Freedom most reasonable

Written by Upendra Baxi | Published on:March 31, 2015 12:48 am

In an elegant and comprehensive judgment that is widely held as historic, Supreme Court Justices J. Chelameswar and Rohinton F. Nariman constitutionally invalidated Section 66A of the Information Technology Act, introduced by a 2009 amendment. They agreed that everyone was vulnerable to
"new forms of crimes like publishing sexually explicit materials in electronic form, video voyeurism and breach of confidentiality and leakage of data by intermediary, e-commerce frauds like personation commonly known as phishing, identity theft and offensive messages through communication services". But they ruled that the state could not criminalise such conduct, as the amendment had, making it punishable with up to three years in prison and a fine.

by Upenra Baxi; **No plaything (IndianExpress)**

What's more, the court was, in effect, saying "haste makes waste" — 66A, probably smuggled in by an overzealous IT security technocrat, was not discussed by the standing committee or by Parliament. Its constitutional overreach lay in poor drafting and was aggravated by the single-minded pursuit of security over liberty.

A darker shade of green(IndianExpress)

The court maintained that discussion or advocacy of a particular cause, however unpopular, is at the heart of Article 19(1)(a). "It is only when such discussion or advocacy reaches the level of incitement that Article 19(2) kicks in", the judgment reads, and even here the state may impose reasonable restrictions only on grounds stipulated in the article. Not only do the grounds have to be reasonable, but they must also not be vague or too broad. The court insisted it could never be "overemphasised" that "liberty of thought and expression is a

cardinal value… of paramount significance under our constitutional scheme".

> Recognising the differences between American and Indian constitutional interpretations, and holding that the interpretation of the US's First Amendment was relevant for Indian courts as a "persuasive" precedent, the court repeated the famous observation made by Justice Brandeis, that the founding fathers had "believed liberty to be the secret of happiness, and courage to be the secret of liberty". They also believed "freedom to think as you will and to speak as you think are means indispensable to the discovery and spread of political truth; that, without free speech and assembly, discussion would be futile; that, with them, discussion affords ordinarily adequate protection against the dissemination of noxious doctrine; that the greatest menace to freedom is an inert people; that public discussion is a political duty; and that this should be a fundamental principle of the American government".

Further, the founding fathers "knew that order cannot be secured merely through fear of punishment for its infraction; that it is hazardous to discourage thought, hope and imagination; that fear breeds repression; that repression breeds hate; that hate menaces stable government; that the path of safety lies in the opportunity to discuss freely supposed grievances and proposed remedies". They believed "in the power of reason as applied through public discussion, they eschewed silence coerced by law – the argument of force in its worst form". These words also extend to the founders of the Indian democratic republic and the Supreme Court has, once again, showed its

determination to uphold the claims of free speech over the demands of a legislative supermajority.

Equally crucial is the emphasis on the right of people to know. Section 66A violated this right by "creating an offence against persons who use the internet and annoy or cause inconvenience". It failed to draw a distinction "between mere discussion or advocacy of a particular point of view which may be annoying or inconvenient or grossly offensive to some and incitement by which such words lead to an imminent causal connection with public disorder, security of state etc". Mere discussion, public disagreement or even advocacy cannot adversely affect individual freedom of speech or people's collective right to know. Only public incitement to act may violate the rights of co-citizens and infringe on constitutionally conceived public order. There is thus a right to be offensive through satire, irony, lampooning and even insult, but none to commit an offence or incite anyone to do so.

Although this case engaged with freedom on the internet, these resounding words apply to all other media. The court explicitly relies on and reinforces earlier decisions which extended freedom of speech and expression to the freedom of the press. Public discussion and dissent through any medium is protected by the Constitution and may not be curbed by vague and unreasonable laws. And while Parliament may make laws, it is for the courts to decide whether these are constitutional. Such laws (to quote Brandeis again) should not "enforce silence" or enact "the argument of force in its worst form".

The court dismissed the contention of the learned additional solicitor general that the internet had to be distinguished from the press and that it attracted different, higher standards of scrutiny. Affirming a 1995 decision, it ruled that the "print media further enjoys… freedom from pre-censorship unlike the electronic media", even if the Press Council of India is "empowered to enforce, however imperfectly, the right to reply". There was no fundamental difference between the internet and other media to justify unreasonable limitations on the

basic human right to freedom of speech and expression, the court concluded. Short of intention to incite an offence, the freedom of speech much reign. And the offence itself should not affect free speech and people's right to know.

The court reiterated that "a restriction in order to be reasonable must be narrowly tailored or narrowly interpreted so as to abridge or restrict only what is absolutely necessary". The law must respect the "eight subject matters" enumerated in Article 19(2). No law merely stressing "a compelling necessity to achieve an important governmental or societal goal" may abridge freedom of speech: it will not "pass muster". A law not covered by Article 19(2) is simply "outside the pale", and the court explicitly declares it will be struck down. No legislation seeking to impose a "total chilling effect" on free speech is constitutionally permissible.

The Constitution assures freedoms subject to reasonable regulation, not an absolute right to the freedoms. Parliament may, however, regulate speech only on the eight grounds in Article 19(2). Section 69B, through which internet content may be blocked on grounds specifically stated under Article 19(2), is held valid. But the presumption that a statute is constitutional does not obstruct constitutionally sincere judicial review.

Let us not forget that the petition was triggered by a young law student, Shreya Singhal, in solidarity with a number of young persons who were charged with or detained under 66A. The youth and social media are favoured by the prime minister. He should know better than to rewrite the law at a time when coercive moral policing groups, in the words of another law student, Pallavi Sharma, grow like "mushrooms in monsoons – circumstantial and abundant"

No plaything (IndianExpress)

Justice M. Hidayatullah memorably wondered whether our Constitution was the “plaything of a special majority”. That was in Sajjan Singh vs State of Rajasthan in 1965. In 1967, in I.C. Golaknath and Others vs State of Punjab and Another, the Supreme Court ruled that the fundamental rights

enshrined in Part III of the Constitution may not be taken away or abrogated by Parliament through the amendment of the Constitution under Article 368. In 1973, the judgment on Kesavananda Bharati vs State of Kerala articulated the doctrine of basic structure and the essential features of the Constitution, laying down that “secularism”, “socialism” as well as the Preamble to the Constitution (which may not be amended unless it was according to prescribed constitutional procedure) were integral to them. With effect from January 3, 1977, the Constitution (Forty-second Amendment) Act amended the Preamble and India was declared a sovereign, secular, socialist, democratic republic. Although the 42nd amendment was reversed in key aspects by the post-Emergency 44th amendment, which took effect from June 20, 1979, the amended Preamble was not changed. It has remained unchanged since 1977.

This snapshot of constitutional and legal positions has unfortunately become necessary because the ministry of information and broadcasting recently released an advertisement with Republic Day greetings and an inset of the unamended Preamble. Instead of a public and national apology for its obvious mistake, it reportedly defended the release by saying that the original Preamble, as prepared by illustrious figures such as Nehru and Ambedkar, was of historical interest.

The ministry’s action has been widely deplored by the

political opposition as well as by some leading human rights activists. In the wake of the Shiv Sena's strident insistence that the Constitution be amended to delete the two "offensive" words, "secularism" and "socialism", from the Preamble, Parliamentary Affairs Minister Venkaiah Naidu said "secularism is in our blood" and that the government had "no intention to drop the word". Prime Minister Narendra Modi, however, has not spoken on the matter so far.

Going strictly by constitutional law, there is nothing called an original Preamble. True, when it was adopted, the Constitution did not include the terms "socialist" and "secular" as it now does. And it does so because the Supreme Court of India willed it before Parliament and the political executive did. Today, there is only one Preamble, that which is enforced by the amendment that came into force in January 1977. No ministry at the Central or the state level is legally competent to say otherwise. The Constitution may not be amended by the executive. Only Parliament has the legal power to amend and even this would be valid if the justices of the Supreme Court were to hold that the amendment did not offend the basic structure or the essential features of the Constitution.

The right to freedom of speech and expression, under the 44th amendment, may not be taken away or abrogated by an executive proclamation of emergency, and a citizen may pursue that right, subject to other reasonable restrictions that Parliament may impose on the grounds stated under Article 19(a) and validated by the Supreme Court. Parliament remains free to initiate an amendment under Article 368. Although the better view is that any amendment of the basic structure is simply forbidden since Kesavananda, the Preamble may be amended by a simple majority in Parliament.

In any event, the legislators and ministers have to take an

oath or affirmation as prescribed by the Third Schedule of the Constitution. They are thus duty-bound to observe “the Constitution as by law established”. It cannot be denied by anyone that the duty extends to the Preamble, which is now the law that binds until it is changed. The Constitution and the court are silent about the consequences when the oath is demonstrably violated. Whether or not the large majority of un-oathed citizens may recall such legislators or the concerned legislators and ministers may cease to hold office, this much is clear: no Central ministry may issue a public advertisement that violates the Constitution as by law established.

The 42nd amendment also introduces Part IVA (Article 51A), which enjoins all citizens to observe their fundamental duties. These include the duty to “cherish and follow the noble ideals which inspired our national struggle for freedom” and to “value and preserve the rich heritage of our composite culture”. However one may interpret these, it is clear that constitutional secularism is a direct result of these ideals. So is the notion of a “composite culture”. The Constitution does not contemplate an unreligious society. A social order that venerates plurality for its own sake is the constitutional idea of India. There may be, and are, other ideas about India but an abiding regard for fundamental duties alone will make these constitutional, not the other way around.

Finally, it has been argued that socialism is made redundant by the advent of hyperglobalisation and neoliberalism. But the constitutional perspectives on Indian development forbid such a conclusion. Articles 38 and 39 still remain the guiding directive principles of state policy. The elimination of “economic inequality” still remains our national goal. The MGNREGA, and the Food Security Act, despite some proposed amendments, and the Jan Dhan Yojana are the direct results of

Article 39(b), which commands “that the ownership and control of the material resources of the community are so distributed as best to subserve the common good”. Many economic and national policies still emanate from Article 39(d), which directs that “the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment”. The constitutional idea of development may be defined in one sentence: development programmes and policies that disproportionately benefit the constitutionally worst off are just.

What is more, the Supreme Court has begun to give many directives the status of fundamental rights under Article 21 – the right to live with dignity itself has now become a fundamental and basic human right. In its social action, it has been practising demosprudence over jaded jurisprudence. Not only has it, in Justice Goswami’s immortal words, become the “last refuge for the bewildered and the oppressed”, but it has also emerged as a national policy actor, co-governing the nation. We do not need political “hacktivism” but social activism in preserving what has been bequeathed to us so wisely and well by the Constitution makers and the Supreme Court.

The writer is professor of law, University of Warwick,and former vice chancellor of Universities of South Gujarat and Delhi

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A darker shade of

green(IndianExpress)

Since December 1, 2014, the 13 regional transport offices (RTOs) in Delhi have stopped registering vehicles that are more than 15 years old. This was based on a directive from the National Green Tribunal (NGT) that was issued after a "stakeholder" meeting to implement its November 26 order. As a result, an estimated 29 lakh private vehicles will go off Delhi's roads. Out of the city's 60 lakh private vehicles, nearly 25 lakh are four wheelers, the rest being two wheelers like bikes and scooters.

The tribunal's decision stemmed from the view that the level of particulate matter in the environment was too high and posed a substantial threat to the quality of life in the city. Many national environmental groups, including the Centre for Science and Environment, have welcomed the decision and the NGT's 14-point action agenda for Delhi. But they have done so cautiously, given the problems of equity and implementation.

To begin with, there is scepticism over enforcement. At the stakeholder meeting and even afterwards, many Delhi government officials expressed doubts about whether the authorities had enough capacity to scrap 15-year-old vehicles in Delhi. It was believed that, with so many manpower problems, dealing with such a large number of vehicles on a single day would be administratively problematic. The Delhi Pollution Board is said to have expressed doubts over whether such measures should apply to Delhi without active cooperation from neighbouring states, since environmental threats need an integrated, not a piecemeal, approach.

Some of these anxieties are legitimate, though it is not clear whether the tribunal has considered them closely. But it is also true that pollution in Delhi has reached unsustainable

limits. And it must be said, in the tribunal’s defence, that any cut-off period would seem arbitrary to some and pose similar enforcement problems. After all, the Supreme Court has ordered the deregistration of 15-year-old commercial vehicles since 1988.

But the NGT order this time is massive in its overall impact. It affects a large number of vehicles and, quite apart from the problem of enforcement, raises some grave equity issues. One issue is the measure of harm done to the environment by the old system, where licences were renewed for five additional years if the private vehicle-owners were able to negotiate a fitness certificate. What is to be done now for a vehicle whose life is extended by another five years under the old system? Was there such corruption in the system that fitness certificates were issued to the highest bidder, regardless of whether the vehicle was roadworthy? Wasn’t it a problem of routine administrative corruption, then, rather than of environmental degradation? Can we combat corruption through environmental jurisprudence? Assuming that it was a grave issue of degradation, wouldn’t a phased vehicular easing out be a better solution than an all-at-once approach?

The second issue is to do with the finitude of all commodities. Cars and other vehicles do not and should not last forever. The days when an old car or scooter may be allowed to pollute without question should be behind us. That said, outside the so-called neo-middle class, not many persons or families can afford a vehicle, especially a car, every 15 years. They might apply for bank loans even for scooters. Even if we grant that such a situation means vehicles will ultimately pollute, we must also acknowledge the need for clean, cheap and safe public transport. That this need is hardly satisfied by the Indian state is an understatement. How, then, does the tribunal arrange its environmental

priorities?

There is a third issue, that of balancing the interests of the environment and the right to life, livelihood and property. This is a very difficult balance indeed. On the one hand, there are the basic human rights to life, liberty, livelihood and property. On the other, there is the right to life in a clean and healthy environment for all. Any order directing a sudden deregistration of 15-year-old vehicles deprives a substantial number of private vehicle-owners of the right to livelihood and property. Overnight, what was moveable property became a piece of scrap metal with minimal value – in some cases, none at all. And suddenly, scrap dealers have to devise ways in which to pulp the vehicles and find a market for them, and the manufacturers will have to adjust to a new production schedule.

As important as rights are the juridical powers and social consequences that surround any public decision. For example, what is the alternate action planned for those who operate the informal urban economy? Environmental and ecological decisions may be rights-friendly, but they should, as far as possible, avoid the impression of being punitive for some.

It may be argued that such costs, including rights, are implicit in any environmental measure. That may well be true in the long run. Yet, environmental protection also entails fairness in decision-making, not just judicial fiats. The NGT could actually have hurried slowly – it could have given a wider opportunity to vehicular publics to participate in the decision-making and acknowledged the need for citizen participation in combating environmental degradation. It could also have negotiated a grace period to implement the decision.

By going about its decision in the way that it did, the tribunal may have given the impression of judicial activism.

In reality, it deployed a sledgehammer tactic. Judicial activism must always distinguish itself from judicial despotism. Tough decisions have to be taken by our justices, but such decisions should breathe meaning into the rule of law. They should also be imbued with social meaning, recognising the need for citizen participation in environmental protection

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Geo-economic Significance of the Asian Infrastructure Investment Bank

Since the dawn of civilization, except for the last 250 years, Asia had half the world's wealth and two centres of gravity – China and India. With Asia estimated to possess two-thirds of global GPD in 2050, because of favourable demographics India has the potential to overtake the United States and once again become the world's second largest economy. As in the past the Asian giants will share this space, now requiring even closer economic integration of Asia enabled by the Asian Infrastructure Investment Bank.

The new bank

On October 24, 2014, 20 countries, including India, signed an MoU in Beijing to establish the Asian Infrastructure Investment Bank, which will have a paid up capital of $100 billion. Unlike the IMF and World

Bank, no country will have a veto in this new bank. Voting rights are expected to be based on a combination of GDP and PPP, and India is expected to be the second largest shareholder. There are only three seats for non-regional countries in the Board; a sharp reversal from the current situation in multilateral financial institutions. After some initial hesitation over fears of China using the new bank to project its power in Asia, India, along with other countries in Europe and East Asia, is seeing the institution in terms of providing new economic opportunities.

Asia needs $8 trillion over the next decade and the new bank, supported by China's reserves of

$4 trillion, is a step towards meeting that requirement. So far it was not clear how this gap would be met, as the existing multilateral financial institutions had taken no initiatives apart from pointing out the need. The new bank could be the trigger, much like the Marshall Plan in post war Europe, for the Asian Century, and bring together the Asian giants.

Moving away from steps to contain China

The geo-political world order established by the United States after World War II is unravelling because of the geo-economic shift to Asia. China's Asian Infrastructure Investment Bank has served to focus minds in Europe and East Asia. The new Bank will be a rival to the IMF and World Bank and the US risks losing its ability to shape international economic rules, and the global influence that goes with it. The UK described the new bank as an "irresistible opportunity", which led to accusations from Washington about London's "constant accommodation" of China, reflecting the two world-views on the emerging global order.

Since the collapse of the Soviet Union, the aim of American policy has been to prevent any power, or group of powers, from assuming hegemony in any region of the world. With the largest military in the world, the Pentagon's strategic objectives were aligned with this goal. Consequently, the US response to the re-emergence of China as the largest economy in purchasing-power-parity terms has been to reposition two-thirds of its military assets to the Pacific as well as to extend overtures to India and nudging it into increased naval cooperation, for the purpose of containing China. So far, India has been ambivalent on its role with respect to the alliances America has with Japan and Australia; and now the latter are also questioning the US world-view.

For India, the lesson from the failed attempt by the US to obstruct the new bank is that, as Asia's urbanization will require more than $8 trillion to be spent on infrastructure in this decade, countries in the region will welcome all the support they can get. Rather than be suspicious of China's motives and seek to prevent the Maritime Silk Road, we should deal with the strategic concerns by joining in the development projects, for example, by providing the software packages required in the management of the ports. A mutual recognition of the special interests of each other in the South China Sea and the Indian Ocean should be a strategic objective, and will be a strategic win-win for both.

China's "Belt and Road initiatives" are really about economic integration of Asia with the Chinese economy and the emerging Asian market, and by joining in and shaping the alignment of the rail, road, sea routes and gas pipelines (from Iran, with the impending settlement of the nuclear issue) India can become a node for Western and South Asia. Including a services component in the projects will add to their productivity and support cooperation between the Asian giants; trade is a win-win proposition.

India and China have complementary roles in the Asian Century

The global trend is that countries are gaining in influence more because of the strength of their economies than the might of their militaries, and institutions and rules serve to maintain that influence. India can either drift into the future remaining in its periphery or it can shape the future jointly with China to become one of the two engines of the Asian economy. China is likely to remain the world's largest producer of goods and India has the potential to be the largest producer of services in the largest consumer market.

According to McKinsey and Company, the services sector will be the real driver of growth in Asia as affluence will be concentrated in cities. Digitization is challenging the way banks operate. A growing number of companies are incorporating payment processing and other financial services that have traditionally been with banks. Establishing secure data networks to enable flows across countries has emerged as a pressing need. India can match China's expertise in infrastructure with equally important products that an urbanized Asia will need – digital governance implementing Aadhar-type cards linked with government and other services, e-commerce, low cost health treatments and pharmaceuticals, new seed varieties, are examples. India and China have evolved in complementary ways that reduces competitiveness between them.

Triumph of geo-economics

The future opportunities require a bold new vision. Firms in both countries will have to develop cooperative relationships with new mindsets and business models to make the region more open with integrated investment and trade. Asia is a dynamic and diverse market, and

successful companies are already thinking about connectivity across the region. The ability to design, finance, build and implement the big data-technology systems will be the defining comparative advantage in the future, and India and China should work together to make this happen by sharing their respective expertise. The complex interdependencies will be a strong stabilizing force.

The new bank should focus on three areas defining 'infrastructure" broadly to enhance productivity. First, a "Digital Asia initiative" to complement the 'Road and Belt Initiative"; second, developing Shanghai and Mumbai as truly global cities and financial centres, to leverage capital; and, third, jointly establish a think-tank in Delhi, on the lines of the OECD, to provide a forum where Asian governments work together to analyse data to predict future trends, develop standards for Asia, seek solutions to improve the quality of life and provide inputs to governments and to the new bank. The new world order will not only need new institutions but also new norms, rules and practices.

According to Prime Minister Modi, China and India are "two bodies, one spirit", and for his part President Xi has emphasised the "need to become global partners having strategic coordination". India's National Security Adviser has expressed satisfaction with the progress of the border talks, where agreement was reached to maintain peace and expedite a solution that is fair. The Chinese Premier has also suggested a triangular partnership with respect to Sri Lanka which would include India and it is now for us to flesh this out. The new bank provides a new opportunity for the two Asian giants to work together for their future prosperity, and make the Asian Century a reality.

Views expressed are of the author and do not necessarily reflect the views of the IDSA or of the Government of India

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Solar rooftops need financing, not sops

The subsidy mechanism is seen as highly ineffective due to limited availability of funds. A new rooftop policy based on net metering is on the anvil

The solar industry believes access to finance, not sops, will be key for rooftop installations to take off, as it remains unruffled by the government's recent proposal to cut subsidy.
Despite the provision of subsidies, solar rooftop installations have performed way below targets. Of the 358 MW rooftop solar projects sanctioned by Ministry of New and Renewable Energy (MNRE), only 42 MW of rooftops have been installed so far.

The subsidy mechanism is seen as highly ineffective because not enough funds are made available, delaying or entirely stalling projects. Also, there is a demand for standardisation guidelines for installations and grid inter-connectivity instead of channel partners, though this mechanism helped to ensure quality to some extent.
Large players such as Tata Power Solar are reported to be building a strong

position in the EPC market. Tata claims leadership position in industrial and commercial rooftop segment with a market share of 15 per cent.

“The government should focus on enabling the market, not on managing it,” says Tobias Engelmeier, Managing Director, Bridge to India, a leading solar consulting firm. The firm projects India’s rooftop solar market capacity to reach 1500 MW by 2018, from 285 MW as of October 2014, driven mainly by commercial and industrial segments.

The government has set an ambitious target of adding 40,000 MW by 2022 through distributed and rooftop solar projects. It aims to add 10,000 MW in the next three years. These targets are part of the Indian government’s ambitious goal of achieving 100 GW by 2022 in solar.

Centre has planned to cut the subsidy on rooftop solar plants to 15 per cent from 30 per cent due to decline in price of solar panels, large target set for rooftop solar power plant and limited availability of funds for subsidy.

On the other hand, though, the economic viability of this solar segment has been rapidly increasing. Over 40 per cent of the Indian states have achieved grid parity in commercial rooftop. With Accelerated Depreciation (AD) benefits, a same percentage of states see viability in industrial segment.

This makes a subsidy-free scheme possible, the industry feels, but with a focus on easy consumer financing options.

Centre has set an ambitious target of adding 40,000 MW by 2022 in rooftop segment

Of the 358 MW rooftop solar projects sanctioned by MNRE so far, only 42 MW of rooftops have been installed.

Commercial and industrial rooftop segments have already seen viability in several states.

Centre has planned to cut the subsidy on rooftop solar plants to 15 per cent from 30 per cent

The industry does welcome the RBI's recent move to bring the renewable sector under the ambit of priority sector lending but it now wants the financing process to be free of hassles.

"Currently, simple consumer financing solutions for solar installations are largely unavailable in the market," says Mr. Engelmeier. "Many consumers may not have the liquidity to pay for the entire solar system upfront. This capital expense will have to be financed by scheduled commercial banks, non-banking finance companies or co-operative banks in the same way they will finance a car loan or any other personal loan."

So, rooftops are already viable without subsidy for the commercial and industrial segments in several states. These two segments account for more than half of capacity addition so far. The residential segment, which is seen having a bigger potential, is also expected to be viable in the next few years. Power tariffs in residential segment are now subsidised across the country.

"The residential segment is very impressive. But the challenge is the residential electricity is now subsidised. But it will pick up momentum in the next few years," says Pashupathy Gopalan, head of Indian operations and President-Asia Pacific, SunEdison.

The challenge in the commercial segment lies in getting access to the roof area for 20-25 years. "The commercial rooftop space, like in a hotel or a hospital in India, is a valuable real estate with many competing uses and thus becomes hard to dedicate the space for solar project for a longer period in a contracted arrangement," he says.

RBI tightens takeover norms for shadow banking

The Reserve Bank of India (RBI) plans tougher rules for takeovers involving non-banking financial companies (NBFCs), according to draft guidelines published on Monday, outlining a demand that all substantial deals seek its prior approval. In its latest effort to boost transparency and strengthen its grip on the alternative lenders that account for a large part of the domestic shadow-banking sector, the RBI said any purchase of a stake of 26 per cent or more in a company, or a change in more than 30 per cent of its directors, would need the central bank's permission.

"The RBI has been continuously trying to strengthen this sector so that this should not be a back yard for people we don't know,'' said Sanjay Agarwal, Managing Director of Au Financiers (India), an NBFC from Rajasthan.
There are some 12,000 NBFCs registered with the RBI, and they largely offer loans. Some, like traditional banks, also take deposits.
The RBI also said in its circular that the source of funds behind new investors in any NBFC will have to be disclosed. It also asked for an undertaking that the new proposed investors are not associated with any existing but unregistered body that accepts public deposits.
NBFCs play a critical role in extending credit to areas where traditional finance cannot reach in a country where only just over half of the population has access to the mainstream banking system. However, controlling these NBFCs has been made a key priority for the RBI, given their size and reach.
Seeks comments

The RBI has invited views and comments from all interested parties and general public by April 15 on the draft directions.

Gujarat passes controversial anti-terror Bill

Among the controversial provisions of the Bill is Clause 16 which makes confessions before police officers admissible in court.

The Gujarat Assembly, on Tuesday, passed the Gujarat Control of Terrorism and Organised Crime Bill 2015, a re-adopted version of the controversial 2003 Gujarat Control of Organised Crime Bill (GUJCOCA), which had not received the

presidential nod.

The State government said the legislation was aimed at tackling terrorist activities and organised crime. However, the Opposition Congress staged a walk out opposing the new Bill, saying its provisions were contradictory to the national criminal law.

Some of the key features of the Bill:

1. Among the controversial provisions of the Bill is Clause 16 which makes confessions before police officers admissible in court. The section stipulates that "a confession made by a person before a police officer not below the rank of Superintendent of Police…shall be admissible in the trial of such accused, co-accused, abettor or conspirator."

2. The Bill also provides for extension of the period of investigation from the stipulated 90 days to 180 days.
3. It makes offences under the Gujarat Control of Terrorism and Organised Crime Act, 2015, non-bailable. Clause 20 (4) of the Bill states, “Notwithstanding anything contained in the Code of Criminal Procedure, no person accused of an offence punishable under this Act shall, if in custody, be released on bail or on his own bond.”
4. The Bill also makes “evidence collected through the interception of wire, electronic or oral communication” admissible in the court.

> 5. It provides immunity to the State government from legal action through an ambiguous idea of “good faith.” Section 25 of the Bill states, “No suit, prosecution or other legal proceeding shall lie against the State government or any officer or authority of the State government for anything which is in good faith done or intended to be done in pursuance of this Act.”

Congress opposes

Opposing the new Bill, Congress MLA Shaktisinh Gohil said the legislation went against the national law and the State government was not empowered to bring in such a law.

The clause of confessions made before the police went against the provisions of the Indian Evidence Act.

He pointed out that it was because of the controversial clauses in GUJCOCA, former President APJ Abdul Kalam had returned the Bill to the State legislature for reconsideration and asked for some clauses to be removed.

“When GUJCOCA was first drafted in 2001, the NDA government was at the Centre. The State Governor and the President also had the BJP’s support and yet the Bill was not approved,” he said.

He pointed out that in 2003, the Bill did not make any mention of terrorism and only pertained to organised crime. “Only after it was challenged and brought in

again in 2009, the word terrorism was inserted. The legislation was brought in only to gain political mileage," Mr. Gohil said.

SC refuses to budge on ouster of Jat community from OBC list

On March 17, the SC had quashed a notification issued by the UPA govt. including the Jat community in the Central OBC list.

Standing firm by its March 17 judgment on removing Jat community from the Central list of Other Backward Classes, the Supreme Court, on Tuesday, refused relief to a group of medical students caught midway between the examination and admission processes when the apex court pronounced the verdict.

Jat quota: Civil services result to be delayed

On March 17, this year, a bench led by Justice Ranjan Gogoi quashed a March 4, 2014 notification issued by the UPA government including the Jat community in the Central OBC list.

The students had moved the Supreme Court last week seeking clarification on their fate – that is of those who had already applied for admission under the OBC category prior to the judgment.

They contended that future of students like them, who appeared in All India Post Graduate Dental Entrance Examination (AIPGDEE) 2015 and All India Post Graduate Medical Entrance Examination (AIPGMEE) 2015 and secured ranks in OBC category has now become uncertain.

The students pointed out that different institutions, including the Delhi University, had drawn fresh lists of candidates post the March 17 verdict. They said, now, they are being considered under the General Category.

Related ;Reservations not just about Quotas

"The candidates are bound to suffer heavy losses in the form of an academic year, time and resources, if the said judgment is allowed to apply to candidates who are in a transitory phase in the process of completing admission and

enrollment," their application said.

However, a Bench of Justices Ranjan Gogoi and Rohinton Fali Nariman, dismissed their contentions, while observing that "no vested rights could be created" in their favour post the judgment.

Justice Gogoi, who authored the March 17 judgment, however observed that admissions made under the Jat quota prior to the date of judgment would remain effective as their rights have been "crystallised".

Cabinet clears order to extend land reforms

The cabinet cleared a new ordinance on land purchases on Tuesday, government officials said, extending measures to make transactions easier that Prime Minister Narendra Modi has been unable to get onto the statute book.

The decree, which needs the president's signature to take effect, represents a temporary workaround after opposition parties blocked legislation to make the changes permanent in parliament's upper house.

Easing the way for investors to buy land for industrial projects in India has been a key focus of the Modi government's reform efforts during its first year.

Billions of dollars of investment in industrial projects are tied up due to conflicts between farmers and companies trying to buy land, government backers say, hampering economic growth that could lift millions out of poverty.

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The new ordinance would renew an executive order issued by Modi in December that will lapse on April 5, as well as

include some amendments added when the land bill was passed by India’s lower house of parliament this month.

In recent weeks, opposition parties have united and taken to the streets against the changes, which eased requirements for investors to seek consent from affected landowners, among other measures.

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Opposition leaders say the reforms are anti-farmer and would rob millions of their livelihoods. The Congress party, ousted by Modi last May, plans a major farmers’ rally on April 19 to protest against the land reforms.

The standoff comes amid growing discontent in northern India’s farm belt, where unseasonal rains have damaged winter crops. Farmers have criticised Modi’s government for not doing more to help.

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