

Nothing seems private anymore

Strong data-protection laws should have preceded Aadhar

It is ironic that a technological solution, that could have plugged India's porous welfare delivery system, is itself proving to be extremely leaky. On Sunday, thanks to a programming error, names, addresses, Aadhar numbers and bank account details – or digital identities – of a million beneficiaries of Jharkhand's pension scheme surfaced on a government website. When HT reporters logged onto the site, they could drill down to get transaction-level data on pension paid into scores of pension accounts. This major privacy breach comes at a time when the Supreme Court, cyber-security experts and opposition politicians have questioned the Modi government's policy to make Aadhar mandatory to get benefits of a variety of government schemes and services.

Aadhar, if implemented in the right way, could have lessened corruption and put each Indian on the official map when it comes to rights and benefits. But, the breach reminds us that the security of our information is in the hands of authorities who don't know how to secure it. In Jharkhand, for instance, cyber security experts had long warned that many websites maintained by the state government were insecure.

Despite such critical data privacy issues, there are no legal safeguards in case of a data breach. The Aadhaar Act and Rules don't limit the information that can be gathered by the enrolling agency; it doesn't limit how Aadhaar can be used by third parties if they haven't gathered their data from UIDAI; it doesn't require your consent before third parties use your Aadhaar number to collate records about you. But if identity theft is committed, individuals may never come to know as the law does not require the UIDAI to inform citizens about a data breach. What India requires today is a strong data-protection law. It should have preceded the Aadhar roll-out but unfortunately it did not. Such a law can also ensure that data are not misused by private companies. Aadhar, however, requires greater scrutiny because of its scale, because it is mandatory, and because so many who are registered have neither the knowledge nor the means to protect themselves, or get recourse in case something goes wrong.

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No green shoots of growth for them

The Tamil Nadu farmers' protests show that the agrarian crisis is getting worse

On Sunday, Tamil Nadu chief minister Edappadi Palaniswami met the farmers protesting at Jantar Mantar in New Delhi and assured them that their demands would be met in a month's time. But by convincing the protesting farmers to suspend their agitation, Mr Palaniswami has not addressed the problem — he has only managed to avert what could have soon become a political crisis for both the Centre and state. In the protest that went on for 41 days, the farmers, to highlight their plight, adopted several extreme measures, which included biting into dead mice and snakes, eating grass, and even threatening to drink urine and eat human faeces. In a harrowing protest, farmers hung human skulls, which they claimed were of dead farmers, around their necks.

Though it has now been suspended, the protest highlights the agrarian crisis in Tamil Nadu and many other parts of the country. It reflects poorly on the nation when its farmers are pushed to such disturbing, even macabre, means to attract the attention of authorities towards what should be treated as nothing short of a national crisis. If corrective measures are not taken now, it could lead to more farmer suicides and protests. With increasing unpredictability in weather patterns, the demand for water will only increase. Unless awareness is created on how to judiciously use existing resources and replenish reserves, the need for water cannot be met satisfactorily. Also, with supply far below demand, water-related tensions will increase in frequency.

The Centre, along with the states, needs to come up with a solution to address such riparian tensions, and set a template that can be used in the future. But precious little has been done. The farmers' protests should be a reminder to the government, both at the Centre and states, to focus on addressing the problems faced by them and ensure that farmers are not forced to turn to such measures in the future.

comment

It's our tradition to agree to disagree

India as a country and as a civilisation is an unending celebration of human plurality

ASHOK VAJPEYI

Dissent is one word which has assured, in the last few years, a currency unprecedented in our democratic history. The reason obviously is that at many levels, political, social, cultural, dissent is under severe assault. A political ethos and regime have emerged asserting that dissent from majoritarianism is not permissible if not by the State, by the numerous groups of vigilantes which have mushroomed illegally and unconstitutionally. Dissent is not a right which was conferred upon 'we the people of India' as the Constitution states but it is inherent in all structures of democratic nature. However, in the current climate of violence and bans, dissent is seen as 'anti-national', 'anti-Indian', 'anti-Hindu'.

It can be reasonably argued that in India, from the beginning of its civilisational enterprise, nothing has been singular for long.

Whether god or religion, philosophy or metaphysics, language or custom, cuisine or costume—every realm is dominated by plurality. It is not accidental or purely a linguistic device that in many Western languages the

word for India is plural – Indes meaning Indias. It is difficult to talk about a single Indian tradition: there are multiple traditions, all authentically and robustly Indian. Even within Hinduism there are four vedas (not one), millions of gods, 18 upanishads, six schools of classical philosophy, two epics, four purusharthas. In fact it can be easily claimed that India as a country and as a civilisation is an unending celebration of human plurality. It has survived through millennia mainly through plurality.

Plurality is inevitably embedded in the notion that there are many ways of looking and living in the world. Also, that plurality accommodates differences. These differences, in turn, embody and enact dissent. When the vedic seer ordains in a grand manner the noble notion 'aanobhadra krtvo yantu vishvashata', what is being sanctified is the notion that there are ideas all over the world and they are all welcome. The other vedic saying 'vasudhaiva kutumbkam' say that the whole earth is a family. Such openness to the acceptance of the plurality of ideas is the core of the Vedic cosmic vision. It could be asserted that, throughout the millennia, Indian civilisation has never lost sight of this vision nor ever failed to allow space for it.

India invented four religions namely Hinduism, Buddhism, Jainism and Sikhism. The growth of these religions is another instance when the founders of the three latter religions, dissented against the ritualistic and



Several groups of vigilantes have emerged illegally and unconstitutionally

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social caste rigidities of the sanatan dharma to discover new paths of spirituality, metaphysics, and social organisation. Here is religious plurality created through dissent. Buddhism and Jainism are two religions in India which are not based on the notion and existence of God. Also, sanatan dharma included Buddha as one of the ten avatars of God, along with Rama and Krishna.

Whether in traditions of creative expression or in the repertoire of intellectual articulation, in India dissent from faith or from the state has always been allowed to grow and be acknowledged. In fact, the plurality was inspired and expanded through dissent. For

instance, when the classical tyranny of Sanskrit needed to be questioned and subverted, many modern Indian languages came into being as forms of dissent from the classical. The vernacular did not, as it were, demolish or aspire to occupy the hallowed space of the classical. Instead it became a dissenting parallel. Each Indian language embodies and sustains a worldview which deviates from the classical world view of Sanskrit. The presence of nearly 1,000 Ramayanas in India ranging from creative transformations in languages to different readings from the Jain point of view for instance, are evidence that the domination of a narrative and the worldview it enacted and expressed was creatively challenged and transformed. A Kannada Ramayan or a Hindi Ramcharitmanas deviate quite substantially from the original in Sanskrit by Valmiki and all of them have validity and sanction.

Some satisfaction can be derived from the fact that in the present situation some writers-artists-intellectuals have refused to be silent and have protested. It could be claimed that they have stood by the glorious and unbroken tradition of plurality and dissent and hopefully would continue to fight through creative and intellectual means for democratic values of freedom, justice and equality as enshrined both in our traditions and the Constitution. All thinking and creative persons owe this much at least to Indian heritage, creative imagination and humanity. That they have many different points once again underlines the innate plurality of both affirmation and dissent in India.

ASHOK VAJPEYI is a former bureaucrat, a Hindi poet and critic. The views expressed are personal

BUFFER ZONE



Fisherfolk in Tamil Nadu are finding themselves squeezed between a seaward moving urban-industrial monster and a landward moving sea

Lokpal could create more problems than it will solve

Retired SC judges becoming part of an anti-corruption body means stepping into the domain of the executive

ASHOK KAPUR

The Lokpal bill has generated much hype and hope in recent times. It is being seen as a big tool in eliminating corruption. But it will do no such thing. The Lokpal's jurisdiction is restricted to cases of disproportionate assets amassed by public figures. The Act is redundant as the Prevention of Corruption Act is adequate to serve the same purpose. Lokpal does not cover day-to-day corruption.

The provision in the Lokpal Act fixing the age of retirement at 70 has the potential for misuse. It could prove to be too tempting a prize for some retiring members of the higher judiciary to resist, as the appointment of the Lokpal will be in the hands of the executive.

The Lokpal will be some kind of a super cop, a member of the executive. He will be selected by a committee comprising, inter alia, the Chief Justice of India. It will be essentially an administrative committee, a part of the executive.

In other words, members of the higher judiciary are being proposed for executive duties. This will be a violation of the 'basic structure' of the Constitution.

'Separation of powers' is one of the most important among the features of the 'basic structure'. Just as the executive cannot encroach on the judicial domain, similarly the judiciary should not be induced into executive functioning.

Article 50 of the Directive Principles of State Policy casts a moral responsibility on the State to separate the judiciary from the executive.

THE LOKPAL, DURING THE COURSE OF INVESTIGATION, CAN ASK FOR THE SUSPENSION OF ANY CLASS 1 OFFICER. AND THE GOVERNMENT SHALL NORMALLY COMPLY. IN CASE THE GOVERNMENT DIFFERS, IT SHALL EXPLAIN THE REASONS FOR IT. THIS IS A VERY ANOMALOUS PROVISION, AS THE APPOINTING AUTHORITY IS THE DISCIPLINARY AUTHORITY IN LAW

If judges of the Supreme Court were to be members of administrative committees, a very anomalous situation may arise. Suppose a candidate for the post of Lokpal were to be rejected by the selection committee. He can always exercise his fundamental right to move the High Court under its writ jurisdiction to challenge the committee's functioning as biased and motivated. Will the High Court summon Supreme Court judges or pass orders on their functioning?

The Lokpal will be basically an investigation agency, a super CBI. It will have benches comprising Supreme and High Court judges who will superintend investigation by the Lokpal police. The investigation will continue to be done under the Criminal Procedure Code 1860, the oldest law in the statute book. Under the Code, the judiciary has absolutely no role as investigation is the exclusive prerogative of the executive.

The investigation report will be submitted in the court of a special judge who will be a member of the subordinate judiciary. If investigation were to be monitored by Supreme Court and High Court judges, the accused may be hard pressed to get justice before a subordinate judge.

It will be a travesty of criminal justice. It is settled law that the judiciary has no role in the investigation of offences. Under the Code, the High Court can pass any order in the 'interest of justice'. But the Supreme Court itself has ruled that one exception is non-interference during investigation.

The Lokpal, during the course of investigation, can ask for the suspension of any class 1 officer. And the government shall normally comply. In case the government differs, it shall explain the reasons for it. This is a very anomalous provision, as the appointing authority is the disciplinary authority in law.

Such a provision is in violation of administrative law whereby a power delegated cannot be sub-delegated. He will be authorised to attach "proceeds of corruption", an expression which is vague and undefined. It is bad in law to empower an executive authority to do so, which is the lawful function of an independent court of law, after examining all evidence. The whole Lokpal issue warrants a serious rethink.

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The views expressed are personal

The coast is an insurance against the angry sea

If the authorities were smart, they would remove buildings from the seafront, instead of watering down the CRZ rules

NITYANAND JAYARAMAN



Ever since the year began, the Centre has touched one raw nerve after the other in Tamil Nadu. As if the hydrocarbon controversy in the Cauvery delta and Tarun Vijay's remarks on 'black' south Indians were not enough, the Union environment ministry now reportedly working to replace existing coastal protection rules with a law that will allow reclamation of seas and coastal wetlands. Branding the proposal as a government-facilitated land grab to privatise coastal commons, fisherfolk from Tamil Nadu have declared they will give a fitting reply if the government refuses to abandon the move. The environment ministry's proposal will open up coastal *poromboke* areas (land that belongs to the government) such as the seashore and intertidal wetlands for tourism and commercial exploitation.

The Coastal Regulation Zone (CRZ) Notification has been seen as a hindrance to "development" as it restricts activities on the coast. Curiously, the law applies only to a 500-metre strip along India's 7,500 km coastline, leaving the hinterland open for business-as-usual. Even three decades ago, the shoreline was seen as a hostile place where fishing villages had to cry for attention and basic infrastructure. But now fisherfolk are squeezed between

a seaward moving urban-industrial monster and a landward moving sea. To the fisher, an unbuilt coastline represents livelihood security, housing security and safety from extreme weather events particularly in a climate-changing scenario. The growth-wallahs in Delhi see coastlines as wasted real estate, and the sea and tidal water bodies as real estate that somehow got covered by water.

The current CRZ Notification, though flawed and merrily violated, has elements that can protect coastal environment and fisher livelihoods. It prohibits the reclamation of sea or intertidal wetlands. It mandates the identification of and action against violations.

It is a different matter that in the six years that the law has been in force, none of these provisions has been implemented. Rather than undo this legislation, the government should strengthen it and make it an act of parliament.

In seeing the coast as real estate to be developed, the environment ministry is exposing a dangerous naivete about what the sea is capable of. The coast is the buffer that protects the land from the sea. A healthy, sparsely built coastline is our best insurance against an angry sea. With atmospheric carbon dioxide levels spiralling out of control, dangerous sea level rise and frequent and more intense extreme weather events are a certainty in the years to come. Smarter people would be reducing disaster risk by un-building the coastline. But in India, before we get to disaster-risk reduction, we have to figure out what to do about the disaster that our environment ministry has become.

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innervoice
WHAT IS WRONG TODAY
COULD BE RIGHT
TOMORROW

PP Wangchuk

Nothing in the world is completely wrong forever. Even a stopped clock is right twice a day. That is a part of a beautiful dialogue on right and wrong by Brida, by Paulo Coelho.

It helps us give credence to the saying that what is wrong today could be right tomorrow, and that which is wrong for you may be right for me. Those of you who have read Immanuel Kant and religious philosophies would realise that we are, and

yet we are not what we are. That again means we are what we think we are, and we are not what we think we are.

Too confusing, really, but that is what life is. And it is in our interest to let that be. That reminds me of Zimbabwean inspirational author Roy T Bennett who takes great joy in expressing this feeling: "What one thinks is right is not always the same as what others think is right; no one can be always right."

We are, actually, very loyal servants to our habits and mentality. Things change

quickly, but we do not. As a result, we stagnate.

Just as anything remaining unchanged over a long time gets its value downgraded, life too loses its shine if we fail to take dynamic steps. The journey of life becomes dynamic and fruitful only if we learn to go with the winds of change.

Inner Voice comprises contributions from our readers. The views expressed are personal
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