

Whose Public Interest?

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In the United States, the Obama administration is facing a lot of heat, in a scandal that has been described by his Republican opponents as “as big as Watergate”. This is not so, but clearly the issue has been taken seriously enough by the US government to cause some heads to roll almost immediately.

So what exactly happened? In 2010, a [US Supreme Court ruling lifted government limits on independent political donations](#) by corporations and labour unions in federal elections. This then enabled a surge of political spending, which as it happened went mostly to conservative groups as they tended to be better supported by big business. The task of one department of the Internal Revenue Service (IRS, the tax administration agency of the US government) was to determine whether applicants observed the political activity limits and deserved tax-exempt status. It is alleged that between 2010 and 2012, this agency subjected conservative groups to special scrutiny, especially those associated with the right wing “Tea Party” movement that wants lower taxes, smaller government and generally opposes President Obama.

Note that there is no evidence that tax-free status was actually denied to any of the organizations in question; nor was there any question of otherwise inhibiting their functioning by placing other restrictions on their activities. What this adverse targeting essentially did was prolong the period of time involved in reviewing the application for tax-free status, and therefore delay the eventual recognition. (Incidentally, since such recognition gets granted with retrospective effect, the financial implications are also not so severe.)

Even in this relatively minor negative light on those with differing political opinions, the resulting public outcry has been loud and vociferous, and the response of Democrats and the administration has been immediate penitence. The IRS expressed regret, the criteria for scrutinizing applications were immediately changed to make them more “neutral”, President Obama announced how angry he was and promptly fired the head of the IRS Steven Miller, while the person in charge of the offending department announced his early retirement.

These measures have failed to quell the anger and outrage. A California-based Tea Party group has now sued the IRS, in the first of what may be several lawsuits against the agency’s supposed targeting of opposition elements. Some have argued that the IRS targeting has actually brought the Tea Party back from the dead in the US, as the “intimidation” by the state has become a rallying cry for several public protests led by conservatives. And the Obama administration continues to be on the back foot on this, despite its relatively quick measures to undo the damage.

Contrast this with what is happening in India at the moment. The central government is blatantly using the recently amended Foreign Contributions Receipts Act and other instruments available to it, not only to target political opponents, but more worryingly to target and suppress any forms of democratic dissent, especially those that try to bring out the voices of the people against the excesses of corporate power. And it is doing so with little opposition and almost no public outrage.

The most recent and egregious example of this relates to [the INSAF Trust](#), a coalition of more than 700 NGOs across India mostly engaged in grassroots activities and people's struggles. According to its website, INSAF was formed soon after the demolition of the Babri Masjid primarily to promote and defend the interests of the people, and is devoted to resisting corporate-centred globalisation, combating communalism and defending democracy. The organizations that are part of INSAF generally see themselves as facilitators of struggles oriented towards ensuring the human rights of citizens in India, not the instigators of such actions.

On 30 April 2013, the Home Ministry issued an order summarily freezing the bank accounts of INSAF and suspending (temporarily at present) its official clearance to receive foreign funds. The terse order simply states that "acceptance of the foreign contribution by the said association is likely to prejudicially affect the public interest." That such a charge can be arbitrarily levelled against an association of organisations that are devoted to defending the democratic rights of deprived groups in particular, and strengthening the secular fabric of the polity and society, is a really grave concern. But the more appalling thing may be that such a draconian measure on the basis of this laconic and unsubstantiated charge is now completely legal under the revised act that regulates foreign contributions in India.

The rules of the Foreign Contribution (Regulation) Act, 2010 came into force on 1 May 2011 (ironically, on May Day, the day that is supposed to celebrate workers' struggles). Rule 3 of the rules states that the central government "may specify any organization as organization of political nature on one or more of the following grounds:

- I. organization having avowed political objectives in its Memorandum of Association or bylaws;
- II. any Trade Union whose objectives include activities for promoting political goals;
- III. any voluntary action group with objectives of a political nature or which participates in political activities;
- IV. front or mass organizations like Students Unions, Workers' Unions, Youth Forums and Women's wing of a political party;
- V. organization of farmers, workers, students, youth based on caste, community, religion, language or otherwise, which is not directly aligned to any political party, but whose objectives, as stated in the Memorandum of Association or activities gathered through other material evidence, include steps towards advancement of political interests of such groups;
- VI. any organization, by whatever name called, which habitually engages itself in or employs common methods of political action like 'bandh' or 'hartal', 'rasta roko', 'rail roko' or jail bhara' in support of public causes."

There are several aspects of this rule that should of [great concern](#) to every citizen. First, it is up to the government to decide which organisations fit this bill. Second, it contains an extraordinarily and even dangerously wide-ranging definition of

undesirable political activity by an NGO. So any organisation that seeks to defend the interests of workers and peasants in any situation can be proscribed as being “political” according to this new FCRA, even if they are not aligned with any political party. Third, even non-violent means of protest such as strikes and jail bhara (which were the lifeblood of the national movement, for example) are not to be tolerated.

This sweeping coverage effectively prevents most forms of democratic dissent and opposition from being expressed. It allows the government of the day to pick on any group that it dislikes for whatever reason, and just stop it from functioning. It stifles dissent generally, of course, but can also muzzle in particular those who attempt to raise their voices on behalf of the marginalised in society and those who are adversely affected by economic policies and processes that do not recognise their basic rights as citizens. This is especially the case because such people typically do not have access to the increasingly corporatised media or any other ways of working through the system.

In classic Orwellian doublespeak, therefore, such an order can really serve as a means of destroying those who are genuinely working in the public interest. It is worrying indeed that this law was passed with so little discussion and open debate, and so little apparent concern about how it could be misused by a government. Maybe one of the reasons that INSAF is unpopular with the government of the day is that it had actually brought a case against this law on grounds that it denies the rights of Indian citizens – a matter that is still pending in the Supreme Court.

In any case, this issue is far too important to be ignored, as INSAF is just the current victim and there may be others lined up to be next in the firing line. So this may portend a really disastrous and undemocratic trend towards authoritarianism, which is in any case a system that large capital is generally far more comfortable with.

There have already been some straws in the wind in this direction. The current government’s intolerance towards anyone who openly disagrees with its own policies and own narrow interpretation of national interest (particularly when such arguments conflict with the interests of national and international – indeed, “foreign” - capital) was evident in its handling of the protestors against the Kudankulam nuclear plant and the blatant citing of “the foreign hand” even when the protests were dominantly of the local affected population. But now the net is being cast even wider, and apparently even without any particular need to cite either evidence or acceptable reasons for such aggressive state action.

So this treatment of INSAF may even be a test case – if the government in India gets away with this blatant abuse of power and undemocratic use of legislation to stifle dissenting voices, it may get further emboldened to adopt even more openly dictatorial methods. It is in all of our collective interest to assert the true significance of “the public interest” and show that it cannot be appropriated for its own purposes by whatever government is in power.

*** This article was originally published in the Frontline, Print Edition 14 June, 2013.**