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THE ELECTION COMMISSION

A 'model' public institution?

The success of the Election Commission of India (ECI) in conducting free and fair polls has varied over five phases. Unsurprisingly, since 1996, surveys have shown that, of all public institutions, people trust the ECI the most

DO THE RECENT initiatives of the Election Commission of India (ECI), disqualifying a minister for filing election expenses incorrectly, objecting to a state government's disciplinary proceedings against an officer, and introducing paper trails in Electronic Voting Machines (EVMs), indicate a 'model' Indian public institution, playing its role impartially and fearlessly to conduct free and fair elections? Certainly, these actions show the ECI as autonomous and accountable, qualities that are uncommon, but much needed, in our public institutions. Unsurprisingly, since 1996, surveys have shown that of all

public institutions, people trust the ECI the most. But this was not always the case, and the ECI's rather rocky journey to its current level of success provides insights into how Indian public institutions can be made more effective.

The ECI's success in conducting free and fair elections has varied over five phases. Post-independence, the ECI began triumphantly as it conducted the first elections in the world's largest, but largely illiterate, democracy, with inadequate roads, buildings, and personnel. Innovating by using symbols to identify political parties and candidates, the ECI enabled illiterate constituents to vote, exhibited an aston-

ishing efficiency, gained the trust of ordinary voters (in the second general election, some voters wanted to vote for the Chief Election Commissioner—CEC) and was admired across the world. It kept up this performance through the first phase (1950-1967).

Partly, the ECI succeeded because of the leadership of the dominant political party, the Indian National Congress, wanted free and fair elections, and because of the capable leadership of its first CEC, Sukumar Sen. But, equally important were some features of ECI's institutional design. First, the ECI is a very autonomous organisation. It is independent of the government, has full powers when the law is silent, and even the courts cannot intervene in the election process once it has begun. This autonomy allows innovative and decisive action, such as the allotment of symbols. Second, the ECI's subject domain is narrow, i.e. conducting elections, but it can act across a range of processes, be it policy-setting, implementation, and quasi-judicial actions. This varies from the powers of, say, the legislature and the judiciary, each of which addresses one process, i.e. law-making and adjudication, respectively, (and neither implements), across subjects.

Third, the ECI's positioning in our federal structure is unusual. Most other public institutions have parallel national and state-level structures, with varying autonomy of the latter. But, while both Lok Sabha and state legislature elections are centralised in the ECI, it is totally dependent on the state administrative machinery to conduct elections. This centralisation meant that the ECI could use its expertise fully to give detailed administrative directions to state governments regarding election processes, such as the design of ballot boxes and ballot papers, location of polling stations, counting procedures, etc. At the same time, through constant interaction with the states, the ECI created transparent, accountable and realistic processes, such as for preparation of voters' lists, the nomination of candidates, discipline at the polling station, etc. Most of these, with the support of the political establishment, were enacted as law.

The ECI's success was diluted in the second phase (1967-1975), and eroded further in the third phase (1977-1990), as political support for free and fair elections declined progressively. From 1967 onwards, the

Congress began to lose its dominance, and multi-party democracy grew, resulting in intense political competition. Now, political actors stepped up violence and electoral malpractices, such as personating and intimidating voters and booth-capturing. This was matched by a general decline in ethics within the government. Several state governments made large-scale transfers on the eve of the elections, posting pliable officials in key positions. These officials sometimes flouted the ECI's orders, with the state government's support. So much so, that by the end of the third phase, in parts of UP and Bihar, elections became a mockery, with organised booth-capturing and intimidation of voters.

But, though violence and electoral malpractice rose steadily, elections remained free and fair in large parts of the country. This was because of the transparent and accountable processes incorporated in law in the first phase. These could not be flouted casually. As a rule, though with exceptions, officials were not willing to participate in illegal activities. Additional partition was provided by the possibility of partisan elections being challenged and set aside in courts. In other words, the strong legal basis of the election process, and accountability to the courts were defences against the deteriorating political climate.

As has been the case with many of our public institutions, this deterioration could have continued in the fourth phase (1991-2002). Instead, after another rise in violence in the 1991 elections, the ECI re-established the rule of law. The new CEC, TN Seshan, counterbalanced the ECI's institutional shortcomings, i.e. inadequate control on electoral malpractice by political actors and the administrative machinery, through combative and forceful leadership. He publicly reprimanded politicians for violating the Model Code of Conduct, cancelling elections by postponing and creating objections, increased the number of central observers four-fold, and insisted on action against errant officials. The CEC exploited the ECI's autonomy to the hilt, used the burgeoning electronic media to get public support, and at times, approached the courts against the government, which often backed him.

Consequently, the credibility of the election process was re-established in the 1996 elections, while violence, booth-capturing and voter-intimidation declined dramatically. Subsequently, independent stands by the ECI became an accepted and common feature, and new safeguards were incorporated in the law. Moreover, the ECI became a three-member body, which added to its internal accountability. The current independent actions of the ECI are a continuation of this process.

In the ECI's institutional evolution, the first phase illustrated the importance of institutional autonomy, buttressed by the mandate to make and implement policy, to enable innovation and sound management. The narrow subject area and the responsibility for implementation sharpened institutional expertise. The second and third phases demonstrated the significance of grounding processes in law, and accountability to the judiciary, which were bulwarks in a deteriorating context. That the ECI is autonomous and accountable, is critical to its success. Usually, our public institutions tend to be only one of the two, and flounder as conditions become adverse. The implied policy initiative here is to strengthen autonomy and accountability simultaneously in public institutions.

These institutional features remained important in the ECI's success in the fourth phase, but a new element was added: the right leadership. The irony here is that the ECI got the right leadership accidentally, rather than as per institutional design. The appointment of the CEC and the Election Commissioners remains a non-transparent process, and the decision rests with the government of the day. The risk of partisan appointments persists and could undo ECI's achievements. And, this is a problem that plagues almost all our public institutions.

Recently, the appointment process of the CEC and Election Commissioners has been challenged through a PIL in the Supreme Court, and an independent and neutral process has been sought. As the court hears the case, a key question for the future of public institutions in India hangs in the balance.

Making Bastar bloom

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Trains from Bhilai steel plant can change the destiny of Bastar, which has been a preserve of Maoist and Naxal cadres

BORDERED IN THE by Nagpur-Raipur Railway line, in the east by Raipur-Rayagada line, in the south by Rayagada-Koraput-Jagdalpur-Kirandul line and on the west by Nagpur-Kazipet line is a huge swathe of Indian peninsula devoid of any railway network. Consequently, this area stretching for about 300km from north to south, and 500km east to west has not witnessed any appreciable economic growth. A preserve of Adivasis, and now increasingly the Maoists and Naxal cadres, this sparsely populated area that boasts of the Dandakaranya forest of the Ramayana fame, is served mostly by roads winding their way through the thick growth, and vast patches of shrubland with occasionally cultivated fields. The region, which covers the Bastar district, will soon be humming with activity when 4,000 tonnes payload freight trains of high-grade iron ore from the Rowghat mines start carrying it to Bhilai Steel Plant (BSP), and a year later passengers services get introduced.

Faced with its fast depleting mines in Dalli Rajhara, BSP will get a much-needed new source of iron ore with a proven reserve of more than 700 million tonnes of high-grade deposits with iron (Fe) content nearing 60%. Discovered in 1899, these deposits will help BSP ramp up its output from the current 4-7 million tonnes annually.

It will also open up a new route for passengers to travel between Raipur and Jagdalpur, which is 235km south, serving over a dozen towns, and hopefully, spur economic growth in this backward and sorely neglected area.

At present, two of Indian Railways' subsidiaries—RVNL (Rail Vikas Nigam Ltd) and IRCON (Indian Railway Construction Organisation)—are engaged in carrying out this Herculean task. The work on Phase-1 of 95km from Dalli-Rajhara to Rowghat is being executed by RVNL, while IRCON will complete Phase-2 of 135km from Rowghat to Jagdalpur.

The Phase-1, costing ₹1,141 crore would be entirely financed by SAIL, while ₹2,512 crore price tag of Phase-2 will be shared between Railways, SAIL, NMDC and Chhattisgarh government.

The project involves combined efforts of many government agencies, such as SAIL which will provide funds and set up security camps for paramilitary forces, Chhattisgarh Electricity Board will shift the overhead power lines, state forest department will cut trees and transport felled logs, and the Sashastra Seema Bal (SSB), under the aegis of the home ministry, will handle the threat of Naxal attacks. Ensuring security and safety of personnel by frequent patrolling, area domination and regular de-mining of the work area, all crucial for successful completion of the project is to be done entirely by SSB, whose track record, unfortunately, so far has not been very inspiring.

Two months ago, 25 jawans of SSB were massacred at Sukma, and recently on May 8, an RCIED (Remote Control Improvised Explosive Device) exploded near KM 70, just 50metres ahead of an RVNL survey party. These incidents have put a question-mark on the capability, commitment and quality of its leadership.

Understandably, given the sense of fear and constant shadow of death under which the staff has to work, RVNL could complete only 17km between 2009-15. Apart from the reduction in working hours due to night curfew, frequent Naxalite calls for *bandh* and Shaheedi Saptah, etc, have also taken their toll.

Despite the multifarious handshakes under which it has to perform, RVNL expects to complete the alignment up to KM 80 by May 2019. Reaching beyond, up to Rowghat, involves the construction of a major 6x100 span bridge to cross river Mendaki which may involve another year's wait, as a major security camp for SSB is yet to be set up at Khororanda.

The 95km section from Dalli-Rajhara to Rowghat would have stations at Gudum, Bhanupratappur, Kewati, Antagarh, and Taroki, changing the lives of their inhabitants forever when the line is opened for freight up to Rowghat by December 2020.

However, the residents of towns on the 135km stretch beyond Rowghat towards Jagdalpur, viz Baranda, Narayanpur, Chandganv, Jugani, Kondagaon, Baniaganv, Dhikonga, Bhanpuri, Sonarpal, Bastar and Kudkanar would have to wait a little longer since it now involves entering deep in the forest, and Naxal stronghold.

GOODS AND SERVICES TAX

The first invoice

Implementation of a reform of such magnitude is bound to come with teething issues. A prudent way to deal with the challenges is to be a little pro-active

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WITH THE ADVENT of the goods and services tax from July 1, 2017, the nation's long wait for a simplified tax regime to create one of the world's largest unified markets became a reality.

The first thing that probably came into every registered dealer's mind on the morning of July 1, was whether they would be able to raise their 'first GST invoice'.

While the large companies were generally successful in modifying their IT systems in advance and raising GST invoices, the small merchants/traders were the most worried lot.

With the GST law mandating the issuance of different documents under varied circumstances, in prescribed formats, their worry was not baseless.

To name a few, a 'Tax Invoice' needs to be raised on supply of taxable goods and services, a 'Bill of supply' is to be raised on supply of exempted goods and services, and a 'Receipt voucher' to be issued in case of receipt of advances and the list goes on.

Thus, the first week of GST has been all about ensuring that the right documents are issued under the correct circumstances. Though, the government had prescribed the particulars to be mentioned on a tax invoice about a month back, the general misconception

among the traders was that a 'definite format' of invoice would be issued (which never came), resulting in confusion amongst dealers and consequent 'black out' of issuance of invoices for the first few days.

The confusion was aggravated by the fact that the criteria to determine the document to be issued by a dealer have been changed under the GST. Till date, the document to be issued by a registered trader was dependent upon the customer's profile, i.e. whether the customer is a registered dealer or an end consumer. Where the customer is registered, a tax invoice was is-

sued and for the end consumer, a 'retail invoice' was issued. Under GST, the customer's profile is not the determining factor, what matters are the goods being supplied. Thus, a tax invoice is to be issued where the goods being supplied are taxable, otherwise, a bill of supply is issued.

Some other challenges on the issuance of the first invoice were the 16 particulars prescribed under the GST law.

To illustrate, under the erstwhile regime, mentioning the product classification code (called Harmonised System of Nomenclature or HSN codes) was mandatory only for man-



ufacturers. Under the GST it is mandatory for all dealers including service providers having a turnover of more than ₹1.5 crore to mention the government prescribed product/service classification code.

Another area of discussion amongst dealers is the adoption of different series for each of the prescribed documents. The document series is required to be consecutive and multiple series may be maintained for each type of document. Also, the series needs to be unique and must contain alphabets, numerals, special characters or any combination of these with a cap-

of 16 digits.

The requirement of mentioning the place of supply with the state code, which is relatively a new concept, address of delivery and address of recipient also adds to the complication.

Questions such as whether issuing a hard copy of the invoice is mandatory or electronic invoice can also suffice, whether a scanned signature is permissible, whether hard copies of all prescribed documents need to be maintained is also creating a cloud of doubt amongst the GST community.

Implementation of a reform of such

magnitude is bound to come with teething issues. A prudent way to deal with the challenges is to be a little pro-active, say, for example, where the particulars to be mentioned on the invoice are configured appropriately in the enterprise resource planning (ERP) system or the laptop being used, dealers can find the issuance of an invoice to be a hassle-free exercise.

It was heartening to see social media flooded with selfies of individuals highlighting 'My first GST invoice', but the irony was while their status or post said 'my first GST invoice', in some cases the invoice actually had VGST (Value Added GST) or VAT mentioned on the same.

Last week has been super exciting from doubts on implementation till the last minute, anxiety on who would attend the grand function in the Parliament, cake cutting ceremonies in offices on completion of the GST project, flashing GST compliant bills (some with incorrect particulars) on social media with a sigh of relief.

All said and done, the government has already played its cards, now it is up to the big businessman, small traders, service providers and consumers, to decide what they want to do with theirs—play along or fold!

With inputs from Rishabh Tandon, assistant manager, KPMG India