

Make Indicorns No More Mythical

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The stars seem aligned for the birth of digital unicorns in India, or Indicorns. Industry 3.0, led by computerisation, helped India spawn around 10 IT services unicorns, with many more on the cusp of making that transition. So, it's logical to assume that in the impending digital age, India is poised to give rise to a few truly spectacular technology companies. In a capital-constrained economy like India, a quick path to profitability and inability to make big bets have restricted path-breaking innovations that generally emanate from the West. Also, India does not ban Facebook and Google, like a China does, thereby giving rise to Chinese clones like Tencent and Baidu. A few structural, economic and social factors have also created barriers to innovation.

A true venture capital ecosystem is almost absent in India. The fear of misuse of tax breaks has prevented GoI from giving meaningful tax incentives for R&D and venture capital (VC) investing. The public markets hardly support the listing of innovation leaders. The severe constraints placed on delisting — say, due to mergers and acquisitions (M&A) — create another bottleneck to listing in the first place. We need to create a better ecosystem for the listing of shares with differential voting rights that provides better liquidity, opportunity for foreign listing, foreign institutional investor (FII) participation, etc. An effective system for separating control and profit is a defining feature of all global technology giants. It would also allow GoI to list and raise capital for public sector undertakings (PSUs) engaged in core R&D without fear of loss of control.

One of the biggest failures of academic institutions in India is their inability to conduct cutting-edge research and R&D, which could then be commercialised by industry or by startups. We need the equivalents of Stanford Artificial Intelligence Laboratories, and other such centres of advanced research. Indians have a distinctive distrust for other Indian products. While we are happy to share unfettered information with foreign companies, we tend to shy away from Indian peers. We need to recognise this aspect, while building upon the recent successes of Paytm, Unique Identification Authority of India (UIDAI), Flipkart and even Patanjali, in convincing Indian consumers to try out inherently new Indian products. Stricter privacy laws with punitive penalties for breach could help bridge this trust gap.

Innovation requires a well-defined problem statement. This vision contextualises the anticipated impact. For an Indian product designer to understand the 'context' of a global problem is an unlikely proposition. Hence, innovation in India has rightly focused on the Indian middle class. But the middle class itself is not homogeneous. Any solution that addresses the problems of the lower-middle class as well as the upper-middle class, would look like an out-and-out winner — à la Paytm and Flipkart. That doesn't always have to be the case though, redBus being a case in point.

Life without a bit of a risk is devoid of fun. But risk means the likelihood to fail. Indian society and regulations are harsh on failures. This is changing, but more is required. The ability to shut down a company, painlessly, is what we need to strive towards. If we cannot provide a blanket cover to corporate

India, then this freedom should at least be provided to companies, maybe, in specifically designated 'innovation zones'.

Today, India may have the highest concentration of technical manpower in the world trying to focus on innovation —a function of our demographic dividend. India's ranking in the Global Innovation Index is rising, reaching 60 last year. Its ranking, normalised for per-capita income, is impressive. The disruption that AI, Internet of Things (IoT), analytics, wearables, virtual reality (VR), biotechnology and nanotechnology are going to unleash, would open unimaginable vistas for innovation. As the computing power of chips increase and their prices drop, it should play into India's strengths. The traditional barriers to entry will continue to fall, giving Indian companies a level-playing field.

AI-driven capability, a buzzword today, will become a utility soon enough. The question is, what can we use it to create? And why limit it to creating only another Google? A next generation Genentech or Tesla would do as well.

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पंचाट व्यवस्था की खामियां और उनसे निपटने के अदालती नुस्खे

एम जे एंटनी

राजनेताओं के बीच सत्ता को लेकर होने वाला संघर्ष तो हम सब मीडिया में देखते ही रहते हैं लेकिन नौकरशाही में भी ताकतवर होने की भूख इतनी चतुराई भरी है कि उसे उनके द्वारा बनाए गए मसौदा कानून के चुनिंदा प्रावधानों में ही तलाशा जा सकता है। मिसाल के तौर पर 'चाहिए' के स्थान पर 'सकना' का प्रयोग। अमेरिका में एक शासनादेश के मामले में विराम चिन्ह का गलत जगह प्रयोग करने से एक अपराधी के बच निकलने का किस्सा तो काफी सुना हुआ है। इससे सरकार को अरबों डॉलर की राजस्व हानि हुई। ऐसे प्रावधानों को निष्प्रभावी करने के लिए न्यायाधीशों में अत्यधिक कौशल की दरकार है।

हाल के दिनों में सर्वोच्च न्यायालय के दो फैसलों से पता चलता है कि कैसे नौकरशाही के लोग विभिन्न पंचाटों में न्यायिक भूमिका निभाते पाए गए। प्रशासनिक पंचाटों का गठन सन 1990 के दशक के आरंभ से किया जा रहा है। सर्वोच्च न्यायालय ने लंबे लंबे फैसले लिखे हैं और यह जोर दिया है कि ऐसे अद्र्घन्यायिक संस्थानों में न्यायिक सदस्य की नियुक्ति भी होनी चाहिए। कई पंचाटों का गठन रोक दिया गया क्योंकि उनका मसौदा इस तरह तैयार किया गया कि उपयुक्त अनुभव वाले लोगों को नौकरशाहों के साथ समायोजित किया गया। यह सेवानिवृत्त लोगों के लिए आराम की नौकरी जैसा ही था। उदाहरण के लिए कंपनी ला पंचाटों की स्थापना में सालों की देरी हुई क्योंकि मसौदा तैयार करने वालों ने गैर न्यायिक सदस्यों को दी गई तवज्जो को उचित ठहराने का प्रयास किया। दलील यह दी गई कि न्यायाधीशों के पास तकनीक और अर्थशास्त्र से जुड़े नए सवाल पर कोई विशेषज्ञता नहीं।

गत माह बिजली अधिनियम 2003 के अधीन केंद्रीय और राज्य नियामकीय आयोगों के गठन के संदर्भ में यह सवाल फिर उठा। कानून में कहा गया है कि राज्य आयोग का अध्यक्ष उच्च न्यायालय का न्यायाधीश 'हो सकता' है। इसी तरह

केंद्रीय आयोग का अध्यक्ष उच्चतम न्यायालय का न्यायाधीश या किसी उच्च न्यायालय का मुख्य न्यायाधीश। मसौदा तैयार करने वाले की चतुराई 'सकता है' में देखी जा सकती है। गुजरात बनाम यूटिलिटी यूर्जर्स वेलफेयर एसोसिएशन के फैसले में जब अपील का निर्धारण किया गया तो सर्वोच्च न्यायालय ने कहा कि 'सकना' को 'चाहिए' के रूप में पढ़ा जाए। अदालत ने कहा कि इन आयोगों में न्यायाधीश के पद पर न्यायिक व्यक्ति ही होना चाहिए। पंचाटों की स्थापना नियमित अदालतों पर से बोझ कम करने के लिए की गई थी। इसलिए उनको अधिकार संपन्न भी बनाया गया था। यहां पर न्यायिक स्वतंत्रता और शक्ति के बंटवारे की संवैधानिक अवधारणा का प्रवेश होता है। अदालत ने कहा, 'प्रावधान को बरकरार रखने के लिए एक न्यायिक व्यक्ति की मौजूदगी जरूरी है, वरना यह शक्ति के बंटवारे और न्यायिक समीक्षा के सिद्धांत का उल्लंघन होगा। जबकि ये हमारे संविधान के मूल ढांचे का हिस्सा हैं।'

इस महीने के आरंभ में अदालत ने एक कदम आगे बढ़कर पंचाटों में नियुक्तियों के मसले का ही निराकरण किया। यह सवाल ऋण वसूली पंचाटों के मामले में उठा। चूंकि सदस्यों के चयन का सवाल बार-बार उठता रहा है इसलिए नए निर्णय का आधार पंचाट व्यवस्था के पुनर्गठन को बनाया गया। यह पुनर्गठन संवैधानिक योजना, अदालती निर्णयों और विशेषज्ञ अध्ययनों के आलोक में किया जाए। अदालत ने जोर देकर कहा कि प्रशासनिक अनुभव नौकरशाही के सदस्य को अच्छा प्रशासक बना सकता है लेकिन जरूरी नहीं कि वह काबिल और निष्पक्ष निर्णायक भी बने। अदालत ने आगे कहा कि न्यायपालिका की स्वतंत्रता धीरे-धीरे क्षीण होती नजर आ रही है और न्यायपालिका की जगह में कमी आ रही है। इसके अतिरिक्त नौकरशाही के ऐसे लोगों की तादाद बढ़ रही है जो अब वे काम कर रहे हैं जो किसी वक्त अदालतों द्वारा किया जाता था। न्यायालय ने कहा कि इन कदमों की जांच कराने की आवश्यकता है।

सरकार ने मौजूदा व्यवस्था और प्रक्रिया की समीक्षा का विरोध किया और ऋण वसूली पंचाटों के बकाये को लेकर गलत आंकड़े प्रस्तुत किए। बहरहाल, अदालत ने उससे पूछा कि वह पूरी व्यवस्था में सुधार के लिए एक समिति का गठन करे। इसके लिए निम्न बिंदु सुझाए गए: (1) एक नियमित कैडर का निर्माण और भर्ती की अर्हता तय करना (2) भर्ती और सदस्यों के काम की निगरानी के लिए एक स्वायत्त निगरानी संस्था की स्थापना (3) सर्वोच्च न्यायालय में सीधी अपील की योजना में संशोधन और उच्च न्यायालयों को अपील की सुनवाई करने का अधिकार और (4) और अधिक पीठों का गठन ताकि जनता की पहुंच उन तक हो सके।

इन सब बातों के लिए यह आवश्यक है कि मौजूदा कानूनों में संशोधन किया जाए। इन कानूनों की मदद से करीब 30 पंचाट गठित किए गए हैं। चूंकि उनका कामकाज संतोषजनक नहीं है इसलिए उनमें से कुछ को समाप्त कर दिया गया या उनका विलय किया गया। उनमें से कई में सदस्य संख्या भी पर्याप्त नहीं है जबकि कुछ एक में तो प्रमुख ही नहीं हैं। वहां बैकलॉग की समस्या बिल्कुल आम अदालतों की तरह ही है और उसमें इजाफा हो रहा है। ऐसी मांग उठती रही है कि समूची पंचाट व्यवस्था को ही समाप्त किया जाए लेकिन इसके पहले सभी जरूरी उपाय अपना लिए जाने चाहिए।



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राज्यपालों की भूमिका

गुरुदेव गुप्त

प्रधानमंत्री की यह अपेक्षा पूरी होना आसान नहीं कि राज्यपाल केंद्रीय योजनाओं का लाभ आम लोगों तक पहुंचाने में मदद करें। मौजूदा सियासी माहौल में यह आशंका अधिक है कि यदि राज्यपाल इस अपेक्षा के अनुरूप अपनी सक्रियता दिखाते हैं, तो गैर-भाजपा दलों द्वारा शासित राज्यों की सरकारें अपनी आपत्ति प्रकट कर सकती हैं। वे राज्यपालों की सक्रियता को अपने अधिकार क्षेत्र में हस्तक्षेप के रूप में परिभाषित कर सकती हैं। हैरत नहीं कि भाजपा अथवा उसके सहयोगी दलों की सरकारों को भी राज्यपालों की सक्रियता रास न आए। राज्यपाल केवल उन्हीं राज्यों में प्रधानमंत्री की अपेक्षा पूरी करने में सहायक बन सकते हैं, जहां सरकारें उनके अनुभव का लाभ उठाने के लिए स्वेच्छा से तैयार हों। इसमें संदेह है कि राज्य सरकारें केंद्रीय योजनाओं के लाभ आम जनता तक पहुंचाने के मामले में राज्यपालों को सक्रिय होते हुए देखना चाहेंगी।

क्या यह किसी से छिपा है कि गैर-भाजपा दलों द्वारा शासित राज्यों की सरकारें किस तरह राज्यपालों के रवैये पर शिकायती स्वर में बोलती रहती हैं? वैसे भी संघीय व्यवस्था में केंद्रीय योजनाओं के क्रियान्वयन की देख-रेख करना राज्यपालों का दायित्व नहीं। यह दायित्व तो राज्य सरकारों और उनकी नौकरशाही का है। बेहतर है कि केंद्र सरकार राज्यों से मिलकर ऐसी कोई व्यवस्था बनाए जिससे उनकी नौकरशाही केंद्रीय योजनाओं के अमल में तत्परता का परिचय दे सके। निःसंदेह यह तब हो सकेगा जब नौकरशाही में सुधार के एजेंडे को आगे बढ़ाया जाएगा। यह समझना कठिन है कि नौकरशाही की कार्यप्रणाली में सुधार केंद्र अथवा राज्य सरकारों के एजेंडे में क्यों नहीं दिखता? यह एक विडंबना ही है कि जैसे प्रशासनिक सुधार एजेंडे से बाहर हैं, वैसे ही पुलिस सुधार भी।

जब हर तरह की योजनाओं पर सही ढंग से अमल के लिए नौकरशाही को जिम्मेदार एवं जवाबदेह बनाने की जरूरत है तब केंद्रीय योजनाओं के लाभ गरीब जनता तक पहुंचाने के मामले में राज्यपालों से सक्रियता दिखाने की अपेक्षा का अधिक महत्व नहीं। यह अच्छा हुआ कि राज्यपालों के सम्मेलन में इसे रेखांकित किया गया कि विश्वविद्यालयों के कुलाधिपति होने के नाते वे छात्रों को जागरूक करने का काम कर सकते हैं। इस संदर्भ में आगामी योग दिवस और महात्मा गांधी की 150वीं जयंती पर होने वाले आयोजनों का जिक्र किया गया, लेकिन उचित यह होगा कि राज्यपाल कुलाधिपति के रूप में केवल कुछ खास आयोजनों पर ही अपनी सक्रियता न दिखाएं। उन्हें विश्वविद्यालयों के शैक्षिक माहौल को सुधारने का काम हाथ में लेना चाहिए। यह इसलिए, क्योंकि ज्यादातर राज्यों के विश्वविद्यालयों में पठन-पाठन का उचित माहौल मुश्किल से ही नजर आता है। यदि राज्यपाल अपनी सक्रियता और सजगता से विश्वविद्यालयों के शैक्षिक माहौल को सुधार सकें तो यह एक बड़ा काम होगा। उन्हें यह जिम्मेदारी अपने हाथ लेनी ही चाहिए। वस्तुतः इससे ही वे कुलाधिपति की अपनी भूमिका के साथ न्याय कर सकेंगे।

नईदुनिया

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किसानों का आंदोलन

संपादकीय

इस बात से इनकार नहीं कि हमारे किसान कई तरह की समस्याओं से दो-चार हैं और उनके समाधान के लिए सरकार को तत्परता दिखाने की भी जरूरत है, लेकिन यह भी ठीक नहीं कि किसान संगठन अपनी मांगे मनवाने के लिए दूध और सब्जियों की बर्बादी करने के साथ ही आम लोगों की समस्याएं बढ़ाने वाले काम करें। सरकार पर दबाव बनाने के लिए आम लोगों के समक्ष परेशानी खड़ी करना उचित तरीका नहीं। निःसंदेह किसानों को अपनी समस्याओं को रेखांकित करने के लिए आंदोलन के रास्ते पर जाने का अधिकार है, लेकिन इस अधिकार का इस्तेमाल करते समय यह ध्यान रखा जाये तो बेहतर कि आमतौर पर वही आंदोलन सफल होते हैं, जिन्हें जनता की सहानभूति हासिल होती है।

यह समझना कठिन है कि जो किसान अन्न के एक-एक दाने को बचाने का जतन करते हैं, वे दूध और सब्जियां फेंकने का काम कैसे कर सकते हैं? बेहतर होगा कि आपूर्ति रोककर सरकार का ध्यान अपनी ओर आकर्षित करना चाहते हैं, वे इस पर गौर करें कि कुछ समय पहले महाराष्ट्र के किसान ने किस तरह अपने आंदोलन के जरिए एक मिसाल कायम की थी। इन किसानों ने मुंबई में प्रवेश करते समय इस बात का ख्याल रखा था कि उनके शहर आगमन से लोगों को किसी तरह की परेशानी न हो। चूंकि इन किसानों ने हरसंभव तरीके से इसकी परवाह की कि उनके जमावड़े से किसी तरह की कोई बाधा न खड़ी होने पाए, इसलिए मुंबई के लोगों ने भी उनकी आवभगत की। नतीजा यह हुआ कि महाराष्ट्र सरकार ने उनकी मांगों के प्रति सकारात्मक रवैया अपनाया। महाराष्ट्र के किसानों के आंदोलन की तुलना में मध्य प्रदेश, राजस्थान, हरियाणा समेत अन्य कई राज्यों के किसान संगठनों के तेवर काफी कुछ अलग हैं। दस दिनों के लिए गांव बंद के जरिए किसान संगठन स्वामीनाथन आयोग समिति की जिन सिफारिशों पर अमल की मांग को लेकर आंदोलनरत हैं, उनमें से कई सिफारिशों के प्रति सरकार का रुख सकारात्मक है। केंद्र सरकार ने इस वर्ष के बजट में यह घोषणा भी कर दी है कि लागत मूल्य का निर्धारण किसानों के हितों के अनुकूल होगा।

चूंकि किसानों को जब तक वास्तव में लागत का डेढ़ गुना मूल्य नहीं मिलने लगता, तब तक उनके मन में कुछ संदेह बना रह सकता है, इसलिए अच्छा होगा कि सरकार न केवल इस संदेह को दूर करे, बल्कि किसानों को भरोसे में भी ले। यह इसलिए आवश्यक है, क्योंकि बीते चार सालों में किसानों के कल्याण के लिए जो तमाम कदम उठाए गए हैं, उनके अपेक्षित नतीजे सामने नहीं आ सके हैं। एक ओर जहां सरकार को यह समझने की जरूरत है कि किसानों की हालत सुधारने के उसके उपाय पर्याप्त नहीं साबित हुए हैं, वहीं किसान संगठनों को भी यह समझना होगा कि संपूर्ण कृषि कर्ज की माफी की मांग किसी के हित में नहीं। अच्छा होगा कि कृषक नेता यह समझें कि किसान जब तक कर्ज लेने की स्थिति में रहेगा, तब तक उसका भला नहीं हो सकता।

Date: 05-06-18



Mending The Frame

It is time the pattern of training, system of evaluation, of civil servants is debated

Yoginder K. Alagh, (The writer, a former Union minister, is an economist)

The Department of Personnel and Training, Government of India, has, according to press reports, issued instructions on the allocation of state and subjects to the entrants to the Indian Administrative Service. According to some, these have emerged from the Committee on Training and Recruitment of the Higher Civil Services' (Alagh Committee), which submitted its report from a decade ago to the Union Public Service Commission, the recommendations of which have been largely implemented. This is a googly, for the issue is not the origin of the policy. Most observers believe that the steel frame, like the judiciary, has been irreparably dented by political interventions. For example, the civil service report had said an unusual transfer should require the minister to place on record the public interest for it. A joint secretary in Delhi complained to me that this meant her unblemished record had to be spoilt by the minister to transfer her.

By now it is common knowledge that unless the civil servant connives in finding ways of circumventing standard administrative stipulations or requirements and legal provisions, political parties of different hues keep them away from positions of authority. It is difficult to conceive an answer to this problem of who will guard the guards? A way out could be the establishment of a Public Surveillance Commission consisting of, say, a former chief justice of the Supreme Court, a former cabinet secretary, a former comptroller and auditor general and a distinguished journalist. This commission with no official status could provide a report which someday could be used by a government that believes in the rule of law.

The Committee on Training and Recruitment of the Higher Civil Services had the general approach that the Indian Administrative Services and other central services have to move over from the colonial conception. A higher civil service, which maintained law and order and, therefore, an understanding of a very general kind which required testing of general knowledge and Macaulay's English, should give way to a more focussed approach to the problems of the 21st century. It had suggested a major reorientation towards the understanding of the need to protect the rights of individuals, the impact of technology, globalisation and changes in environment on local issues.

I discussed this approach well over a year with leaders from different branches of Indian society and the Committee had suggested that after their basic training, entrants to the higher civil service could indicate apart from the state cadre, they would prefer to join the broad areas of specialisation in which they would like to work. This would include economics and finance, internal security areas and the social services. This would cover, by and large, the domain of the civil services like finance, economic policy, internal security, civil and minorities' rights, apart from ensuring constitutional provisions on rights and obligations, the emerging areas of the environment like air and water quality, pollution etc. The

committee also felt that these subjects would have to be understood in the context of the emerging trends of globalisation.

The committee had recommended a life-time pattern of training and a system of evaluation which would include, apart from internal reports, carefully structured external inputs. As the report got into its implementation phase, many critical comments were heard about vested interests looking to distort its implementation structure — like the story on transfers.

The same trend is apparently taking place in the allocation of trainees to different subjects and states. A well-intentioned proposal to encourage broad specialisation in fields like internal security, civil rights, economic policy and emerging environmental issues is being apparently deliberately misinterpreted to allocate civil service entrants specific departments and states depending on the discretion of the political institutions implementing the system. This was certainly not the intention of the intended reform. It is of some importance that the authorities give a detailed reasoning in the light of the committee's report on the policies they are implementing. To the best of my knowledge, the Report of the Committee on Training and Recruitment of the Higher Civil Services has not been printed, unlike the earlier Kothari Committee Report. But some brave souls had made it public online. A debate in the light of the facts is most certainly called for in these critical areas.

Date: 05-06-18



Governance and the Governor

Misuse of the office by some is not a justification for removing it altogether. We need proper checks

Agnidipto Tarafder, (Agnidipto Tarafder is Assistant Professor (Law) at the West Bengal National University of Juridical Sciences, Kolkata)

The article, "Do we need the office of the Governor?" (Editorial page, May 24, 2018), raises important questions about a constitutional post which has come under fire. While the developments in Karnataka over government formation after the Assembly election results are the peg for this, calls to do away with this often maligned position are hardly new.

An overseer

Under the constitutional scheme, the Governor's mandate is substantial. From being tasked with overseeing government formation, to reporting on the breakdown of constitutional machinery in a State, to maintaining the chain of command between the Centre and the State, he can also reserve his assent to Bills passed by the State Legislature and promulgate ordinances if the need arises. Further, under Article 355, the Governor, being the Central authority in a State, acts as an overseer in this regard. There are numerous examples of the Governor's position being abused, usually at the behest of the ruling party at the Centre. The root lies in the process of appointment itself. The post has been reduced to becoming a

retirement package for politicians for being politically faithful to the government of the day. Consequently, a candidate wedded to a political ideology could find it difficult to adjust to the requirements of a constitutionally mandated neutral seat. This could result in bias, as appears to have happened in Karnataka.

A possible solution would be not to nominate career politicians and choose “eminent persons” from other walks of life. Both the Sarkaria and M.M. Punchhi Commissions seem to hint at this. But this could also lead to the creation of sycophants within the intelligentsia, an equally worrisome prospect. On the other hand, there are instances of politicians who have risen above partisan politics, and performed their role with dignity and without fear or favour. In this one can think of former President Pranab Mukherjee, former Lok Sabha Speaker Somnath Chatterjee, and former West Bengal Governor Gopalkrishna Gandhi. One has to consider the verdict of the Supreme Court in *B.P. Singhal v. Union of India*, on interpreting Article 156 of the Constitution and the arbitrary removal of Governors before the expiration of their tenure. This judgment is crucial since a fixed tenure for Governors could go quite far in encouraging neutrality and fairness in the discharge of their duties, unmindful of the dispensation at the Centre.

Undoubtedly, the most crucial issue relates to the exercise of gubernatorial discretion. The Governor has the task of inviting the leader of the largest party/alliance, post-election, to form the government; overseeing the dismissal of the government in case of a breakdown of the Constitution in the State; and, through his report, recommending the imposition of President’s rule. There are examples of the last two having been frequently misused to dismiss “belligerent” State governments, but this has been checked substantially by the Supreme Court through *S.R. Bommai v. Union of India*. Following the Sarkaria Commission’s recommendations, the Court underlined that the breakdown of constitutional machinery implied a virtual impossibility, and not mere difficulty, in carrying out governance in a State. It said that while the subjective satisfaction of the President regarding such a breakdown was beyond judicial scrutiny, the material on which such satisfaction was based could certainly be analysed by the judiciary, including the Governor’s report. It reserved the power to declare this report mala fide and restore the dismissed government. The same idea can be extended in case of the Governor’s discretion in inviting a party to form the government.

Since the Bommai verdict allows the Supreme Court to investigate claims of mala fide in the Governor’s report, a similar extension to cover mala fide in the invitation process could be a potential solution.

Important link

In India, the balance in power is tilted towards the Union. The importance of the Governor’s position arises not from the exceptional circumstances that necessitate the use of his discretion, but as a crucial link within this federal structure in maintaining effective communication between the Centre and a State. As a figurehead who ensures the continuance of governance in the State, even in times of constitutional crises, his role is often that of a neutral arbiter in disputes settled informally within the various strata of government, and as the conscience keeper of the community.

In the current political climate — examples being Goa, Manipur and Karnataka — it may seem natural to suggest that the post of the Governor has outlived its utility. These occurrences are but instances in a long chain of events stretching back decades, all of which point to the need to ensure proper checks and balances to streamline the functioning of this office. However, misuse of a position of power should not serve as a justification for removing the office altogether, unless such a position has totally lost its

relevance. Rather, these debates on limitations on the power of constitutional functionaries should be allowed unimpeded to ensure the organic development of our polity.

Date: 05-06-18

Farm friction: on the malaise in agriculture

The government must move purposefully to address the systemic malaise in agriculture

Editorial

Since June 1, many farmers are on an unusual 10-day 'strike' to draw the government's attention to distress in the fields. A federation of 130 farmer bodies has decided to stop supplies of vegetables and dairy produce to major cities and hold a dharna on 30 national highways, without blocking vehicular passage. Prices of vegetables and fruits are inching up in urban centres given the supply shock created by this 'Gaon Bandh'; in cities like Mumbai fishermen have joined the cause. The farmers' demands are not new — enhancement of the minimum support price regime for crops in line with the M.S. Swaminathan Commission's recommendations, higher prices for milk procurement and loan waivers to offset low or negative returns on investment. Leaving out vegetables, food prices rose by just 0.55% in the first four months of 2018 — almost a fourth of the average 2% rise recorded in the same months between 2014 and 2016. There is a supply glut, and with a good monsoon expected, a healthy output could put additional pressure on prices. But this stir, which ends with a Bharat Bandh call on June 10, is not about the immediate crisis faced by specific sections of farmers (such as the cash-strapped sugarcane-growers for whom a cess is being considered under the GST regime). It is a culmination of multiple attempts made over a year to red-flag the systemic malaise in agriculture.

On June 6, 2017, some farmers were killed in police firing in Mandsaur, Madhya Pradesh, during an agitation for better crop prices. There have been agitations across the country since then, including in Tamil Nadu, Punjab, Haryana, Maharashtra (where thousands of farmers walked nearly 200 km to the State capital in March). The current stir also derives from lack of tangible action on assurances made earlier and imperceptible movement on the Centre's grand promises such as doubling farm incomes and raising MSPs. That the general elections are just a year away adds a political sub-text to the protest. Rural distress has dented the BJP's electoral performance in recent months. Too much of the structural reform agenda to free agricultural markets from the grip of government rules and intermediaries remains pending. There has been dithering even on simple things like strengthening the food processing sector. Take one instance — 100% FDI was allowed in the food retail business in 2016, but little money has come in as retailers want permission to stock a few non-food items like soaps and shampoos for customers. The minister in charge had promised this over a year ago, but nothing happened. Blaming the agitators is easy; policy responses are where the heavy lifting is needed.

Date: 05-06-18

Available, accessible, but not stable

India should prepare a third generation right to food legislation to address failings in food security

Shalini Iyengar, Balakrishnan Pisupati (Shalini Iyengar is faculty with School of Law, Environment and Planning at Srishti School of Art, Design and Technology, Bengaluru, and Balakrishna Pisupati is Chairperson, Forum for Law, Environment, Development and Governance)



The right to food is a well established principle of international human rights law. It has evolved to include an obligation for state parties to respect, protect, and fulfil their citizens' right to food security. Our current understanding of food security includes the four dimensions of access, availability, utilisation and stability. As a state party to the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights, India has the obligation to ensure the right to be free from hunger and the right to adequate food.

From availability to access

Broadly speaking, attitudes towards food security in India can be divided into two generations subsequent to Independence. While the demarcation is far from exact, it indicates how the importance given to different elements of food security altered over time. The years post-Independence were turbulent for India. Memories of the Bengal famine remained fresh and fears of a food shortage were rampant. Hunger was thought to be a function of inadequate food production. In 1974, the World Food Conference defined food security primarily in terms of production — as the “availability at all times of adequate world food supplies.”

It is arguable that the framing of food security in quantitative terms sparked India's determination to initiate the Green Revolution to boost food production. While the programme achieved dramatic increases in rice and wheat production in some parts of the country, its devastating environmental impact has also rightly been critiqued. Two occurrences over the 1980s and 1990s set the stage for what we understand as food security in India today. The first was when the Supreme Court dramatically expanded the ambit of rights that citizens could claim against the state. While no explicit 'right to food' could be made out, there was an increased mention of food as being among a cluster of basic rights integral to human dignity. The second was a shift of the frame from the problem of availability to the problem of access.

The 1980s and 1990s saw an increasing acknowledgement that India's focus on increasing food supplies was falling short of actually ameliorating hunger. Even as the data showed that India had transformed from a food deficit nation to a food surplus one, seminal research by Amartya Sen and others revealed that hunger and food security were tied to the issue of access — that is, in spite of ample quantities of

grain, and a variety of government efforts such as the Public Distribution System, people were dying of starvation because they were unable to physically or financially (or both) reach this food. This view of food security was mirrored at an international level too. In 1996, the World Food Summit stated that food security was achieved “when all people, at all times, have physical and economic access to sufficient, safe and nutritious food.”

This focus on access culminated in India in a 2001 case brought by the People’s Union for Civil Liberties, in which the Supreme Court evolved a right to food and read it into the right to life provisions of the Constitution. Following that, a host of court orders and directions ultimately resulted in the 2013 National Food Security Act (NFSA), which has been lauded for guaranteeing a quantitative “right to food” to all Indians. However, the NFSA suffers from serious lacunae in its drafting, which severely undermine its stated objective of giving legal form to the right to food in India.

Assessing the Food Security Act

The NFSA surprisingly does not guarantee a universal right to food. Instead, it limits the right to food to those identified on the basis of certain criteria. It then goes on to further restrict the right to 75% of the Indian population. It also specifies that a claim under the Act would not be available in times of “war, flood, drought, fire, cyclone or earthquake” (notably, it is within the Central government’s remit to declare whether such an occasion has arisen). Given that a right to food becomes most valuable in exactly these circumstances, it is questionable whether the Act is effective in guaranteeing the right that it is meant to.

Another problematic aspect of the NFSA is its embrace of certain objectives that are to be “progressively realised”. These provisions include agrarian reforms, public health and sanitation, and decentralised procurement, but they make no mention of the need to reconsider fundamental assumptions about our agricultural systems and look at food security in a more comprehensive manner. It is arguable that the rubric of “progressive realisation” actually retards food security reform in the country. This is because some of the elements mentioned under this head are already incorporated in laws and policies at the State and national levels. Demarcating them as obligations to be realised “progressively” will lead to counter-intuitive results where the States will simply refrain from doing any more than what the NFSA explicitly requires them to do.

Worryingly, the framing of the NFSA as being the final word on government commitments to provide food security to citizens might instead have the result of limiting the courts with respect to how far citizen entitlements can be extended. This fear was borne out in the recent Swaraj Abhiyan cases that address the impact of government failures in tackling consecutive drought years in India. While the court took a strong stance in ordering the executive to implement the provisions of the NFSA, it was reluctant to go beyond the provisions of the NFSA in terms of what it could order the government to give citizens. Given that the NFSA predominantly mentions just rice and wheat, and that too for only some citizens, this has worrying implications.

Finally, while the NFSA addresses issues of access, availability and, even tangentially, utilisation, it is largely silent on the issue of stability of food supplies — a startling omission given India’s vulnerability to climate change impacts, to name one impending threat to food security.

Thus there is a need to frame a “third generation” food security law and recognise and mainstream issues including increasing natural disasters and climate adaptation. Such a framework would robustly address

the challenges facing the country's food security across all four dimensions and make a coordinated effort to resolve them instead of the piecemeal efforts that have characterised such attempts so far.

Food security brings together diverse issues such as inequality, food diversity, indigenous rights and environmental justice. Given the current crises in India, it is time we prepare a third generation right to food legislation that recognises that a climate-as-usual scenario no longer exists. Such a legislation would ideally be rooted in the principle of a right to food security in its true spirit and not merely as a sound bite.

Date: 05-06-18

To be an environmental world power

Cross-border environmentalism is crucial for South Asia, but India is not inclined to take the lead

Kanak Mani Dixit, (Kanak Mani Dixit, a writer and journalist based in Kathmandu, is the founding editor of the magazine, 'Himal Southasian)



Ecological ruin is on a gallop across South Asia, with life and livelihood of nearly a quarter of the world's population affected. Yet, our polities are able to neither fathom nor address the degradation. The distress is paramount in the northern half of the subcontinent, roping in the swathe from the Brahmaputra basin to the Indus-Ganga plain. Within each country, with politics dancing to the tune of populist consumerism, nature is without a guardian. The erosion of civility in geopolitics keeps South Asian societies apart when people should be joining hands across borders to save our common ground.

Because wildlife, disease vectors, aerosols and river flows do not respect national boundaries, the environmental trends must perforce be discussed at the regional inter-country level. As the largest nation-state of our region, and the biggest polluter whose population is the most vulnerable, India needs to be alert to the dangerous drift. China has been resolutely tackling air pollution and promoting clean energy. But while Beijing's centralised governance mandates environmentalism-by-decree, the subcontinental realities demand civic participation for sustainability to work. Unfortunately, despite being a vast democracy where people power should be in the driving seat, the Indian state not only neglects its own realm, it does not take the lead on cross-border environmentalism.

Thus, Bihar is helping destroy the Chure/Siwalik range of Nepal to feed the construction industry's demand for boulders and conglomerate, even though this hurts Bihar itself through greater floods, desertification and aquifer depletion. Air pollution is strangling the denizens of Lahore, New Delhi, Kathmandu and Dhaka alike, but there is no collaboration. Wildlife corridors across States, provinces and countries are becoming constricted by the day, but we look the other way.

The UN Environment Programme (UNEP) has chosen India to be the 'host country' to mark World Environment Day today. But when will New Delhi rise to connect the dots between representative democracy and ecological sanity?

Rivers into sewers

Truth be told, the environment ministry is invariably the least empowered in the major countries of South Asia, without clout vis-à-vis line ministries, and unable to coordinate the ecological response. Governments were content once to regard environmental protection as synonymous with wildlife protection. Today they stand unprepared when the challenges have greatly multiplied and deepened. There is distress across the ecological spectrum, but one need only study the rivers and the atmosphere to track the inaction of governments and our weakened activism. On water, the subcontinent is running out of the resource due to the demands of industrialisation and urbanisation, and continuation of the colonial-era irrigation model based on flooding the fields.

The economic and demographic forces are arrayed against the rivers and their right-of-way. In the hills, the Ganga in Uttarakhand and the Teesta of Sikkim are representative of rivers that have been converted into dry boulder tracts by 'cascades' of run-of-river hydroelectric schemes. The same fate now threatens the rivers of Nepal and India's Northeast, while the tributaries of the Indus were 'done in' decades ago through water diversion. Everywhere, natural drainage is destroyed by highways and railway tracks elevated above the flood line, and bunds encircling towns and cities. Reduced flows and urban/industrial effluents have converted our great rivers into sewers. We refuse to consider drip irrigation as a solution just as we fail to acknowledge that the rivers are made to carry hundreds of tonnes of plastics daily into the Bay of Bengal and the Arabian Sea.

While underground aquifers are exploited to exhaustion, the popular 'river-training' prescription imprisons our rivers within embankments, according to the inherited Western engineering canon that does not factor in the natural silt carried by rivers of the Himalaya. The would-be high-dam builders have not adequately studied the phenomenon of Himalayan cloudbursts, nor do they find it necessary to address the question: how do you de-silt a deep reservoir when it fills up with sand and mud? Sadly, activists in Bihar and elsewhere who propose the ecologically sound ethos of 'living with the flood' have been relegated to the media backwater. They need to be heard, for the Ganga plains are densely populated for the very reason that the natural meanderings of rivers spread the largesse of loess across the land — silt that is now locked away between dykes.

Ground fog, brown cloud

As the UNEP will be the first to insist, climate change is introducing massive disturbances to South Asia, most notably from the rise of sea levels. The entire Indian Ocean coastline will be affected, but the hardest hit will be the densely populated deltas where the Indus, the Irrawaddy and the Ganga-Brahmaputra meet the sea. The climate change discourse has not evolved enough to address the tens of millions of 'climate refugees' who will en masse move inland, paying scarce heed to national boundaries in the search for survival. To understand this imminent phenomenon, one may recall what the Farakka Barrage did to livelihoods in downstream Bangladesh, causing the flood of 'undocumented aliens' in India.

The retreat of the Himalayan glaciers is jeopardising the perennial nature of our rivers and climate scientists are now zeroing in on the 'atmospheric brown cloud' to explain the excessive melting of snows

in the central Himalaya. This high altitude haze covers the Indo-Gangetic plains for much of the dry season and penetrates deep into the high valleys. This cloud is made up of 'black carbon' containing soot and smog sent up by stubble burning, wood fires, smokestacks and fossil fuel exhaust, as well as dust kicked up by winter agriculture, vehicles and wind. It rises up over the plains and some of it settles on Himalayan snow and ice, which absorb heat and melt that much faster. It is no longer anecdotal that the icefalls of the Himalaya could before long transform into waterfalls.

Like the 'brown cloud', the policy-makers are yet to consider the seet lahar, the ground-hugging fog that engulfs the subcontinent's northern plains for ever-extended periods in winter, a result of the spread of canal irrigation and simultaneous increase in the presence of particulate matter in the air. This inattention to the indescribable distress of millions of the poorest and shelter-less of the plains is hard to comprehend.

A new kind of Chipko

When environmental impact assessments have become a ritualistic farce in each country and governments react with great prejudice against environmental activists, it is little wonder that the Chipko Movement of Uttarakhand is erased from memory. Today, environmental activists all over tend to be lampooned in the media and social media as anti-national, anti-development saboteurs. Meanwhile, the task of preserving the forests and landscapes has mostly been relegated to the indigenous communities. You will have the Adivasi communities of the Deccan organising to save ancestral forests, and the indigenous Lepcha fighting against the odds to protect the upper reaches of the Teesta. The urban middle class is not visible in environmentalism, other than in 'beautification projects'.

Perhaps we have been foolhardy in waiting for another Chipko to emerge, and the changed times may require new approaches. Tomorrow's activists must work to quantify the economic losses of environmental destruction and get local institutions to act on their ownership of natural resources. The activists must harness information technology so as to engage with the public and to override political frontiers, and they must creatively use the power of the market itself to counter non-sustainable interventions. As we have seen, the highs of environmental movements are invariably followed by lows, and so to exit the cycle what is needed is an "environmental system" inbuilt into the infrastructure of state and society. Work towards ecological sustainability must go beyond ritual, with the path seeming to lie in the empowerment of local government all over. Elected representatives in cities and districts must be challenged to emerge as the bulwark of environmentalism even as the provincial and national governments are asked to rise to their regulatory responsibilities.

When 'organic environmentalism' rises from the grassroots and makes state authority accountable, South Asia and its peoples will be protected. At that point, no force will be able to stop activism across the frontiers and South Asia will begin to tackle pollution and dislocation as one.
