



Pawar games

Sharad Pawar may have said more than he meant when he defended PM Modi on Rafale

If Maharashtra often appears to be on the cusp of a political realignment, it is in no small part due to the posturing and shadow boxing of the old warhorse, Sharad Pawar of the Nationalist Congress Party. After stating that people did not doubt the intentions of Prime Minister Narendra Modi in the Rafale deal, Mr. Pawar insisted that the remark should not be construed as support for Mr. Modi. Clearly, when he is not signalling to the BJP, the NCP’s principal rival in Maharashtra, he is messaging the Congress, his current ally. At a time when the Congress was single-mindedly trying to paint the whole deal as murky, the NCP chief struck a discordant note. Even while questioning the cost of the aircraft and demanding a probe by a Joint Parliamentary Committee, he did not take the Congress line that the deal was tainted by crony capitalism. And the clarification on not supporting Mr. Modi came after a revolt within his party; founder-member Tariq Anwar took exception to his remarks and announced his resignation. Whether or not there was a larger political purpose behind Mr. Pawar’s statements on Rafale, the clarification was not a complete retraction of the original remark.

Without a doubt, the NCP would like to make the most of the tensions between the BJP and its partner-in-government, the Shiv Sena. Both major groupings in the State have an unsettled look, and Mr. Pawar knows he cannot be seen to be irrevocably tied to the fortunes of the Congress. The Sena might not be doing anything more than trying to drive a hard bargain on seat-sharing with the BJP for the Lok Sabha polls. After the two parties contested the Assembly election separately, and the BJP emerged stronger than the Sena for the first time, the 2014 electoral understanding for the Lok Sabha seats is unlikely to hold for 2019. The Lok Sabha election is more important for the BJP than it is for the Sena, and Sena chairperson Uddhav Thackeray knows that. Through the last four years, the Sena has been a difficult ally for the BJP, often taunting it through editorials in the party organ *Saamna*. Although the Sena cannot possibly join hands with the Congress, it can hurt the BJP by going it alone. The NCP has never allied with the BJP, but it is not inconceivable that such an option exists for Mr. Pawar. With the mantle of leadership in the Congress passing to Rahul Gandhi, many of the leaders of the allied parties, from an older generation, Mr. Pawar among them, have to deal with changed comfort levels. The NCP is in a position to alter the outcome in many of the 48 seats in Maharashtra, and Mr. Pawar would like both the BJP and the Congress to take note. To interpret his remarks as being supportive of Mr. Modi or opposed to the Congress viewpoint is to miss this point.

The new deals

As the U.S., Canada and Mexico strike a trade pact, the world must watch carefully

After more than a year of intense negotiation, the U.S., Canada and Mexico managed to arrive at a revised trade agreement on Sunday to replace the quarter-century-old North American Free Trade Agreement (NAFTA). Even though the deal does not do anything new to promote the cause of free trade among the North American nations, it achieves the objective of averting any significant damage to the international trade system. Sadly, this is the best anyone could possibly hope for in the midst of the global trade war that began this year. When it comes to the finer details, the U.S.-Mexico-Canada Agreement (USMCA) makes several changes to NAFTA, which U.S. President Donald Trump had promised to scrap. The most prominent changes are the tweaks to production quotas applied to Canada’s dairy industry, which were intended to help protect it by restricting supply. Under the new deal, Canada will have to allow American dairy producers to compete against locals, a move that will favour Canadian consumers. The U.S. agreed to retain Chapter 19 and Chapter 20 dispute-settlement mechanisms as a compromise. This will help Canada and Mexico deal with protectionist duties imposed by the U.S., often under the influence of domestic business lobbies, against their exports.

Not all the amendments, however, are congenial to the prospects of free trade. Many are simply hard compromises that Canada and Mexico may have made just to defuse trade tensions with the U.S. And not unlike other free trade deals entered into by governments, the present one attempts to micromanage trade in a way that benefits specific interest groups at the cost of the overall economy. The new labour regulations and rules of origin will add to the cost of production of goods such as cars, thus making them uncompetitive in the global market. The USMCA mandates a minimum wage that is above the market wage on labour employed in Mexico, yet another move that will make North America a tough place to do business. Foreign investors may now have fewer protections from unfriendly local laws as the accord does away with resolutions through multi-lateral dispute panels for certain sectors. But it is its potential to end up as a double-edged sword for the U.S.’s major trading partners that Indian policymakers may find instructive. Announcing the USMCA, Mr. Trump signalled he would now extend his ‘all or nothing’ approach to resetting trade ties with the European Union, China, Japan and India. Terming India “the tariff king”, he said it had sought to start negotiations immediately, a move he reckoned as a bow to the power of tariffs that a protectionist U.S. could wield. In dealing with an emboldened Trump administration, India’s trade negotiators will now have their task cut out if they want to protect exporters’ access to one of the country’s largest markets for its services and merchandise.

In the court of last resort

As Ranjan Gogoi takes over as the new Chief Justice of India, it’s his own warning he must heed



GAUTAM BHATIA

In Lewis Carroll’s *Alice in Wonderland*, there is a segment called “The Mouse’s Tale”. It features a dialogue between a dog (called Fury) and a mouse. Fury is bored, and to pass the time, proposes taking the mouse to court. His interlocutor is dismissive: “Said the mouse to the cur/ such a trial, dear sir/ with no jury or judge/ would be wasting our breath.” Pat comes the reply: “I’ll be the judge/ I’ll be the jury/ said cunning old Fury/ I’ll try the whole cause / and condemn you to death.”

Carroll’s poem stands as a warning against concentrating power in the hands of a single individual. In January of this year, that was also the warning issued by four judges of the Supreme Court, in an unprecedented press conference. They objected to the manner in which the then Chief Justice of India was using his power to allocate cases to different benches of the Court. One of them, Justice Ranjan Gogoi, takes oath as the new Chief Justice of India today. But a look at his own judicial conduct suggests that it is from Justice Gogoi of the press conference that Chief Justice Gogoi may need to heed that most important of warnings.

The NRC case

Between 2009 and 2012, public interest petitions were filed before the Supreme Court, challenging Section 6A of the Citizenship Act, and also asking for the updating of the National Register of Citizens (NRC) for the State of Assam, in accordance with the Assam Accord. It was argued that this was urgent-

ly required to check illegal migration from across the border, and detect and deport non-citizens living in Assam. In the beginning, the court only monitored the government’s progress, asked for status reports, and prodded the administrative authorities.

All that changed, however, in late 2014. First, a bench of the court headed by Justice Gogoi directed the State Coordinator of the NRC to submit in a “sealed cover” a report indicating the “steps and measures” that he was taking to complete his work of updating of NRC. This suggested that the court was no longer content with mere oversight, but would direct both the modalities and the implementation. Then, on December 17, 2014, a two-judge bench of the court – again presided over by Justice Gogoi – referred the constitutional challenge to a larger bench, but also passed a detailed order (authored by Justice R.F. Nariman) setting out a time schedule requiring the draft NRC to be completed by the end of January 2016. The bench of Justices Gogoi and Nariman then virtually took over the task of preparing the NRC.

Three incidents, in particular, highlight this. On February 14, 2017, the NRC Coordinator placed a “power point presentation” before the Court, which set out the “steps involved” (both present and future) in the preparation and upgradation of the NRC. The court did not make this public. Subsequently, however, it was reported that the court had approved an entirely new method of ascertaining citizenship, known as the “Family Tree Verification”, on the basis of a behind-closed-door power-point presentation made to it by the State Coordinator. In July, the State Coordinator stated that on the basis of the Family Tree Method, 65,694 cases had been “discovered to be false”. But as it was al-



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so reported, for instance not only did people from the hinterlands have little awareness about this method, but putting together a family tree (in the unique sense in which it is being used in this case) was a big challenge especially for women. None of this was taken into account by the Court.

Second, it became increasingly clear that the time schedule was unrealistic. Extensions were requested, which the court granted grudgingly. On November 30, 2017 – with the deadline a month away – the Attorney-General requested a further extension. It was submitted to the court that more than 75 lakh unverified claims would remain even after the deadline had expired. The court refused an extension, and ordered that a “partial” NRC be published on December 31, with the remainder published later. The Attorney-General protested, arguing that this might raise a law and order problem, as a large number of people would believe they had been excluded from the list. The court brushed aside this objection.

On January 2, 2018, it was reported that a 40-year-old man from Silchar killed himself after his name did not figure in the partial draft NRC.

And lastly, on the publication of the final draft NRC at the end of July 2018, around 4 million people had been left out. Now the State Coordinator submitted to the court the “modalities” for the process of filing objections, including a new list of 10 documents that

A flight path with obstacles

India’s drone use policy makes the possibility of a red tape-free flight very slim



VEENA VENUGOPAL

At Agroscope, the ‘Swiss centre of excellence for agricultural research’, in Nyon, Switzerland, agriculture scientists fly a drone to study nitrogen level in leaves, not for a farm as a whole, but for each individual plant. The drone takes a large number of images, which when fed into a computer model with data on soil condition, weather, time of the year and other information helps analyse which plants are deficient in nitrogen, enabling farmers to add corrective fertilizer only where necessary. Sensefly, a Swiss drone manufacturer, has customers around the world whose use of drones has resulted in higher yield (more than 10% in observed case studies) and significantly lower usage of fertilizers and herbicides.

For a country with a population of over eight million, Switzerland has an enormous number of people interested in flying drones and developing drone-based applications. Simon Johnson, the Vice-

President of the Drone Industry Association Switzerland, envisions the use of drones in public transport in the not too distant future, as well as setting up drone hubs – mini airports, where drones carrying people and cargo can congregate.

Policy contradictions

While the rest of the world has been soaring ahead in making the futuristic promise of unmanned flying vehicles a more immediate reality, India has largely been dragging its feet. Up until the end of August, flying a drone was mostly illegal here. With the publication of the drone regulations in late August, the Ministry of Civil Aviation has attempted to give some structure to the development of drone infrastructure in India. While announcing the publication of these guidelines, Civil Aviation Minister Suresh Prabhu made two points, the contradictions of which also highlight India’s lack of clarity on what it should do with drones. For one, he estimated the potential of the “drone market” in India to be \$1 trillion. And in the next breath he said India’s security environment necessitated extra precautions.

It is with such a heavy eye on the precautions that the regulations have been drafted, that flying

a drone is a task wrapped tightly in immense paperwork. The abbreviations themselves are more than a page long. India’s regulations separate drones into five categories – nano, micro, small, medium and large. There is very little regulation for flying a nano up to 50 metres height, except for not flying near airports, military sites or in segregated airspace.

The paranoia kicks in from the micro category, starting with the application for a unique identification number (UIN) for each drone, with a long list of documentation including security clearances from the Ministry of Home Affairs (MHA) in several cases. Once the UIN is obtained, operators get to move to the next step – of having to apply for an Unmanned Aircraft Operator Permit (UAOP), implying more forms, more annexures and more submissions. Even to fly a micro drone below 200 ft, users have to intimate the local police station 24 hours prior. (One application requires that it be submitted with seven copies.)

Manufacturers of drones as well as technologists and researchers making applications using drones have to test fly these frequently, often several times a day. The structure of these regulations makes the possibility of a red tape-free flight very slim.



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With so many government authorities involved in allowing permission and keeping an eye, it is inevitable that operators could be slapped easily with real and perceived violations. In an effort to make things slightly easy, the regulation provides a list of identified areas for testing and demonstration. Flying drones in these areas comes with less paperwork. However, the locations provided are so far from technology and development hubs that it is unclear how practical these will be. In Karnataka, for example, the identified areas are Chitradurga, Coorg and Ganimangala village (which does not even appear on Google maps), all of which are around 200 km from Bengaluru entailing nearly four hours of travel one way.

Untapped potential

The security and privacy risks of allowing drones to fly in an unregulated manner are high. It may be recalled that in August, a drone

could be relied upon, and leaving out five base documents. The court refused to make the Coordinator’s reports public. It even refused to share them with the Union of India, citing “sensitivity”, despite repeated requests by the Attorney-General. It then set a timeline of 60 days to process the objections of the 4 million left-out individuals.

Checks and balances

The PIL-era Supreme Court has been praised for prodding inefficient governments into action, and stepping in to fill legislative and executive vacuum. However, there are times when silence and slow time are more desirable than speed. Once you have deprived an individual of her citizenship, you have deprived her of that most basic thing – the right to have rights. That is not something to be done in a tearing hurry.

There is a deeper problem as well. Depriving an individual of her citizenship is a very serious matter. And for this reason, our Constitution envisages a detailed system of checks and balances before deprivation of rights can happen. First, Parliament must pass a law. Next, the executive – which is best acquainted with the facts and circumstances on the ground – must implement it. And finally, courts review legislative and executive action for constitutional compliance.

The NRC court has elided the second and third levels. It has become an “executive court” – implementing the NRC updating, and reviewing its own implementation. And it has done so in secrecy, through a jurisprudence of “sealed covers” and “confidential reports”, where even the government is not kept in the loop (let alone affected parties).

Not only is the court – as a matter of expertise – not suited to do-

Dreams and nightmares

Towards the end of *Alice in Wonderland*, Alice is herself caught up in a farcical show trial, overseen by the Queen of Hearts, whose signature line is “Off with their heads!” However, it turns out that Alice has been dreaming all along; and she escapes with her head by waking up from the dream.

But there would be no awakening for Deben Barman, a 70-year old man, who hanged himself after the names of his children and grandchildren did not feature in the draft NRC. It was not just a dream for Abola Roy, who killed his wife and then hanged himself, after she was notified a “doubtful voter” in the NRC. Judicial orders, unlike children’s novels, have consequences.

It is consequences like these that make Carroll’s warning about unaccountable power so relevant to the judicial role. The constitutional court of the largest democracy in the world must not resemble the court of the Queen of Hearts. As the Chief Justice of India, Justice Gogoi has the power – and the responsibility – to ensure that.

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was used in an attack on Venezuelan President Nicolás Maduro during a public meeting. However, if India is to reach even the fraction of the \$1 trillion potential that Mr. Prabhu sees, it needs to figure out a more balanced manner of regulation. The current rules are a start, but only in the sense that they free all drones from their previous illegality. The real impact of drones will be in the many applications they will be put to. Agriculture is just one such. They are likely to be the disaster prevention systems, rescue operation leaders, and even public transport providers in the not too distant future. Missing out on working on these applications early enough will likely have serious repercussions to India’s future competitiveness in the field.

China’s drone economy – manufacturing and development – will be worth \$9 billion in 2020, while the U.S.’s commercial drone market is expected to be \$2.05 billion by 2023 (Global Market Insights). For India to compete against these giants, it already has a lot of catching up to do. Filing a series of applications in multiple copies and waiting for various government departments to respond is not the best way to get started.

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LETTERS TO THE EDITOR

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Forgotten ideals

Gandhiji is as relevant today as he was during the freedom struggle against the British (Editorial page, “The voice that is great within us”, October 2). It is painful that his ideals, principles and his model of life have been neglected and that he has been, regrettably, largely restricted to being the face of cleanliness and sanitation campaigns. We forget that his ideals are still relevant especially when it comes to cleansing the political system that is scarred by corruption. Our political leaders can become more selfless, charitable, simple, dutiful, responsible, tolerant and transparent by following what he said.

M.Y. SHARIFF,
Chennai

■ Whether it is propaganda in the name of the Swachh Bharat Mission or the use of draconian laws to

expropriate public resources and repress people, it is clear that the Gandhian values of truth and non-violence are given short shrift, if not totally erased from the practice of state power. This duplicity reduces Gandhi to an empty totem. In order to do justice to Gandhiji’s memory, our educational institutions will do well to recommit themselves to educate students on the place and worth of civil disobedience in the life of a democratically vibrant society and polity. Moreover, the salience of Gandhiji as a critic of capitalism and consumerism is only going to increase in the light of the life-threatening danger humanity is facing due to the greed and power of the few and their exploitation of natural resources.

Nevertheless, any remembrance, any enlightenment or education in the name of Gandhiji cannot shy away from shining a light on the weak spots in his understanding

and articulation of certain phenomena.

FIROZ AHMAD,
New Delhi

■ In a world increasingly being consumed by violence, hatred and religious intolerance, the time has come to revive Gandhian ideals promoting truth and non-violence. The brilliance of Gandhiji is the timelessness of what he stood for. They offer solutions to many of the festering problems in the world today.

AVINASH RANJAN,
Arrah, Bhोजपुर, Bihar

■ It is often argued that Gandhiji is no longer relevant in India. We have given up the charkha, gone in for industrialisation in a massive way, and lapsed into communal frenzy. But for our own ultimate moksha, we must remember that the Gandhi in our hearts is not the Gandhi of prayer meetings, but a person, who,

through all of this, made the single greatest contribution towards giving India a modern, liberal democratic state.

C.V. VENUGOPALAN,
Palakkad, Kerala

IL&FS crisis

The rescue bid following the sordid episode around the troubled Infrastructure Leasing & Financial Services is a clear reminder of the challenges that lie ahead when it comes to infrastructure financing. There has to be a conscious effort in creating the right institutional model for infrastructure financing as it holds the key to the path of sustainable development.

M. JEYARAM,
Sholavandan, Tamil Nadu

■ The rescue bid only raises more questions. It is surprising that none of the lenders or shareholders raised any concern in public on the potential volcano the company was sitting on.

Credit rating agencies are said to have given it a high credit quality. The regulators didn’t find anything wrong with the company as annual accounts were audited and filed. The regulators should explain what they did with all the reports and details filed by the company year after year.

If loan default is viewed so seriously by the government, what about all other cases which are under insolvency proceedings with equally huge amounts at stake? And where the board of directors have not been questioned on their integrity or management skills? The common man and taxpayer need an explanation.

V. RANGANATHAN,
Chennai

Contaminated vaccine

The case of type-2 polio virus contamination detected in vials used for immunisation in Uttar Pradesh, Telangana and Maharashtra is a serious lapse. There must be a

thorough inquiry and surveillance thereafter. The fight against the disease should not be hampered by carelessness (“Centre initiates probe into type-2 polio virus contamination”, October 2).

K.A. SOLAMAN,
Kaithakkal, Alappuzha, Kerala

Strange selection policy

The selection of the Indian cricket team for the Tests against the West Indies defies logic. Bhuvneshwar Kumar is regarded as the best Indian seamer and he did not play in any of the Tests in England recently due to injury. Now he is fit but “rested”. The most surprising of all is the dropping of Karun Nair. A triple centurion, he was assigned odd jobs in the England series. Why he was chosen at all and why he is being sinned against now?

SANATH KUMAR T.S.,
Thirissur, Kerala

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