



## Sucking up surplus

SEBI needs financial autonomy to remain effective as the chief markets regulator

The Centre's decision to clip the wings of the Securities and Exchange Board of India has not gone down too well with its members. Yet, the Centre is refusing to budge. In a letter dated July 10, SEBI Chairman Ajay Tyagi said the Centre's decision to suck out SEBI's surplus funds will affect its autonomy. SEBI employees had also written to the government with the same concern. As part of the Finance Bill introduced in Parliament, the Centre had proposed amendments to the Securities and Exchange Board of India Act, 1992 that were seen as affecting SEBI's financial autonomy. To be specific, the amendments required that after 25% of its surplus cash in any year is transferred to its reserve fund, SEBI will have to transfer the remaining 75% to the government. On Friday, the government rejected the plea from SEBI's officials asking the government to reconsider its decision, thus paving the way for further conflict. *Prima facie*, there seems to be very little rationale in the government's decision to confiscate funds from the chief markets regulator. For one, it is highly unlikely that the quantum of funds that the government is likely to receive from SEBI will make much of a difference to the government's overall fiscal situation. So the amendment to the SEBI Act seems to be clearly motivated by the desire to increase control over the regulator rather than by financial considerations. This is particularly so given that the recent amendments require SEBI to seek approval from the government to go ahead with its capital expenditure plans.

A regulatory agency that is at the government's mercy to run its financial and administrative operations cannot be expected to be independent. Further, the lack of financial autonomy can affect SEBI's plans to improve the quality of its operations by investing in new technologies and other requirements to upgrade market infrastructure. This can affect the health of India's financial markets in the long run. In the larger picture, this is not the first time that the government at the Centre has gone after independent agencies. The Reserve Bank of India and the National Sample Survey Office have come under pressure in recent months, and the latest move on SEBI adds to this worrisome trend of independent agencies being subordinated by the government. The Centre perhaps believes it can do a better job of regulating the economy by consolidating all existing powers under the Finance Ministry. But such centralisation of powers will be risky. Regulatory agencies such as SEBI need to be given full powers over their assets and be made accountable to Parliament. Stripping them of their powers by subsuming them under the wings of the government will affect their credibility.

## A new beginning

The pact between the military and civilian protesters may help Sudan turn a democracy

Sudan's ruling military council and representatives of the pro-democracy movement have signed a power-sharing agreement, signalling that its disputed transition to civilian rule is on track. Ever since President Omar al-Bashir's fall in April amid anti-regime protests, the military leaders who seized power and the protesters have been on a confrontational path. The protesters' demand for an immediate transfer of power to a civilian transitional government to be followed by free and fair elections was resisted by the powerful, deeply entrenched military. As the stand-off continued, a paramilitary unit attacked protesters in Khartoum on June 3, killing at least 128 people. But protesters still didn't give up. This, along with pressure from the African Union and foreign countries, appears to have convinced the generals they could not anymore amass absolute power, as they did under Mr. Bashir's three-decade-long rule. Ethiopian and African Union mediators brought both sides for talks and they reached the power-sharing agreement. Under the deal, a sovereign council of 11 members – five military and five civilian members and one to be selected based on consensus – will rule for over three years. A general will lead it for the first 21 months and a civilian leader for 18 months. The security apparatus will be controlled by the military; the ministries will get civilian leaders.

While this agreement clearly charts a new course for the crisis-hit country, it doesn't guarantee a smooth transition from military to civilian rule. There still exists deep distrust between the generals and the pro-democracy movement. When protests erupted in December over soaring food prices, Mr. Bashir used multiple tactics, from oppression to introducing changes in the Cabinet, to control the situation. But he had to go as the generals turned against him in April. The military council then had an opportunity, like the military in Tunisia after the fall of the dictator Zine El Abidine Ben Ali in January 2011, to return to the barracks and let the civilian leadership assume power and shape the country's future. But Sudan's military not only refused to give up its powers but also massacred the protesters who challenged them. Even though both sides have now agreed to share power, the finer details of the agreement are yet to be hammered out. It is to be seen how the transitional government would find a balance between the military's quest to retain its privileges and the revolutionaries' demand for change. It is still not clear whether the military is ready to support a full democratic transition. The framing of a new Constitution will be another challenge as there are different power centres with conflicting interests. More important, there has to be an independent investigation into the June 3 violence, and whoever is responsible should be brought to justice. Then it will at least be a good beginning for a long journey to democracy and accountability.

# The tremor of unwelcome amendments

The Right to Information (Amendment) Bill is a twin attack on accountability and the idea of federalism



ARUNA ROY & NIKHIL DEY

“Amendments” have haunted the Right to Information (RTI) community ever since the RTI Act came into effect almost 14 years ago. Rarely has a law been so stoutly defended by activists. It is not possible to pass a perfect law. But it was a popular opinion strongly held by most RTI activists that a demand for progressive amendments could be used as a smokescreen by the establishment to usher in regressive changes.

Nevertheless, the sword of Damocles of regressive amendments has hung over the RTI with successive governments. Amendments have been proposed since 2006, just six months after the law was implemented and many times thereafter. Peoples' campaigns, through reasoned protest and popular appeal, have managed to have them withdrawn.

The proposed amendments tabled in Parliament on July 19, 2019 have been in the offing for some time now. In the form of the Right to Information (Amendment) Bill, 2019, they seek to amend Sections 13, 16, and 27 of the RTI Act which carefully links, and thereby equates, the status of the Central Information Commissioners (CICs) with the Election Commissioners and the State Information Commissioners with the Chief Secretary in the States, so that they can function in an independent and effective manner. The deliberate dismantling of this architecture empowers the Central government to unilaterally decide the tenure, salary, allowances and other terms of service of Information Commissioners, both at the Centre and the States. Introducing the Bill in the

Lok Sabha, the Minister of State for Personnel, Public Grievances and Pensions, Jitendra Singh, asserted that this was a benevolent and minor mechanism of rule-making rather than a basic amendment to the RTI law.

### Agent of change

Why is there unseemly haste and determination to amend the law? Some feel that it is because the RTI helped with the cross-verification of the affidavits of powerful electoral candidates with official documents and certain Information Commissioners having ruled in favour of disclosure. It is unlikely to be a set of instances but more the fact that the RTI is a constant challenge to the misuse of power. In a country where the rule of law hangs by a slender thread and corruption and the arbitrary use of power is a daily norm, the RTI has resulted in a fundamental shift – empowering a citizen's access to power and decision-making. It has been a lifeline for many of the 40 to 60 lakh ordinary users, many of them for survival. It has also been a threat to arbitrariness, privilege, and corrupt governance. More than 80 RTI users have been murdered because their courage and determination using the RTI was a challenge to unaccountable power.

The RTI has been used brilliantly and persistently to ask a million questions across the spectrum – from the village ration shop, the Reserve Bank of India, the Finance Ministry, on demonetisation, non-performing assets, the Rafale fighter aircraft deal, electoral bonds, unemployment figures, the appointment of the Central Vigilance Commissioner (CVC), Election Commissioners, and the (non-)appointment of the Information Commissioners themselves. The information related to decision-making at the highest level has in most cases eventually been accessed because of the independence and high status of the Infor-

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mation Commission. That is what the government is trying to amend.

The RTI movement has struggled to access information and through it, a share of governance and democratic power. The Indian RTI law has been a breakthrough in creating mechanisms and platforms for the practice of continual public vigilance that are fundamental to democratic citizenship. The mostly unequal struggle to extract information from vested interests in government needed an institutional and legal mechanism which would not only be independent but also function with a transparency mandate and be empowered to over-ride the traditional structures of secrecy and exclusive control. An independent Information Commission which is the highest authority on information along with the powers to penalise errant officials has been a cornerstone of India's celebrated RTI legislation.

### Part of checks and balances

The task of the Information Commission is therefore different but no less important than that of the Election Commission of India. Independent structures set up to regulate and monitor the government are vital to a democratic state committed to deliver justice and constitutional guarantees. The separation of powers is a concept which underscores this independence and is vital to our democratic checks and balances. When power is centralised and the freedom of expression threatened no matter what the context, democracy is definitely in peril. That is per-

# An ally, a partner and American unilateralism

There are major differences but also similarities in the U.S.'s response to Russia's S-400 deals with Turkey and India



MOHAMMED AYOOB

The decision by the United States to terminate Turkey's participation in the F-35 joint strike fighter project and its threat to impose economic sanctions on Ankara under Countering America's Adversaries Through Sanctions Act (CAATSA) in response to the Turkish decision to buy Russian S-400 air defence systems has close parallels to the predicament facing India on the same issue. There are major differences in the two cases, but there are also remarkable similarities.

Turkey has been a long-standing member of the North Atlantic Treaty Organisation and an integral part of the American-led alliance whose principal goal was and continues to be to prevent the expansion of Russian influence and power. It was also seen as the principal gateway for the projection of American power in West Asia, especially in Syria and Iraq, through the Incirlik airbase. The U.S. and other members of NATO

are worried that a Russian military relationship with Turkey could provide Moscow access to the technological secrets underpinning NATO's most sophisticated weapon systems. In a statement, the White House said, “The F-35 cannot coexist with a Russian intelligence collection platform that will be used to learn about its advanced capabilities.” Ankara has remained defiant and the first deliveries of components of the S-400 systems arrived in Turkey earlier this month.

### Largely counter-productive

Turkey's decision to acquire the Russian systems emanated in part from the American refusal under the Barack Obama administration to sell it the Patriot anti-missile system that Ankara considered essential for its air defence in the context of the Syrian civil war. Turkey's forced ejection from the F-35 project now could also turn out to be counterproductive. Reports suggest that Turkey is planning to buy advanced Sukhoi fighter jets (the Su-35 and/or the Su-57) from Russia to compensate for the loss of the F-35 planes, thus further complicating the issue of NATO interoperability.

Although tensions in the relations between the U.S. and Turkey



had become increasingly evident in the past couple of years, especially over the American support to the Syrian Kurdish force fighting the Islamic State, the YPG, which Turkey considers an extension of the secessionist PKK, Ankara and Washington are formal allies as members of NATO.

### The Indian deal

The Indian case is very different. While it is true that the U.S. now considers India a “strategic partner”, principally because it views New Delhi as a counterweight to expanding Chinese influence in the Asia-Pacific region, India has never been a formal ally of Washington. From Jawaharlal Nehru's time New Delhi has attempted to maintain its strategic autonomy and indeed has had a close defence relationship with Russia, which continues to be India's largest arms supplier. Therefore, there is far less reason for the U.S.

to take umbrage at India's decision to buy the S-400 air defence system.

However, the current American administration seems incapable of understanding these glaring differences between the two cases. In part this is the result of the fact that in 2017, the U.S. Congress passed CAATSA that makes it mandatory that the U.S. impose economic sanctions on countries engaging in significant business transactions with the Russian defence sector. India's purchase of the S-400 falls squarely within this definition.

The threat of CAATSA sanctions comes at a very inopportune time for India as it has been considering major multi-billion dollar arms acquisition deals with the U.S. The U.S. is also India's largest trading partner and is intimately engaged in India's civil nuclear programme. While there is a provision for waivers in the CAATSA legislation, these are not automatic and are tied principally to Russian behaviour and therefore almost impossible to implement.

The whole affair leaves India in a catch-22 situation. It cannot renege on the S-400 deal, which was signed on October 5, 2018, for deliveries to be made by April 2023, without alienating its largest and

committee demonstrates the desperation to pass the amendments without even proper parliamentary scrutiny. The mandatory pre-legislative consultative policy of the government has been ignored. Previous governments eventually introduced a measure of public consultation before proceeding with the amendments. In fact, both the United Progressive Alliance and the National Democratic Alliance put out proposed amendments to the RTI rules on the website for public deliberation. But the present regime seems determined to pass these amendments to the law itself without any consultation.

The reason is not far to seek. If the amendments are discussed by citizens and RTI activists in the public domain, it would be apparent that these amendments fundamentally weaken an important part of the RTI architecture. They violate the constitutional principles of federalism, undermine the independence of Information Commissions, and thereby significantly dilute the widely used framework for transparency in India.

The RTI community is worried. But the sword of Damocles is double-edged. It is an idiom originally used to define the hidden insecurity of an autocrat. Questions are threats to unaccountable power. The RTI has unshackled millions of users who will continue to use this democratic right creatively and to dismantle exclusive power. The RTI has been and will be used to withstand attacks on itself and strengthen the movement for transparency and accountability in India. Eventually, the Narendra Modi government will realise that while it might be able to amend a law, it cannot stop a movement.

Aruna Roy and Nikhil Dey are social activists who work with the Mazdoor Kisan Shakti Sangathan and the National Campaign for People's Right to Information

## 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.

### Sheila Dikshit

In the passing of former Delhi Chief Minister Sheila Dikshit (Page 1, July 21), the political world has lost a leader who will be remembered for her stellar role as a politician and administrator. She showed India that the word ‘politics’ had greater meaning: of serving and supporting the common man in all ways possible. Her role as law maker shall always be remembered for the great contribution she made to the poor and the downtrodden. She gave life to Delhi by transforming it into a vibrant, well-developed city. Always affable, she was almost like a mother figure who was respected across the political spectrum. Sheila Dikshit will remain etched as one of India's tall leaders in the hall of Indian politics. M. PRADYU, Thalikkavu, Kannur, Kerala

■ Ms. Dikshit will be specially remembered for her copybook planning and implementation of different development projects in Delhi. It would not be an exaggeration to say that she changed the face of Delhi in the truest sense. There are a lot of things to learn from her personality, style of administration and her interactions in public life. Her demise is an irreparable loss for Congress now undergoing a crisis. MD. AZIM, Sheohar, Bihar

■ The country has lost a stateswoman par excellence and a great role model for all women. She was grace, humility and sincerity all rolled into one. With her unassuming, direct and open approach, she transformed Delhi beyond recognition. Unassuming and always open to new ideas, she epitomised all the qualities of

a true leader. Her enthusiasm and energy will be missed by all Delhiites. Ms. Dikshit was the epitome of what the Japanese define and worship – “quiet efficiency”. Political leaders of all hues have a lot to learn from Mrs Dixit on what true and transformational leadership is all about. G. VENKATARAMAN, New Delhi

### Ambassador on RSS

If the German Ambassador to India, Walter Lindner, has deduced from his interactions with RSS chief Mohan Bhagwat – as part of Mr. Lindner's attempt to comprehend the “Indian mosaic” – that the “RSS is a mass movement” it must be understandable given his make-up, background and compulsions (Page 1, July 21). The RSS is more than what he has described it to be. The significant question to ask is whether it is a benign or

virulent organisation. The RSS's espousal of Hindutva or Hindu nationalism is what defines its core. Even though the RSS always harps on Mother India to instil patriotic feelings in the citizenry, it has difficulty in accepting that Mother India is essentially all the people of India. G. DAVID MILTON, Maruthancode, Tamil Nadu

■ The ideology of the RSS has gained ascendancy not so much because it has a magic wand to protect Mother India from all evils but more from the point that it has been associated with power uninterruptedly since 2014. In this context, the attempt being made across the country by vested interests to whitewash it and pass it off as a mass movement rooted in voluntary services and cultural nationalism must be seen for what it actually is. The RSS is

anything but a movement for a united India where people professing all religions live in harmony. ABDUL ASSIS P.A., Thrissur, Kerala

### Temple visit

It has not been easy for hundreds of devotees visiting the Sri Devarajaswamy temple in Kancheepuram, Tamil Nadu for the Athi Varadar Vaibhavam. Earlier this month, my wife (62) and I (68) visited the temple. We feel there is urgent need for the authorities to set things right if a major disaster is to be averted. The heat is expected and as a medical practitioner I was able to avoid the risk of dehydration, but there are more serious issues that need looking into. There is much indecorous behaviour in form of jostling and pushing at every stage. Every point is seen by many as either an entry or an exit

door. The result is that there is a grave risk of a stampede even in the “senior citizen queue”. Like most aspects of life of India, there are no rules and timings for the VIPs. The metal barricades are impediments with many trying to find short cuts. The result is that almost everyone faces the risk of being shoved to the ground or crushed. At the end of it, we did not leave but were unceremoniously “ejected” by the crowd. We realise that considerable effort has gone into making the arrangements but the number of devotees is much more than what the system can handle. There need to be restrictions and more thought given to crowd management and dealing with senior citizens and the disabled. DA. A. NANDAKUMAR, Bengaluru

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