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469A Bukit Timah Road
#07-01, Tower Block, Singapore 259770
Tel: 6516 6179 / 6516 4239
Fax: 6776 7505 / 6314 5447
Email: isassec@nus.edu.sg
Website: www.isas.nus.edu.sg



Ordinance Confusion in Election Season

Robin Jeffrey and Ronojoy Sen¹

It is festival season in India, but it's more than that. Election season is in the air. You can hear it, see it and almost taste it. Five state elections are due before the end of 2013, and the big one, the national general election for 543 seats to the Lower House of Parliament, is due by May next year. These elections are awaited with rare anticipation, because in spite of widespread cynicism, there's a sense that changes in government are in the offing and that a lot of careers hang in the balance.

Criminal MPs

The big buzz in October 2013, however, was over convicted criminals. Should they be allowed, if they were members of Parliament (MPs) or state legislatures, to retain their seats? It all began with a Supreme Court ruling on 10 July overturning a section of the Representation of the People Act which protected convicted MPs and members of state legislative assemblies (MLAs) from disqualification if they appealed before a higher court. The Supreme Court said that a criminal conviction should bring an immediate ban from the legislature. During the monsoon session of Parliament the national government led by the Congress Party sought to nullify the court ruling by introducing a Bill. Though it claimed to have the support of all major political parties, the opposition Bharatiya Janata Party (BJP) forced the government to send the Bill to a standing committee. Once the monsoon session

¹ Professor Robin Jeffrey is Visiting Research Professor at the Institute of South Asian Studies (ISAS), an autonomous research institute at the National University of Singapore (NUS). He can be contacted at isasrbj@nus.edu.sg and robin.jeffrey514@gmail.com. Dr Ronojoy Sen is Senior Research Fellow at ISAS and the Asia Research Institute (ARI) at NUS. He can be contacted at isasrs@nus.edu.sg. The views expressed in this paper are those of the authors and do not necessarily reflect those of ISAS.

was over, however, the federal Cabinet on 24 September cleared an ordinance to allow convicted MPs and MLAs to keep their seats.

Newspapers, television channels and large numbers of citizens exploded in anger. Here again was the loathed political class showing contempt for ordinary people and looking after itself. On 26 September, BJP leaders met the President of India, Pranab Mukherjee, to petition him not to sign the ordinance. The same day, Mukherjee, who will most likely play an important role if the general elections throw up a hung verdict, summoned the federal home minister and law minister to seek “clarifications” about the ordinance. This was most unusual since the President usually rubber stamps Cabinet submissions.

Rahul Gandhi’s Intervention

This tortuous, election-focused story, however, was just beginning. The proposed ordinance, agreed though it had been by the Cabinet, got dumped within days by the actions of a back-bench MP. The MP was Rahul Gandhi, the reluctant heir-apparent to the throne of the Congress Party. At a public forum of journalists on 27 September, Rahul made what was supposed to be an unscripted appearance to pour scorn on the ordinance and say it should be torn up. Suddenly, wisdom burst upon the Congress, and its members realised that that they had all along been steadfastly and unyieldingly opposed to letting convicted criminal MPs sit in Parliament.

Observers interpreted the attempt to overturn the Supreme Court’s ruling and let convicts stick to their seats as an attempt to protect a Congress ally, the inimitable Lalu Prasad Yadav, best known for his ready wit and political acumen. On 30 September, Lalu was convicted of involvement in fraud worth millions of dollars going back more than fifteen years.

Lalu’s party contributes three seats towards the current coalition government’s majority in the lower house of Parliament. Three seats are not a lot; the government could get along without them. “Why the hasty solicitude?” observers asked. “Next year’s elections,” came one answer. Lalu was Chief Minister of the large state of Bihar (40 seats in the lower house), and is thought still to have a faithful base. His party expects to bounce back to win more than its measly three seats in 2014. Lalu might be a valuable ally during the horse-trading expected after next year’s poll.

But why did Rahul so publicly denounce an action that his mother, Sonia Gandhi, the Congress Party president, must have endorsed and that was agreed at a cabinet meeting presided over by the Prime Minister? And Rahul did the denouncing while Prime Minister Manmohan Singh was out of the country. Not just out. He was in the US meeting President Barack Obama and attending the United Nations. The feeling among clued-in observers is that Rahul’s action was a pre-meditated one. It was meant to indicate that Rahul was in touch with the popular mood as well as send a signal to Nitish Kumar, whom Rahul seems to prefer over Lalu as a potential ally in Bihar. Indeed, Nitish has publicly praised Rahul’s action. It

has also gone down well with the Congress cadre and some believe that the stage is being set for him to lead the party's campaign in the coming elections.

A day after Singh returned to New Delhi, the Cabinet on 2 October decided to withdraw the ordinance. The net effect was a further weakening of a Prime Minister who is now widely seen as ineffective and a strong indication, if one was needed, that it is Rahul's writ that runs within the Congress. The allies of the Congress, who were party to the original decision on the ordinance, are also cut up that Rahul undermined the Cabinet's authority.

A Gung-Ho BJP

The BJP has had great sport at the hapless Prime Minister's expense, depicting him as a puppet and lame duck. The BJP believes it is onto a good thing. It has declared that it already has a credible candidate for Prime Minister to lead it into next year's election. Their newly anointed leader is Narendra Modi, Chief Minister of Gujarat, a man with a carefully crafted reputation for economic development and for a less-than-caring attitude towards India's 170 million Muslims. The famously energetic Modi, 64, lives to be prime minister and is stumping the country to build a wind of support to blow him and his party to power.

Modi has in fact given India one of three four-letter words now in common use. His followers call him NaMo (Narendra Modi), which suggests motion, movement and momentum. The two other N-words are Neta, meaning "leader", but in fact usually spat out to mean "despised politician", and the newest of the three, NOTA – None of the Above.

Changes in Voting Law

NOTA is another manifestation of the election season and the authority of India's unelected institutions. India's Election Commission, one of the country's admirable institutions, has advocated giving voters the option to vote for None of the Above – that is, to record their distaste for all the candidates. In the current mood in the country, NOTA might be expected to win a good few seats. Last month, the Supreme Court gave the go-ahead for the NOTA option to be included for the coming elections. India votes using 1.2 million self-contained electronic voting machines – one or two in every polling station. It will be simple to include NOTA in the list of candidates.

In India's first-past-the-post system, candidates often win with only a third of the votes cast. NOTA might easily win in a number of electorates. In other places in the world where this option is available, various practices are followed if NOTA claims the largest share of the vote. In some places, new elections are called and new candidates nominated. In others, the real candidate with most votes still wins; NOTA is simply a shaming measure. The argument in favour of NOTA is that a heavy NOTA vote will shame political parties to run upright

candidates. But shame is not a strong point among most Indian politicians, and NOTA might not have the desired effect.

So the election and festival seasons unfold. State elections are due by December in the states of Madhya Pradesh, Chhattisgarh and Rajasthan, the National Capital Territory of New Delhi and tiny northeastern Mizoram. Whether Netas who are convicted criminals will be on their ballots, whether NaMo will be risking his reputation by campaigning for the BJP in these state elections and whether NOTA will be a winner are moot questions. An even bigger one is about the credibility of Manmohan Singh for the rest of his term as Prime Minister.

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