**Equal or privileged?**

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Article 25 (1) of the constitution says, “All citizens are equal before law and are entitled to equal protection of law”. We claim to be a democratic state that boasts of our democratic principles, and yet we have failed to attain the desired level of prosperity and stability, which are the essential elements needed to build successful and strong nations.

Does this mean that somewhere along the way we have messed up the concept of equality that is supposed to exist in our society and administrative institutions? If so, where did we falter and how did we end up creating disparities that have resulted in shaking the foundations of democracy in our country?

Atifete Jahjaga, the third and first-female president of Kosovo, who served from 2011 to 2016, believes that “democracy must be built through open societies that share information. When there is information, there is enlightenment. When there is debate, there are solutions. When there is no sharing of power, no rule of law, no accountability, there is abuse, corruption, subjugation and indignation.” One cannot help but acknowledge the wisdom of this statement.

For efficient governance, the exchange of basic information about every member of the state is a prime necessity. This implies that the data of the entire population must be readily available for effective planning and distribution of resources. If this is not done, there are chances of imbalances wherein some regions progress while others remain stuck in underdevelopment. Under this blatant inequality, particular classes of society make accelerated progress while others remain backward and illiterate; wealth becomes concentrated in a few hands, rendering the majority to live hand-to-mouth and most importantly, the stamp of ‘sham democracy’ become its dreaded reputation. In such an environment, expecting the overnight transformation of a nation becomes nothing more than an illusion.

Not denying the significance of gathering and sharing basic information, the government has the prerogative to withhold certain data as confidential that may jeopardise the security of the country and its citizens. This can be related to personal information of income, wealth, medical ailments, etc of citizens, details about defence services, international relations, treaties and certain legislation, etc. These are considered sensitive and are not subjected to disclosure – except in a few cases when it is required by the law.

In a recent Supreme Court judgment, public officials were justly reprimanded for “having breached the confidentiality” of a taxpayer. Justice Yahya Afridi while writing the additional note (not binding as not part of order) observed “…..in violation of the constitution and law, particularly the provisions of section 216 of the Ordinance (Income Tax Ordinance, 2001) entailing penal consequences, belies the most elementary principles of ‘good governance’, and expose the worthy prime minister’s complicity in the commission of the said violations.”

Following this observation and so as to avoid being penalised, the said section was amended with retrospective effect vide the Finance (Supplementary) Act, 2022 by inserting clause (t) in section 216(3) that empowers Inland Revenue (IRS) officials to divulge information about “any high level public officials and public servants in BPS-17 and above, their spouses, children or…..provided that nothing in clause (t) shall apply to those who are expressly excepted under clause (iv) of sub-section (m) of section 5 of the National Accountability Ordinance, 1999…” that defines “public office holder” in detail but specifically excludes one class of state officials.

The question is: what kind of information would be available with the IRS that can be disclosed. The answer is quite straight and simple: Details of income returned, expenditure incurred, assets and liabilities. Now considering that members of all bureaucracies and institutions in the state are salaried individuals, having publically declared pay scales, what do they have to hide? If details of assets of one set of salaried public office-holders can be shared on demand from investigative agencies, then why not others? Here is where inequality presents itself on the canvas of governance.

The salaries of all civil and military employees come from the public exchequer funded by the people who have the right to know how their money is being used and they also have a right to know how those who have abused their powers are being punished after due process of law. Why are some segments of society given such a privileged position that they become untouchables and the very essence of Article 25 stands defeated? Had we really understood the true spirit behind the constitution, our country would have claimed a much respected position in the political comity of the world. It is time to discard some taboos; one of them is the idea of sacred cows.

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