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Justice in tumult

The turmoil will end only with a full, fair probe into the alleged plot to influence judges

There is absolutely no doubt that the Chief Justice of India is the master of the roster. So, it is impossible to dispute the legal reasoning behind Chief Justice Dipak Misra's ruling that no one but he can decide the composition of Benches and allocation of judicial work in the Supreme Court. However, the circumstances in which he had to assert this authority have the potential to greatly diminish the court's lustre. The scenes witnessed in the court amidst troubling allegations of possible judicial corruption are worrisome for their capacity to undermine the high esteem that the judiciary enjoys. Chief Justice Misra chose to stick to the letter of the law, but there remain troublesome questions about potential conflict of interest in his decision to overrule Justice J. Chelameswar's extremely unusual order that delineated the composition of a Constitution Bench to hear a writ petition seeking a fair probe into the corruption allegations. It is a fact that in the Prasad Education Trust case, the petitions alleging that some individuals, including a retired Orissa High Court judge, were plotting to influence the Supreme Court, had been heard by a Bench headed by Chief Justice Misra. However, it would be perverse and irresponsible to attribute corrupt motives without compelling evidence. At the same time, by heading the Bench himself, the Chief Justice may have contributed to the perception that he will preside over a hearing in his own cause, rather than leaving it to another set of judges to reiterate the legal position on who has the sole say in deciding the roster.

Justice Chelameswar, the senior-most puisne judge, may have passed his order based on the petitioner's claim that there would be a conflict of interest were the Chief Justice to choose the Bench. But in doing so, he chose to ignore the principle that allocation of judicial work is the preserve of the Chief Justice. Both justices may have found themselves in a situation in which law and strict propriety do not converge. As for the lawyer-activists involved, it is one thing to flag corruption, another to foster the impression that they want to choose the judges who will hear them. The only way to end the current turmoil in the judicial and legal fraternity is to ensure that the Central Bureau of Investigation holds an impartial probe in the case registered by it. The involvement of serving judges may only be a remote possibility, but it is vital to find out whether the suspected middlemen had any access to them. An unfortunate fallout of the controversy is the perception of a rift among the country's top judges. To some, the charges may represent an attempt to undermine the judiciary. These perceptions should not result in the sidestepping of the real issue raised by the CBI's FIR: the grim possibility of the judiciary being susceptible to corruption. Tumult and turmoil should not overshadow this substantive issue.

Hit refresh

The GST Council rationalises the tax regime further, but simplicity is still not within grasp

The script was altered for the second time in two months but with far greater impact. Soon after Prime Minister Narendra Modi promised far-reaching changes to simplify the goods and services tax regime, especially for small businesses and consumers, the GST Council delivered some relief measures on Friday. At its meeting in Guwahati, the Council lowered the tax rates on over 200 products, compared to 27 items in its previous meeting and about 100 tweaks since GST rates were finalised in May. Over 1,200 products and services had been placed in five tax brackets – 0%, 5%, 12%, 18% and 28%. That those rates no longer hold for about a quarter of those items, and the highest tax bracket is left with just 50 products, compared to more than 250 in July, is a tacit admission that the initial rates were worked out in a hurry with maximising revenue being the prime consideration. Similarly, the ambit of the Composition Scheme for small businesses has been expanded twice – from an initial turnover threshold of ₹75 lakh per year to ₹1 crore (in October), and now further to ₹1.5 crore. This would require a change in the GST laws, so it may take some time to kick in. There should be no doubt that all the course corrections currently under way to ease the transition to GST are more than welcome – and the government will be hoping these 'people-friendly' changes will not only spur consumption but also boost compliance.

But the transmission of lower rates may take time as it could be two-three months before existing inventory in the market is replaced with freshly priced products. With returns for the first month of the tax yet to be filed by all registered taxpayers and less than three months to go till the presentation of the Union Budget, Finance Ministry mandarins face a unique challenge on revenue visibility. In the interest of the exchequer and the taxpayer, whatever other improvements the GST needs must be implemented at the earliest – whether they are stuck because of a lack of consensus (letting inter-State suppliers avail of the Composition Scheme), poor implementation (the GST Network) or simply the lack of bandwidth to think through. The Opposition has criticised the latest reboot of the GST as a Gujarat campaign effect. While that rang truer in October when rates for popular snacks in the State were lowered, many decisions remain curious. Cement is taxed at 28%, but granite and marble have been lowered to the 18% bracket. Instead of a tactfully designed One Nation, One Tax system, the GST should not degenerate into a tool to please constituencies. The Council must institute a transparent system with an explicit rationale for any rate changes in the future. Only then can business and retail find predictability in the GST, rather than be wistful for a time when indirect tax rates were reviewed once a year in the annual Budget instead of every month.

Why ABBA must go

Aadhaar-based Biometric Authentication does nothing in the battle against graft – there are better alternatives



REETIKA KHERA

In a sickening way, October 2017 was like October 2002. Fifteen years ago, in Rajasthan's Baran and Udaipur districts, there was a spate of starvation deaths. The government of the time made up fanciful stories to deny that the deaths had anything to do with hunger or government failure.

In October 2017, the death of an 11-year-old Dalit child, Santoshi Kumari, of Jharkhand, was widely reported. She had been pleading with her mother to give her rice as she slipped into unconsciousness and lost her life. The government insists that she had malaria but in video testimonies, her mother, Koyli Devi, says she had no fever. After Santoshi's death, more hunger deaths have been reported, of which at least one, Ruplal Marandi, is related to the government's Aadhaar experiment.

The starvation deaths in 2002 became the springboard for positive action on many fronts, which included the passing of judicial orders and even political action. Since then, there has been a perceptible improvement in programmes of social support including, but not limited to, the Public Distribution System (PDS). In Baran, it led to a recognition of the vulnerability of the Sahariyas – a tribal community in Baran – and a special PDS package consisting of free pulses and ghee being announced.

Similar action is required today. Instead, the government remains



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in denial. The Food Ministry in Delhi issued an order in late October that is silent on the crucial issue of reinstating wrongly cancelled ration cards and makes token concessions (with no guarantee of implementation).

Targets and the reality

For months, the Central government has been insisting on 100% Aadhaar "seeding" across schemes such as the PDS, Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA) and pensions. Seeding refers to the practice of entering Aadhaar numbers for each household member on the ration card. It is a pre-requisite for the Aadhaar-based Biometric Authentication (ABBA) system, the practice of using an electronic point of sale (PoS) machine to authenticate each transaction. The government has made seeding and the ABBA mandatory in the PDS. As explained below, the distinction between seeding and the ABBA is important.

In their zeal to achieve 100% Aadhaar-seeding targets, some field functionaries just deleted the names of those who did not submit Aadhaar details. Others waited till

the deadline and then struck off names. The government claims that all of these were "fake", detected due to Aadhaar, thus saving crores of rupees. Santoshi's family was one such example. According to the State Food Minister, their ration card was cancelled in July because they failed to seed it with Aadhaar.

Exclusions are not savings

Some people blame the aggrieved for failing to seed Aadhaar. But many of them are unaware of the seeding requirement. When pensions in Jharkhand suddenly stopped for many pensioners, they had no idea why. No one had told them about Aadhaar. In some cases, the middlemen had seeded it wrongly. Others still had tried repeatedly and failed. Seeding is not as simple as it sounds.

Seeding is just one of the many barriers that the ABBA has created in the smooth functioning of the PDS. The ABBA requires that family members be enrolled for Aadhaar and correct seeding. At the time of purchase, the ABBA requires power supply, a functional PoS machine, mobile and Internet connectivity, State and Central

The AI battlefield

We need global norms to address the rise of machine autonomy in armed conflict



AMANDEEP SINGH GILL

In the Mahabharata, Krishna wielded what would today be called a lethal autonomous weapon: the *Sudarshana Chakra* would track its target to the ends of the earth, eliminate it and return to its owner.

Such machines could soon be made for real. On November 13, a United Nations (UN) group of experts in Geneva kicks off the first formal inter-governmental discussion on what machine autonomy means for the laws of armed conflict and the future of international security. I have the honour to chair this group, on behalf of 125 states party to the Convention on Certain Conventional Weapons.

Krishna, being a god, had the wisdom not to deploy his awesome weapon – at least, not directly. He used it to block out the sun, which tricked opposing warriors into dropping their protective shield. Ancient India had rules of war, just as we do: they required fighting to cease at sunset.

Throughout history, the capa-

city to wield new technologies – from gunpowder to nuclear weapons to long-range missiles – has changed how wars are fought, and the strategic balance between attack and defence maintained.

Shaped by technology

The norms around what is considered acceptable in warfare have also evolved in response to new technologies. Since the 19th century, those norms have been codified in international humanitarian law, which is more or less universally accepted as regulating armed conflict among civilised nations.

Recent advances in artificial intelligence (AI) are throwing up a new challenge to these norms: if the weapon fuses with the wielder, who do they apply to and how? Should such a possibility even be allowed?

Reality might not have yet caught up with popular culture depictions of "killer robots" and "conscious synths" demanding their rightful place in society; indeed, such depictions can be a distraction from the complex challenges that do exist. But many technology leaders are worried about autonomous systems taking life-and-death decisions without "meaningful human supervision or control". The American tech billionaire Elon Musk and over 100



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others recently signed a letter warning that the weaponisation of AI-based technologies risks opening a Pandora's box.

These are not the only concerns about AI. Technologists and ethicists are also grappling with such questions as legal liability when autonomous vehicles share the streets with pedestrians, predictive analytics subverting due process, and the algorithmic entrenchment of human biases.

Walking a tightrope

But AI applications are already a growing reality in areas such as health, finance and retail. Civilian applications of AI technologies will undoubtedly continue apace. And as has been the experience with other dual-use technologies, AI developed for civilian purposes could be repurposed.

How, then, to deliver on the promise of AI while protecting the

Identities Data Repository (CIDR) servers to be 'up', and for fingerprint authentication to be successful.

Ruplal Marandi's family passed the first two hurdles, enrolment and seeding, but was tripped at the last stage by the ABBA. For no fault of his own, the Marandi family was excluded from the PDS. His daughter told journalists that he had died of hunger as the family could not collect rations because of a biometric mismatch at the PDS shop.

There is enough evidence to show that the ABBA does not work. The Finance Ministry's latest Economic Survey, based on micro-studies, reports high biometric failure rates.

In Rajasthan, government data for the past year show that around 70% of cardholders are able to use the system successfully. The rest have either been tripped up by one of the ABBA hurdles or, less likely, they did not attempt to buy PDS grain. In Andhra Pradesh and Telangana, the ABBA's poster child States, it is used to disburse MGNREGA wages and pensions: biometric failure rates are between 8 and 14%. In some months, one in four pensioners returns empty-handed.

A case against ABBA

What most people don't realise is that the ABBA has no role in reducing corruption. If the ABBA helps reduce corruption, it might be worth fixing these failures. Quantify fraud is the practice of cheating on quantities sold. Neither seeding nor the ABBA can stop quantify fraud. In a survey in Jharkhand, dealers continue to swindle people by cutting up to a kg of their grain entitlement despite successful ABBA authentication. Identity fraud, for example in the form of

duplicate ration cards, only requires Aadhaar-seeding; the ABBA is unnecessary. Two caveats on seeding: it can be foolproof against identity fraud only in a universal system. More seriously, it raises privacy issues.

Further, in Aadhaar's rulebook for example, an elderly person asking a neighbour to fetch their grain would count as identity fraud. In fact, it is flexibility that is lost when the ABBA is made mandatory.

Thus, each month, people are being forced to cross five meaningless hurdles in the form of electricity, functional PoS, connectivity, servers and fingerprint authentication in order to have access to their ration. Failing any one hurdle even once causes anxiety in subsequent months. Think of the ATM running out of cash, post-demonetisation, just when it was your turn. The resultant anxiety defeats the very purpose of such forms of social support. Failure in consecutive months leads to people giving up entirely. They stop trying. States such as Rajasthan were planning to treat such households as dead or non-existent.

The ABBA must be withdrawn immediately from the PDS and pensions in favour of alternative technologies such as smart cards. This will allow us to keep the baby (offline PoS machines with smart cards) and throw out the bathwater (Internet dependence and biometric authentication).

If the government continues to insist on the ABBA, there is only one conclusion that can be drawn. That it is actively trying to sabotage the PDS, which, quite literally, is a lifeline for the poor.

Reetika Khera is Associate Professor (Economics) at the Indian Institute of Technology Delhi

norms needs to integrate national regulatory approaches and industry self-regulation.

Each level in this chain of subsidiarity – international humanitarian law, national regulations, and industry self-regulation – needs to move in full cognition of the other two. We need to find ways for them to enjoy their respective sovereignty, while working in unison to deliver what the international community expects.

When Alan Turing, the British scientist who can rightfully be called the father of AI, first speculated on the promise of thinking machines, he pointed out their potential for making us think about ourselves – our faults, frailties and foibles. Aspiring to the wisdom of Krishna may be expecting too much, but we should welcome the fact that AI challenges us to learn in new ways about ourselves as individual sentient beings – and as nations and societies increasingly brought together in an interconnected globe.

Amandeep Singh Gill, India's Ambassador and Permanent Representative to the Conference on Disarmament, is Chair of the Group of Governmental Experts of the Convention on Certain Conventional Weapons (CCW) on emerging technologies related to lethal autonomous weapon systems

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Case and a twist

Life seems to be imitating cinema way too much these days. The strange twist in the Ryan school murder case in Gurugram shows how easy it is for the police to make a poor man the culprit. Moreover, the developments in the case are a heartbreaking reminder of the class and caste bias in our justice system.

Weaker sections of society are the first targets and repeatedly blamed for appalling crimes. In many cases, they are put behind bars for years without trial. Oblivious to their legal rights, they become easy targets and bend under pressure from the higher authorities because they are vulnerable (Editorial - "Under pressure", November 10).

GEETHU ISSAC, Navi Mumbai

■ The murder and the subsequent investigation of the crime have turned out to a case of sheer fabrication and fixing. The State police hurriedly concocted the evidence. Now, after a spell of nearly 60 days, the CBI makes another sensational claim.

This kind of a hurried and flawed investigation which, most of the time, comes under the influence of various forces, seems to be common across India. Who will compensate for the mental agony and torture inflicted on the person who had been framed? What is even more appalling is the trivialisation of the issue by the police.

RAVI MANNETHU, Pullad, Kerala

■ Without raising any question about the credibility of the CBI, one fails to digest the latest theory put forth by the elite investigating agency. It is impossible to believe that a senior student of the school would go to the extent of murdering a young school mate within the premises just to postpone a PTA meeting and an examination. One hopes that the case does not go the same way as the Aarushi Talwar case which still remains an unsolved murder. The very first basic principle is to investigate every possible angle and theory and shun hearsay.

HEMANT KUMAR, Ambala City, Haryana

■ Cases like this murder or any crime that is related to a juvenile raises the question about who is responsible. Manifestation of such behaviour is not only the fault of the juvenile but also the family, society and institutions that shape and mould him. In such cases too, 'prevention is better than cure' and it is vital to introduce reforms. Our society needs social reforms. The increasing pressures and tensions affecting every sphere of a child's life should be eased so that he or she has a better future and in turn helps create a better society.

VEENA SINGH, New Delhi

Sweeping IT raids

Raids by a team of income tax sleuths on the properties of the deposed general secretary of the AIADMK (Amma), V.K. Sasikala, and her family, that are spread across cities, and which have resulted in the unearthing of shell companies transacting business in crores of rupees only goes to reveal the clandestine dealings the family indulged in. Though the sidelined deputy general secretary of the

AIADMK (Amma), T.T.V. Dinakaran, has termed the searches as "vendetta politics", it appears to be the usual statement in order to gain sympathy. He is way off the mark as there are cases against Sasikala for amassing huge wealth disproportionate to the family's known sources of income. Such a statement does not absolve the group of the unpardonable act of looting the State. There has to be deterrent punishment for those involved in the murky dealings ("Operation Clean Money" in State nearing completion", November 12 and "Unfazed Dinakaran blames crackdown on Centre", November 10).

K.R. SRINIVASAN, Secunderabad

■ In our democracy, it is not uncommon for the ordinary citizen to be toiling for his daily bread while others, by virtue of their political affiliations, can easily amass wealth and build an empire. It is sheer common sense, even to a layman's perception of politics, that Sasikala, who was an ordinary person before her association with former Chief Minister Jayalalithaa,

is now the 'queen of wealth' by virtue of her close association with the late leader. Let us hope that the outcome of this raid and the subsequent investigation, if there be any, reveal the real identity of this person to the nation at large and to Tamil Nadu in particular. .

N. VISVESWARAN, Chennai

Cause, 'tyre burst'

With the development of infrastructure such as expressways, there should also be concern over an increasing number of road accidents being caused due to the quality of vehicle tyres. A series of accidents are said to have been caused due to tyres bursting at high speed due to which the vehicle overturns causing injuries, and at times casualties. While the authorities are taking steps to enhance road safety such as banning liquor shops within a range of 500 metres along highways and even introducing speed cameras, there is also a need for having tyre checks. Reputed tyre companies sell products at high-end prices with an assurance of an enhanced lifespan. But there are instances where

tyres fail due to their sub-standard quality or manufacturing defects. Tyre companies should be held accountable. They should also set up checking booths at the entry points to expressways, thereby enhancing road safety.

ROHAN DIXIT, New Delhi

Caught in the middle

Warring couples should not use their children as a football to settle scores with one another (Magazine 'Cover story' - "Divorce vs Sanskar", November 5). The parent who wins custody should not deny the parent who loses, love, affection and access to the child. It is a violation of the rights of both the child as well as the non-custodial parent. India needs a law on shared parenting. Even the UN Convention on Human Rights of children appears to be silent on this issue. A child should not be made to suffer. In the U.K., the 'divorce economy' is said to rival the economies of smaller nations. In India, no such estimate is available.

DEENDAYAL M. LULLA, Mumbai

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