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Politics, Strategy and the Lokpal Bill

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India's much-anticipated Lokpal Bill (designed to set up an ombudsman) was introduced in the Rajya Sabha (upper house of parliament) on 29 December 2011, but the United Progressive Alliance (UPA) government had to beat an ignominious retreat as it could not gather enough numbers in the house for the passage of the bill. Earlier the bill was in fact passed by the more powerful Lok Sabha (lower house of parliament), but both houses are now adjourned. It is possible that the government may send the bill and all the suggested amendments to a parliamentary committee for consideration before reintroducing it in the next session of parliament.

It is also possible to conclude that the strategists of the Congress party, the main constituent of UPA, attempted to do too much in this exercise and that a wary opposition has been able to erect some stumbling blocks.

First, from the UPA government's standpoint, there was the need to counter the civil society activism against corruption in public service, spearheaded by the Anna Hazare movement. The government had to bring in legislation, and had to take care to protect its interests. This resulted in a draft that was not acceptable to many inside and outside parliament. However, the government, and the Congress party in particular, needed to demonstrate its willingness to tackle this issue before the run-up to the state elections, to prevent this becoming an election issue. After a dismal 2011, government needed to demonstrate its willingness to act. The bill was introduced, debated and passed in the Lok Sabha.

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Second, the government was sure that the opposition was divided and that the amendments proposed by different parties lacked coherence and could be defeated for want of a unified opposition. It was proved right, and the amendments failed, and the bill was carried in the Lok Sabha.

Third, the government did not want this anti-corruption authority to be constitutionally enshrined – having become wary of constitutional authorities like the Chief Election Commissioner and the Comptroller and Auditor General, and hence allowed the constitutional amendment bill to slip – in fact 12 of its own MPs – all from Congress, were absent at the time of voting. Avoiding the constitutional amendment bill was perhaps, in itself, a strategy.

Fourth, the draft bill contained provisions that constitutional experts have questioned. The bill mandated that every state would have a similar ombudsman (Lok Ayukta). The opposition's argument was that under article 252 of the constitution, this was interference in the domain of the states. The government advanced the ingenious argument that it was merely ratifying the United Nations convention on corruption for the whole country, which it could do under article 253 of the constitution. Given the federal nature of the constitution, the legality of such a mandate would be debated in court – and there was possibly an attempt at a double finesse. If the bill was struck down as unconstitutional, then there was an opportunity to back away from the legislation, as well as to lay the blame on the activism of the judiciary. The Congress has, for some time now, been waiting for an opportunity to reduce judicial activism, and this could have proved to be a useful tool to criticise the judiciary.

Fifth, the bill itself was unlikely to have been an effective piece of legislation in curbing corruption – which made Anna Hazare go back to fasting in Mumbai. Government cleverly perceived that the movement had been hijacked by the opposition parties, and hence could be dealt with politically. It was right, as support for the activist's fast dwindled. Thus the government was able to push through a weak legislation through the lower house. The Central Bureau of Investigation, the premier investigation agency is to be kept outside the purview of the Lokpal, and it will continue to operate under executive control, a single step that would arguably reduce the effectiveness of functioning of the Lokpal. Prime Minister Manmohan Singh strongly ruled out the possibility of bringing the CBI under the Lokpal.

Next, it was quite obvious that even several Congressmen viewed the Lokpal structure with apprehension, and hence some amount of internal dissent on the bill had also to be tackled by assuring all that that the bill was not the one that civil society had demanded.

Finally, these political strategies would put the economic issues on the backburner, yet these concerns are likely to persist and re-emerge in 2012. There is some relief in the easing of food inflation, and monetary tightening as well as the weakening rupee is starting to cool

consumption demand. There is an opportunity for the UPA to redeem itself in 2012, and this legislation would have been the first step.

It is clear that the agenda was quite large, and perhaps overambitious. The opposition was able to realise that it was losing the initiative to the government. Faced with the petering out of civil society protest and waning public attention, it had to fight to retain its position in Parliament. It had the disadvantage of lack of unity, but the advantage of numbers in the Rajya Sabha. The Trinamool Congress has always been a wary supporter of the UPA coalition, and, in this case, felt that the autonomy of the state was being eroded. It opposed the bill in the Rajya Sabha, leaving government with no option but to allow the bill to be carried over. In fact, towards the end of the debate, when it was obvious that the legislation would not pass, speakers from the treasury bench resorted to filibustering, and the day ended with the house proceedings being disrupted by a member, much to the relief of the treasury benches. The opposition, of course, claimed that this was all pre-planned.

There is a deeper thinking behind these moves. The Congress and the opposition Bharatiya Janata Party (BJP), the two largest national parties realise that it is unlikely that they will be able to generate a swing in their favour in the next parliamentary elections, and that this situation would prevail for some years. At the same time, regional parties are looking forward to a decade in the sunshine, with the AIADMK (All India Anna Dravida Munnetra Kazhagam) in Tamil Nadu, Trinamool in West Bengal, Janata Dal in Bihar, BSP (Bahujan Samaj Party) in UP (Uttar Pradesh), Biju Janata Dal in Orissa all looking at improved prospects in the 2014 national elections. It is becoming clear that the future scenario is one of a weak centre and strong states, with the national parties needing the support of groups of regional parties to secure any semblance of central power. It is therefore natural that the state politicians would be reluctant to cede any ground to the centre, and the Lokpal bill as well as the GST initiative, are but two examples where the states are flexing their muscles to see how far they can push. Subtly, they are assessing the strengths and weaknesses of the national parties to determine the room for manoeuvre that they would have. They have also no wish to hand over executive or legislative flexibility to the centre. Perhaps the Congress was not able to sense this, and faced embarrassment.

However, it is unlikely that the Congress would rest. It is likely that the next initiative will come from the economic front. Food price inflation has started to fall, commodity prices are looking less volatile, and monetary tightening has started to show results. Fundamentals of the economy are good, and there is reasonable expectation that the economy will continue to grow at around seven per cent. 2012 is likely to be a year where economic initiatives would show quick results. The government may hope to take advantage of these factors and position itself for the political battles ahead.

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