Hierarchy of rights: citizens vs institutions

The large hole discovered recently in Punjab National Bank (PNB) has got people asking: How did a diamantaire take out so much money from the banking system, so easily, when ordinary customers are made to jump through several hoops or provide copious documentation for a simple transaction?

The incident has once again highlighted the asymmetrical and uneasy relation between institutions and ordinary Indian individuals, in which the dice seems to be loaded against ordinary citizens. As examples later illustrate, this unequal relationship is not restricted to a few isolated cases but is endemic and, in some senses, also epitomizes the mistrust between state and citizen.

On paper, all Indians are created equal but inequalities have been stitched into the nation's variegated relationships and transactions, such as deep-rooted gender inequalities or caste-based social discriminations. In particular, the state, its myriad institutions and the corporate sector—both in private and state-owned spaces—have been provided a hierarchical status greater than citizens. It seems the Indian republic, with its all modernist aspirations, is unable to shake off its feudal legacy and provide an equitable balance between institutions and individuals. The state's role as a patron (or *mai-baap*) seems to rub off easily on various other institutions.

The mistrust is underscored every time there is a fraud, anywhere and by anybody, in the banking system. The Reserve Bank of India (RBI) insists all banks re-initiate the know-your-customer (KYC) process afresh, forcing all customers to compulsorily re-submit identity documents. Past submissions of same documents are disregarded. This process seems to indicate all citizens are guilty till they provide KYC papers repeatedly. The tyranny of Aadhaar, unleashed by all financial sector participants, has magnified the state of wariness. Hopefully, champions of Financial Resolution and Deposit Insurance (FRDI) Bill, specifically using depositors' funds to bail out shaky banks, will now have occasion to rethink their position.

The unequal relation between state and individual is extreme in taxation. Tax notices routinely sent out by the income tax department start with the premise that the individual assessee is guilty and leave no room for doubt that the department could be mistaken; the tenor of these notices is intimidating, and the onus for proving oneself innocent lies with individual assessees. Even the redressal mechanism is loaded against the individual and mainly designed to deal with large corporates.

Apart from the PNB incident, examples abound of how such inequalities have become institutionalized. Assume a customer owes the electricity company money for consuming power. There is a tariff structure for consumers that is decided between power supplier and power regulator. If for some reason the consumer is unable to pay for one month, the power company's representative arrives at the door and demands immediate payment or threatens disconnection. Logic and economic sense suggests that user charges must be paid. Otherwise, utilities cannot function. But, what happens when the same power company (or any other company) defaults on bank loans? In the language of RBI, the loan is recognized as overdue only when "interest and/or instalment of principal remain overdue for a period of more than 90 days". Which means any company can afford not to repay its loans for 90 days without getting penalized. The question begs itself: if companies can avoid repaying loans for 90 days, why are ordinary citizens hounded at the end of 30 days?

A citizen's helplessness is best manifested through the healthcare system. A division bench of the Bombay high court recently instructed the Maharashtra government to balance the rights of patients with the rights of hospitals and doctors while bringing in legislation to regulate clinical

establishments. The court was hearing a 2014 petition, which it has converted into a public interest litigation, on hospitals detaining patients over disputed bills. As mentioned in earlier instalments of this column, public-private-partnerships in healthcare have benefited mostly the private entrepreneur, with active connivance of the state, and squeezed individuals.

On occasion, the regulator has had to step in to correct an inconsistency. Credit bureaus till recently did not allow citizens to access their own credit records without paying a fee. Credit card issuers and all other economic agents submit data on a citizen's creditworthiness to credit information companies and could access the same before granting a loan or a credit card. But the individual could neither access the submitted data nor dispute the data, without paying a fee. In September 2016, RBI decreed that all credit information companies had to provide a free full credit report to individuals once a year. But the process remains cumbersome.

Globalization's annual summit has over the past couple of years focused on social themes—from inequality to this year's "creating a shared future in a fractured world". Last year, discussions on how to eradicate inequality ranged from higher taxes on the rich to universal basic income; the World Economic Forum piped in with its own solution: "Move away the focus from plain wealth creation towards accomplishing a combination of other goals, producing more inclusive development." Next year's theme should be on redrawing the balance of power between individuals and all institutions.

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