued survival of republican democracy, and it is these institutional safeguards that come together to ensure it.

Judicial inaction

Like with any other competitive process, the ground rules that constitute the framework of the competition must be enforced by an impartial umpire. It is here that the role of an independent judiciary is crucial. While in popular imagination, the primary role of the courts is to protect the fundamental rights of individuals against the state, another – equally critical – task of courts is to ensure that the ground rules of electoral competition, which are necessary to ensure free and fair elections, are maintained. For obvious reasons, this is not a task that can be left to political actors, and can, in essence, only be performed by the judiciary. This, therefore, is an arena where courts have to be even more vigilant than usual, because what is at stake is the foundational legitimacy of democracy itself.

In this context, the recent conduct of Indian courts reveals an unfortunate gap between judicial rhetoric and actual enforcement. First, the right to know: this much-vaunted principle, which has repeatedly been accorded pride of place by the Supreme Court, was flagrantly violated when the go-



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vernment introduced the electoral bond scheme early last year. The electoral bond scheme allows limitless, secret donations to political parties, including (and especially) by corporations. It strikes a dagger through the heart of the right to know, because it denies voters the knowledge of who funds the people who ask for their vote. The electoral bonds scheme was challenged immediately after it came into force; the Supreme Court, however, held off on hearing the case until a few weeks ago, and then it postponed the case to after the elections, citing a paucity of time. In the meantime, significant sums of anonymous donations have come in through electoral bonds, and an overwhelming percentage of them have gone to the ruling party.

Second, the secret ballot. During this election season, Maneka Gandhi’s threat to Muslim voters to vote for her or else she would refuse to help them after she was elected, raised eyebrows across the country. However, as scholar Mukulika Banerjee had pointed out as early as 2017, and as journalist Ishita Trivedi demonstrated more recently, political parties are now able to determine voting outcomes at the level of individual booths. This destroys the very concept of the secret ballot, and makes threats like the ones Ms. Gandhi delivered extremely credible and capable of distorting the electoral process. However, when

in 2018 a case was filed before the Supreme Court asking for the use of totaliser machines in elections – that would restore the secrecy of the ballot – the court dismissed it without even according it a hearing.

Voter complaints

Third, the freedom to vote itself. This election season has seen multiple complaints from voters who have found their names deleted from electoral rolls, without information or a chance to be heard. However, this is not new. The issue of voter deletions surfaced late last year, especially in the context of Assembly elections in Telangana, where the Election Commission of India (EC) itself admitted to the existence of the problem. It was alleged at the time – and has subsequently been established through detailed investigative reporting carried out by *The Huffington Post* – that the EC was using an un-audited de-duplication software, alongside (unauthorised) Aadhaar linking, to “cleanse” the electoral rolls, but the result, instead, was to remove a very large number of genuine voters. Accordingly, late last year, Srinivas Kodali, a Hyderabad-based technologist, filed a case before the High Court, asking that the EC be required to reveal the source code of the algorithm it was using, and open it up for auditing. Months have passed, the general election has come, but the High Court has failed to decide the petition.

And lastly, public faith in the electoral process: in mid-March, Opposition parties filed a petition before the Supreme Court that would have settled, once and for all, any qualms about the use of electronic voting machines (EVMs). The request was to verify 50% of the EVMs using the voter-verifiable paper audit trail

(VVPAT) machines. The EC’s only objection to this was that it would increase the time of counting by six days. One would imagine that a six-day increasing of the counting period, in the context of a seven-phase month-and-a-half-long general election, is a ridiculously small price to pay for maintaining public faith in the electoral process. However, with three phases of the election having come and gone, the court is yet to even decide upon the petition.

Just words?

On multiple occasions, over the course of many years, the Supreme Court has waxed eloquent about the glories of Indian democracy, the importance of free and fair elections, and the supreme sanctity of the vote. And indeed, our democracy is a genuine achievement, worthy of pride. Democracy, however, does not sustain itself. The court’s rhetoric has little purpose if, when it comes to the crunch, it evades deciding cases that call for it to descend from the commanding heights of eloquence, and into the weeds of actually enforcing the grand principles of democracy. The voter’s right to know, the secret ballot, and the freedom to vote itself – all these have been undermined to various degrees in the last few years, throwing into serious doubt the freedom and fairness of elections. But on each occasion, when the courts have been called upon to address these problems, they have dodged and ducked the issues, instead of solving them. The rhetoric is beautiful, but without enforcement, the judiciary remains, in the words of Mathew Arnold, “an ineffectual angel beating in the void [its] luminous wings in vain.”

Gautam Bhatia is a Delhi-based lawyer

Dangerous, debasing and deplorable

The Modi regime has embarked on a game of brinkmanship with Pakistan for just an advantage on the electoral stage



SUDARSHAN V.

Pakistan Prime Minister Imran Khan should perhaps follow Russia’s example and that of the United Arab Emirates and confer Prime Minister Narendra Modi with Pakistan’s highest civilian award, the Nishan-e-Pakistan. This is for the Indian Prime Minister’s war-like efforts to bring peace to the region and for his dexterous effort to pull Pakistan and India back from the nuclear brink by first setting the threshold of the nuclear escalatory ladder really low and then artfully enlisting and fielding leaders of other nations to do the rest of the job – easily the more difficult part, behind the scenes.

Also, special appreciative mention must be made for making mediation fashionable in this part of the world once more. Once Mr. Khan bows this googly, three things are sure to happen: Mr. Modi will stop taking undue credit for exemplary chowkidari; it will remove the bad blood that the Prime Minister has been busy infusing into the future of bilateral relations between India and Pakistan, into Jammu and Kashmir, and it will also lower the shrill levels of false rhetoric that has characterised this election and the national de-

bate on security.

The story of what really happened will come out, sooner or later. But here is what we now know for sure. U.S. President Donald Trump was in Hanoi, in February, in the midst of extraordinary talks with North Korea’s Kim Jong-un, when India sent planes to drop four super smart bombs on Balakot. The bombs were pretty smart. So they left no evidence of the destruction they allegedly caused and yet forced over 300 terrorists to vanish from the face of the earth without any funerary frills. It is arguable that the bombs, the modestly contained explosions that left the targeted buildings standing defiantly afterwards, were so chosen that it would give the Pakistanis enough room for deniability as the stage was set for mediators to hastily step in.

While no agreement was reached between Mr. Trump and Mr. Kim in Hanoi, the American President was able to effectively and promptly work out an agreement for the unharmed return of Wing Commander Abhinandan Varthaman, who had become a trophy capture for the Pakistanis and who was to become a trophy poster boy for the Bharatiya Janata Party’s campaign machinery soon thereafter, till the Election Commission of India came down on this practice.

Managed outcomes

Very significantly, Mr. Trump pre-empted the press conference of the



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aborted summit with Mr. Kim with the news that he had been able to broker a deal between India and Pakistan, as did Bill Clinton before him but without dragging the Pakistanis to Blair House. Mr. Trump revealed, “They’ve been going at it, and we’ve been involved in trying to have them stop. And we have some reasonably decent news. I think, hopefully, that’s going to be coming to an end.”

Between the magical strike at Balakot and Wg Cdr Varthaman’s release, Mr. Modi’s brinkmanship, which included threatening Pakistan with missile strikes if Wg Cdr Varthaman was harmed, not only kept U.S. Secretary of State Mike Pompeo and the U.S. National Security Adviser John Bolton busy, but also brought the United Arab Emirates, Saudi Arabia and China actively into the behind-the-scenes act as well.

This delicate game of managed outcomes requires choreography and pre-verification of public stances that border on a pointillist painter’s obsession for detail to get the overall picture perfect. We know this because Mr. Khan soon

confirmed: “I know last night there was a threat there could be a missile attack on Pakistan, which got defused... Our army stood prepared for retaliation.”

So as the Indian Prime Minister struts the electoral stage making incendiary speeches that trivialise our nuclear capability and threaten bloodshed at night – “gatal ki raat” (night of slaughter) – through the implied threat of liberal use of missiles, it should give us pause to consider where we are being led. Imagine the horrific consequences of an exchange of missiles. Yet, Pakistan being the past master at repeatedly coming out on top while remaining in the bottom, has achieved several strategic objectives. More than a month later, Pakistanis continue to believe that what really happened was more an effete Deepavali-type fireworks than military, and by giving a nuanced and matching reply, even while tremendous pressure was on them not to, Pakistan was able to restore the status quo ante in terms of the nuclear threshold.

Hardly shock and awe

Let us be clear: Balakot is not about to change Pakistan’s behaviour. It has not frightened the terrorists into reformatory huddles and got them to stop dreaming their jihadist dreams. Pakistan seems to have an unending capacity to absorb punishment and inflict twice as much at the same time through cunning ways. Ac-

ording to the Pakistan Institute for Peace Studies, last year saw 262 terror attacks on Pakistan that left about 600 dead and more than a thousand injured. Balakot is not even going to figure in the next year’s listing. And Mr. Modi’s government is not in a position to hand out death certificates even.

Mr. Modi may have played the game of brinkmanship on the cheap and better than Atal Bihari Vajpayee did during Operation Parakram, when after Parliament was attacked by terrorists he mobilised the might of our entire armed forces against Pakistan even while the Americans controlled much of Pakistan’s airspace and sea routes. But Mr. Modi has dangerously lowered the nuclear exchange threshold, debased the language of deterrence, and made deplorable attempts to appropriate the armed forces as a political tool, including by exhorting first-time voters to vote for the Pulwama martyrs and for Balakot.

The last is ironic, considering that the army veterans remain a smited lot when it comes to the One Rank One Pension scheme. He has used every opportunity to work the theme, which includes even the anti-satellite (ASAT) missile test. The Defence Research and Development Organisation went into mission mode over six months ago. That test too could have just as easily been done significantly earlier as well.

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LETTERS TO THE EDITOR

Letters emailed to letters@thehindu.co.in must carry the full postal address and the full name or the name with initials.

Terror in Sri Lanka

Even days after the carnage on Easter Day, the situation in Sri Lanka appears to be unsettled (Page 1, “15 dead after gun battle with bombing suspects in Sri Lanka”, April 28). The most disturbing factor is the apparent lack of communication between the Sri Lankan President and the elected government. The fact that some of the leaders there talk about not having received intelligence information in advance shows the sorry state of affairs.

D. SETHURAMAN,
Chennai

■ The presence of a few more terrorists with a large cache of arms and ammunition even after the Easter Day carnage does not augur well

for the people of Sri Lanka. Considering the inefficient intelligence network, it appears to be a safe place for planning, perpetrating and executing clandestine activities. The overall scenario is disquieting. Sri Lanka has its task cut out and should devise plans to eliminate terrorism which is not an easy job.

V. LAKSHMANAN,
Tirupur, Tamil Nadu

An open secret

The report, “Cash for votes: TN’s best kept secret” (Tamil Nadu, April 28), was painful to read. It is appalling that the money power during the elections only seems to grow in strength with each election. It is agonising that Tamil Nadu tops the list of States where large sums of money was seized during the 2019

Lok Sabha election. Gone are the days when those who were service minded entered politics. It is a pity that constitutional bodies such as the Election Commission of India are not seen to be exercising their powers either to investigate and prosecute offenders.

SRAVANA RAMACHANDRAN,
Chennai

Down memory lane

Children in urban areas need to read the article, “Where are the street charmers gone?” (Open Page, April 28). How fortunate children were those days unlike children today who have to retreat to flats and apartments, go into a sulk and think of ways to occupy themselves. I still remember children out in the streets playing games until their parents herded them back home, chiding

them about homework. Nowadays, children spend evenings/holidays poring over mobile phones and laptops with absolutely no physical exercise. In the past, mothers could cajole fussy children to eat by pointing to the moon and telling them stories. Today, one has to use the Internet on one’s mobile phone. My year-old grandson is fed this way.

K. JAVANTHI,
Chennai

A festival to choose

The festival of polls, in India, cannot be matched anywhere in the world (“Magazine” - “Framed” page, p.16). How each step in the exercise is carried out, whether it is carrying election materials in boats, scaling hills, using the help of animals like donkeys, the dedication of polling staff

drawn from different departments, the monitoring of campaigning and then voting is a marvel. Above all, one has our security forces keeping constant vigil to ensure a peaceful atmosphere for people to exercise their franchise. This festival is also unique as it draws in every section in India.

J.P. REDDY,
Nalgonda, Telangana

IPL campaign

Andre Russell is a senior player who has been around in the IPL for some time now.

CORRECTIONS & CLARIFICATIONS:

The second deck headline of “A rural agenda” (April 28, 2019, some editions) erroneously referred to a manifesto from India’s largest public sector. It should have been private sector.

The table that accompanied the report, “IRS to be released every quarter, says official” (April 27, 2019), had failed to mention that the readership figures were in thousands.

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