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Focus on distribution, not power generation

Editorial

It is welcome that Union power minister Piyush Goyal has offered the Centre's good offices to sort out the problem of stressed stranded projects in the vexed power sector. As many as 54 projects adding up to over 25,000 MW are currently stranded and not generating power. But the problem, in the main, is the sorry lack of reforms in distribution and attendant, routine and large-scale theft of power.

It is rampant revenue loss in distribution and moribund finances of state power utilities that stultifies offtake and demand. In a shocking illustration of the problem, engineer Abhimanyu Singh was killed and four of his colleagues injured while fleeing a mob attack in southwest Delhi on Monday, where they had gone for spot inspection of power theft. The powers that be must immediately resume CISF protection for theft detection teams, which was questionably withdrawn in 2009. The fact is that despite showcase power reforms in Delhi, large pockets continue to experience massive theft and recurring non-payment with 25-50% of power unaccounted for.The point is to clamp down on political patronage of theft and non-payment for power in the states. It is true that of late, 25 states have issued bonds under the Ujwal Discom Assurance Yojana for over Rs 2 lakh crore, to clear state power utility losses. But in tandem, we need revamped institutional mechanism and improved governance to stem revenue losses in distribution. The way forward is to mandate stringent norms to boost transparency. For starters, distribution results need to duly be complied and published widely on a quarterly basis. Utilities can provide steady returns for the long term, and the Narendra Modi government needs to put distribution reforms at the core of its reform agenda.

बिज़नेस स्टैंडर्ड

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नियामकों की भूमिका में होनी चाहिए और स्पष्टता

सोमशेखर सुंदरेशन (लेखक वरिष्ठ अधिवक्ता और स्वतंत्र विधि परामर्शदाता हैं)

सवाल यह है कि क्या भारतीय रिजर्व बैंक फंसे हुए कर्ज की वसूली के बारे में गठित एक अद्र्ध-न्यायिक निकाय के सामने शर्तें थोप सकता है? गुजरात उच्च न्यायालय ने भी हाल ही में यह पूछा कि क्या रिजर्व बैंक के पास अधिकरणों के नियमन की शक्तियां मौजूद हैं? रिजर्व बैंक का यह सोचना अधिक महत्त्वपूर्ण नहीं है कि वह एक अद्र्ध-न्यायिक निकाय को अपनी शर्तें मानने के लिए बाध्य कर सकता है। उससे अधिक महत्त्वपूर्ण या शायद डरावनी बात यह है कि हमारे सार्वजनिक संस्थानों के कामकाज में भूमिका की स्पष्टता किस तरह आसानी से आधिकारिक रूप से गलत हो सकती है।सबसे बड़ी गलती राष्ट्रपति के अध्यादेश के जरिये रिजर्व बैंक को दी गई वह शक्ति है जिसमें उसे फंसे हुए कर्ज की वसूली के बारे में वाणिज्यिक बैंकों को निर्देश देने का अधिकार मिला है। यह प्रावधान केंद्रीय

बैंक के डीएनए में गलत नीतिगत चयन के रूप में परिलक्षित होता है और यह भूमिका की स्पष्टता को भी धूमिल कर देता है। यह एकतरफा नीतिगत समाधान का बेहतरीन उदाहरण है। यह रिजर्व बैंक का दायित्व नहीं है कि वह वाणिज्यिक बैंकों के लिए बाध्यकारी निर्णय ले। लेकिन शक्तियों से सुसज्जित रिजर्व बैंक शायद यह मानने लगा कि उसे राष्ट्रीय कंपनी कानून न्यायाधिकरण (एनसीएलटी) को भी उसकी गतिविधियों के बारे में दिशानिर्देश देना चाहिए। हाल में बने दिवालिया कानून के तहत कामकाज के तरीके को लेकर बैंकों को निर्देश देने की शक्ति देने के पीछे यह धारणा है कि वाणिज्यिक बैंक को नए कानून के प्रावधानों को लेकर कोई फिक्र ही नहीं है। बैंकों की कार्यकारी भूमिका सुनिश्चित करने का रिजर्व बैंक को दायित्व सौंपने जैसी प्रवृत्ति अन्य क्षेत्रों में भी आ सकती है। बीमा क्षेत्र के नियामक को भी बीमा कंपनियां संचालित करने के लिए कहा जा सकता है। इसी तरह बाजार नियामक सेबी भी म्युचुअल फंड संचालित कर सकता है।

इससे भी बुरी बात यह है कि इसमें यह आधार बना दिया गया है कि निगरानी एजेंसियां कुछ साल बाद रिजर्व बैंक का दरवाजा खटखटा सकती हैं। एजेंसियां यह कह सकती हैं कि रिजर्व बैंक ने अपने दायित्व के निर्वहन के दौरान कुछ गलत फैसले लिए थे। उस समय बैंकों की समस्याएं रिजर्व बैंक की मुश्किल बन जाएंगी। यह संभावना काफी हद तक सही हो सकती है क्योंकि गैर-निष्पादित परिसंपत्तियों (एनपीए) की वसूली के मामले में प्रदर्शन खराब रहने और इनमें से कुछ परिसंपत्तियों को सस्ते में खरीदने वाला अगर लाभ कमाने लगता है तो केंद्रीय जांच ब्यूरो (सीबीआई) भविष्य में यह भी कह सकता है कि रिजर्व बैंक भी भ्रष्टाचार की चपेट में आ गया है।रिजर्व बैंक का एनसीएलटी को एनपीए के संबंध में अपनाए जाने वाले रुख के बारे में अधिसूचना जारी करना पिछले कुछ वर्षों का एक अहम नीतिगत चयन है। एनसीएलटी का गठन अद्र्ध-न्यायिक फैसले ले पाने में सक्षम अधिकरण के तौर पर किया गया था लेकिन इसके पीछे यह सोच भी थी कि मौजूदा संगठनों के प्रदर्शन पर असर डालने वाली समस्याओं को दूर करने के लिए नई संस्थाओं की जरूरत है। न्याय प्रशासन के निष्प्रभावी होने से सरकारों ने संसद के जरिये ऐसे कानून पारित कराए हैं जिनमें नियामकों को सशक्त करके उन्हें एक तरह से न्यायिक भूमिका दे दी गई है। लेकिन इस तरह की भूमिकाएं निभाने के लिए जरूरी प्रशिक्षण देने और क्षमता विकसित करने पर कभी भी ध्यान नहीं दिया गया। ऐसे प्रयोगों से पैदा हुई निराशा में सरकारों ने कुछ और खराब प्रयोग किए जिसका नतीजा यह हुआ कि सरकार के अंगों की भूमिका ही धूमिल पड़ती जा रही है। इसके बहुतेरे उदाहरण हैं। पूंजी बाजार के नियामक सेबी को एक कार्यकारी संगठन होते हुए भी बेहिसाब शक्तियां दी गई हैं। उसे गंभीर अद्र्ध-न्यायिक फैसले भी लेने का अधिकार है जबकि उसके पास कोई न्यायिक प्रशिक्षण नहीं है। इसी तरह गंभीर दायित्वों के निर्वहन के लिए गठित अद्र्ध-न्यायिक अधिकरणों को भी संसाधनों की कमी का सामना करना पड़ता है। राष्ट्रीय कंपनी कानून अपीलीय न्यायाधिकरण को कंपनी कानून के साथ ही प्रतिस्पद्र्धा कानून और दिवालिया कानून से जुड़े मामलों में भी अपीलीय अधिकरण की भूमिका दे दी गई है। लेकिन जमीनी हकीकत यह है कि इस अधिकरण में केवल दो सदस्य हैं जबकि एक सदस्य की जगह खाली है। इसी तरह बीमा नियामक के फैसलों के खिलाफ अपील सुनने के लिए गठित प्रतिभूति अपीलीय पंचाट में कभी भी सारे सदस्यों की नियुक्ति सरकार नहीं कर पाई है।

दूरसंचार क्षेत्र में कथित घोटाले के बाद कुछ 'रचनात्मक' नीति-निर्माताओं ने नियंत्रक एवं महालेखा परीक्षक (सीएजी) को भी अहम कार्यकारी फैसला लेने की प्रक्रिया में शामिल करने का सुझाव दे दिया था। यह एक बानगी है कि अंतर-सांस्थानिक नियंत्रण एवं संतुलन को कितनी कम अहमियत दी जाती है। बैंकिंग क्षेत्र के नियामक का भी अपनी निगरानी वाले बैंकों को उठाए जाने वाले कदमों के बारे में बताना कुछ ऐसा ही है। इस बात की काफी संभावना है कि निकट भविष्य में दिवालिया कानून के तहत प्रस्तावित इनसॉल्वेंसी पेशेवरों के लिए भी ऐसा कोई बोर्ड बन जाए जो उन्हें पेशेवर कामकाज के बारे में दिशानिर्देश जारी करे। एक नवजात व्यवस्था के शुरुआती दौर में इस तरह का कदम बहुत बड़ी गलती होगी। उससे दिवालिया प्रक्रिया अंजाम दे पाने में इन पेशेवरों की साख कुछ उसी तरह कमजोर होगी जैसा रिजर्व बैंक के निर्देश से बैंक प्रभावित होंगे। नए दिवालिया कानून में एक और बड़ी खामी यह है कि कोई भी कर्जदाता वसूली की प्रक्रिया शुरू कर सकता है। इससे न केवल कर्जदार कंपनी के निदेशक मंडल की शक्तियां निलंबित हो जाएंगी बल्कि कर्ज वसूली पर भी रोक लग जाएगी। साफ है कि आमूलचूल बदलाव वाली नीति से समस्याओं का समाधान निकलने के बजाय उनमें बढ़ोतरी ही होगी।

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The People Are Watching

Government has an opportunity to enhance use of social audit to monitor schemes

In contrast to its rhetoric, the current government's record on transparency, accountability, and citizen participation has been uninspiring. Even essential laws such as the Lok Pal and the Whistle Blower Protection Act are yet to be operationalised. However, recent developments on social audits, the conduct of which actually finds a place in the BJP's 2014 manifesto, open up an opportunity.The recent report of a joint task force on social audit has made unanimous recommendations that have opened the possibilities of social audit becoming a vibrant, independent and citizen-based monitoring system. The Supreme Court too in an ongoing PIL has taken a note of these recommendations and is exploring strengthening social audit as a systemic solution in law.

With its roots in rural Rajasthan, social audits refer to a legally mandated process where potential and existing beneficiaries evaluate the implementation of a programme by comparing official records with ground realities. The public collective platforms of jansunwais or public hearings that social audits conclude with remain its soul. In the course of a social audit, individuals and communities get empowered and politicised in a way that they experience the practical potential of participatory democracy.The proceedings cannot be scripted, and the entire social audit is often a dramatic process of redistribution of power based on evidence and fact. For instance, when it is publicly read out that many workers who worked under the MGNREGA are still waiting for their wages, whereas family members of the sarpanch who never visited, let alone worked on a NREGA worksite, receive uninterrupted wage payments into their bank accounts, the reaction could range from anger to a firm determination for answers.

It is important to build on the current momentum. Where social audits have been able to take place effectively, they have served as an important tool to detect corruption and influence redress. Nearly Rs 100 crore has been identified as misappropriated funds through social audits under the MGNREGA, out of which nearly Rs 40 crore has been recovered. Nearly 6,000 field personnel have been implicated/removed from duty based on findings of social audits. The impact of continuous cycles of social audit in deterring potential corruption is beyond quantification.However, not all is rosy and hurdle free. Institutionalisation on the ground has been inadequate, and has faced great resistance from the establishment. The lack of adequate administrative and political will in institutionalising social audit to deter corruption has meant that social audits in many parts of the country are not independent from the influence of implementing agencies. Social audit units, including village social audit facilitators, continue to face resistance and intimidation and find it difficult to even access primary records for verification.In spite of challenges, social audit moved tentatively, but surely towards becoming an accepted part of audit, and a discipline in itself. Nothing demonstrates that better than the fact the Comptroller and Auditor General in 2016 laid down "auditing standards" for social audit. This, as the CAG office states in the introduction is, "the first ever such exercise for the formulation of standards for social audit in the world". It is indicative of a remarkable trajectory in the expanding theoretical and practical framework of social audit over the past two decades.In an age where phrases such as open data and open government are

used in any conversation around governance, social audits should serve as a critical point of reference. An open and transparent system involves the presence of real platforms for people to be informed by official statements and records, with an opportunity to compare that with ground realities. Websites and twitter handles run by the government cannot replace the responsibility of the state to set up, fund, and foster practical processes and mechanisms.

The government can decide to use these interventions and harness peoples' energies in facing the vast challenge of implementation and monitoring. Or it can choose to be reluctantly pushed along. Social audit is no longer a choice. Along with other transparency and accountability platforms, it is a legal, moral, and democratic necessity The writer works with peoples' campaigns and government on social accountability practices. She has worked with the Ministry of Rural Development on social audit

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A concert at sea

Malabar-17 demonstrates enhanced interoperability among the navies of Japan, India and the US — and a shared determination to safeguard a free and open Indo-Pacific

On the near horizon, Japan's largest helicopter destroyer JS Izumo and India's aircraft carrier INS Vikramaditya were engaged in their respective parts of the operation. The sea was calm yet windy. I was on the US aircraft carrier USS Nimitz to attend the ship tour of the trilateral naval exercise, Malabar-17. Right in front of me on the ship board, US Fighters were taking off and landing one after another.

Malabar-17 is the "largest maritime exercise ever conducted in the vast Indian Ocean" as President Donald Trump put it on the occasion of the successful summit meeting with Prime Minister Narendra Modi last month. Indeed, it is the debut of JS Izumo in an exercise with other navies. It is also the first time that India has fielded an aircraft carrier to Malabar. Sixteen ships, two submarines and more than 95 aircraft are conducting the historic joint exercise in the Bay of Bengal.It was exactly 10 years ago when Prime Minister Shinzo Abe made a speech titled "Confluence of the Two Seas" at the Indian Parliament. He stated "the Pacific and the Indian Ocean are now bringing about a dynamic coupling as seas of freedom and of prosperity".As he anticipated, the Indo-Pacific region has become the centre of geo-political and geo-economic gravity in a decade. It is blessed with opportunities, encompassing India, ASEAN and Africa with full potential, as well as matured economies like Japan and US. At the same time, this region faces serious challenges including attempts to change the status quo by force, coercion or intimidation, and influx of radical elements, to name a few.

Last summer, Prime Minister Abe launched the "Free and Open Indo-Pacific Strategy," as Japan's response to such challenges and opportunities. In essence, this strategy regards the Pacific region and the Indian Ocean region as one big strategic domain, and aims to improve inter- and intra- region connectivity and to promote fundamental values such as rule of law. The strategy is also a statement of intent that Japan is ready to play a greater role in the Indian Ocean region with the banner of "Proactive Contribution to Peace."It is against this backdrop that JS Izumo and JS Sazanami participate in Malabar-17. The main objective of the exercise is to strengthen inter-operability as well as sharing of best practices between the three navies, but what it demonstrates is something beyond maritime cooperation. It is the expression of unshakeable determination shared by the three democracies to safeguard and solidify a rules-based international order and to achieve a free and open Indo-Pacific.

If you take a look at recent joint statements agreed to by the leaders of the three countries, including the most recent one between Prime Minister Modi and President Trump, you will find it evident that "rule of law" is the

key phrase emphasised in all statements. The title of Prime Minister Abe's keynote address at the Shangri-La Dialogue in 2014 was "Japan for the rule of law. Asia for the rule of law. And the rule of law for all of us." Indeed, ensuring rule of law is critical for the coexistence of big countries and small countries as well as the continued prosperity of future generations.

International law prescribes the order, particularly order governing the seas. Its history is very long, stretching back to the days of ancient Greece. By Roman times, the seas were already kept open to all, with personal possession and partitioning of the sea prohibited. As history moved on, the wisdom and the practical experiences of a great many people involved with the sea, accumulated into common rules. This is what we now know as the international law of the seas. This law was not created by any particular country, nor was it the product of a particular group. Instead, it is the product of our own wisdom, cultivated over a great many years for the well-being and prosperity of all humankind.The critical importance of the rule of law at sea, including the freedom of navigation, is apparent from the same tenets underlying the activities of the three navies and the Malabar exercise. Japan, India and the US are forces with common values, common vision, and common objectives, closely united to safeguard a rules-based international order in the Indo-Pacific and beyond.

Malabar-17 is certainly a milestone of such concerted efforts, but we can also say that it only marks the beginning of enhanced trilateral cooperation. Based on the robust outcomes of summit meetings between Prime Minister Modi, President Trump and Prime Minister Abe, we will see more to come, because the benefit of our trilateral partnership is something that not only the people of the three countries but the people of like-minded countries in the region can rely on, in this age of great uncertainty.