

Need safeguards against 'state' violence

Fairness in regulatory trials might be some way off in a society that makes movies on "encounters" and has wide following of gurus who philosophise abject violence



WITHOUT CONTEMPT

SOMASEKHAR SUNDARESAN

The use of sealed envelopes in court proceedings for a court to examine material that is not available to all parties before it, is now part of drawing room conversation in India. The Supreme Court's ruling in the Rafale litigation was substantially based on a reading of material presented to the court by the government in a sealed envelope with the other parties not having a chance to review the content, or to present arguments on it.

The court appears to have taken at

face value the document presented in a sealed envelope. In a nutshell, the court believed that the matter had been examined by the Comptroller and Auditor General of India (CAG) while the government seeks to clarify that it had intended to convey in the sealed envelope that the matter would be examined by the CAG in future. The resultant controversy has brought to the fore of public discourse the very fact that material could be handed over in sealed envelopes to the exclusion of parties involved in the litigation.

Elsewhere in the world, particularly, in the United Kingdom (UK), from which we have inherited our common law principles of justice, equity and good conscience, handing over sealed envelopes behind the back of litigants in the very same proceedings, is considered reprehensible. In India, however, it is par for the course. Lawyers involved in regulatory litigation are routinely faced with such practices.

Every judicial or quasi-judicial forum is expected to place on par all parties to the litigation it presides over.

A court hears arguments from all parties concerned on all the material before the court, and is meant to judiciously take a decision on the submissions from all parties on all aspects of the material. A fundamental principle of natural justice is that a person against whom an allegation is made, whether civil or criminal, must know all the material relevant to the allegation — not just material that would support the allegation but also material that would undermine the allegation. Likewise, it would follow that every piece of material on which any argument taken in defence is based, must be made available to the party levelling the allegations.

A departure from this principle is considered such a serious matter that in 2013, the UK made explicit legislation to closely regulate the circumstances in which a "closed material procedure" (CMP) may be used. The idea was to deal with claims for damages made against the state for having acted illegally. CMP is prohibited in criminal matters — it is not acceptable at all to convict anyone of a crime without the accused getting all the relevant mate-

rial herself, which material in any case depends on the probity expected from the office of the public prosecutor. It may only be sought in civil proceedings. If the court allows a CMP, it would have to appoint an independent special lawyer (different from the party's lawyer) who would address the court on the relevance and implications of such closed and hidden material.

The CMP has come up for review by the UK Supreme Court twice in recent years. Just last year, the court heard an appeal against a lower court's order permitting a CMP in a case where a senior intelligence officer was accused of illegally handing over two individuals to Libyan authorities, leading to their torture. The Crown refused to prosecute the intelligence officer. The parties settled the dispute but the Supreme Court laid down the law with a 3:2 majority ruling — essentially, that a claim for damages relating to a criminal matter may seem like civil litigation, but the underlying matter being criminal, CMP could not be resorted to. If the accused intelligence official were to be tried in

a criminal court, there would have been no resort to a CMP. Therefore, in a civil proceeding involving the same matter, there should be no resort to such a procedure.

A few years ago, in the case of Bank Mellat's London business, which was ruined by the UK Treasury's directions to freeze its assets on the ground that nuclear sanctions imposed on Iran were capable of being violated, the government tried to use CMP to defend itself. The Supreme Court treated CMP as a vice and refused to continue sitting beyond the few minutes it spent considering the material sought to be hidden. In a nutshell, if Bank Mellat was not given sufficient disclosure of material to enable it to not merely deny allegations but effectively refute allegations, requirements of fair trial would stand vitiated.

In any society, the state has monopoly over legitimate violence. The quality of safeguards against such violence is a function of what degree of unfairness would outrage that society. A society that celebrates and makes laudatory movies on "encounters" and has wide following of gurus who philosophise justification of abject violence has a long distance to travel.

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Tweets @SomasekharS

CHINESE WHISPERS

Rabri versus Ram Vilas



Rashtriya Janata Dal (RJD) leader Tej Pratap Yadav finds a way to stay in the news. He took to microblogging site Twitter this week to target Lok Janshakti Party (LJP) supreme Ram Vilas Paswan — depicting him as Mahisurasura, the mythological figure who was killed by goddess Durga — in his message. In a picture posted by Yadav, his mother and former Bihar chief minister Rabri Devi (pictured) can be seen as goddess Durga while Yadav himself appears as the goddess' mount. Needless to say Paswan appears to have been blayed by Rabri. In his tweet, the former Bihar health minister also waxed eloquent about women power.

Challenge for MP headmasters

The newly-elected government of Madhya Pradesh has found a unique way to address the problem of teacher shortage in government-run schools in the state. It has decided to merge as many as 22,000 public schools, which means almost the same number of headmasters of these schools will now have to teach students as subject experts. For years, these headmasters were busy attending files and doing other official work. Suddenly they are facing a new challenge — that of imparting education. Madhya Pradesh has a shortage of more than 75,000 teachers in government-run schools.

Splitting hairs over delegates

Madhya Pradesh Chief Minister Kamal Nath is slated to attend the World Economic Forum (WEF) meeting in Davos, Switzerland. But there seems to be some confusion over the list of bureaucrats and industrialists who would go with him. Sources say the first list of probable delegates was rejected because it had names of people considered close to the erstwhile Bharatiya Janata Party (BJP) government. Now there is a list that has names of people who were close to the previous government but now appear to be swinging towards the new one. That has made the task of picking the "right" candidates difficult, say those in the know. This year's WEF meeting will open on January 22 and go on till January 25. More than 3,000 global leaders are expected to attend the event.

May's drubbing and Brexit's fate

It is Britain's worst political mess. Theresa May is an embarrassment; Jeremy Corbyn is self-serving; over a third of the Tory MPs want to shaft their PM



OMKAR GOSWAMI

The lad may have been privileged to boot, but he was certainly a very clever Etonian. Having done excellently in his O-level exams, he secured top grades for his three A-level papers and then passed the Oxford entrance exam with high enough marks to secure an exhibition scholarship for studying Philosophy, Politics and Economics (PPE) at Brasenose College. And for all his upper-class university club memberships — including the infamous Bullingdon Club, known for its wealthy black-tie members, brash, drink sodden dinners and wanton destruction of crockery — the young man smoothly sailed through his PPE getting a first class honours degree. If you look carefully across his subsequent career as a Tory MP culminating in being the prime minister of the United Kingdom of Great Britain and Northern Ireland from May 2010 to his resignation in July 2016, David Cameron hardly

ever took a wrong step. Except a single fatal one.

Having promised in the 2015 election campaign to renegotiate a European Union (EU) deal that would be more favourable to Britain, Cameron tried his hand with the Commission in Brussels after securing a solid majority in the House of Commons. Brussels rebuffed him on the things that mattered. So Cameron decided to up the ante by opting for a stay-or-leave EU referendum on June 23, 2016, supremely confident that the vast majority of Britons would vote to remain.

Cameron was so sure of the outcome that the ballot for such a momentous decision was but a simplistic little document. It asked a one-sentence question: "Should the United Kingdom remain a member of the EU or leave the EU?" with the instruction to cross one of the two boxes — one to remain in the EU, and the other to leave. Why must it be complicated, Cameron believed, when the vast majority would obviously vote to remain?

That didn't happen. Over 17.4 million citizens across Britain, or almost 52 per cent, voted to leave. Scotland, Greater London and Northern Ireland voted to remain, but that didn't count in the final adding up. After getting Theresa May to take over as the next prime minister, Cameron quit both his premiership and his constituency.

'Inept' and 'hapless' are probably the



ROYAL MESS If Theresa May wins the vote of confidence, she has a very tiny window to re-fashion her Brexit proposal

two words that best describe May's stint at 10 Downing Street. Inept because when faced with rebels within her party such as Boris Johnson, Iain Duncan Smith, Dominic Raab, Jacob Rees-Mogg and many others, she singularly failed to convince them that her Brexit deal was worth voting for. Hapless because she called for an ill-fated mid-term general election in 2017 which, instead of strengthening her hold in the House of Commons, reduced her to a minority government surviving on an unholy alliance with the Democratic Unionist Party of Northern Ireland. Equally hapless because the 2017 election gave the Labour 262 seats — 30 more than earlier — and put its intensely anti-Tory leader, Jeremy Corbyn, in a more powerful position than before.

After over 200 speeches spanning eight days of debate in the Commons, when May's Brexit scheme came up for voting on 15 January 2019, many believed she might lose, but by a whisker. That wasn't to be. May's Brexit plan was

shot down by a massive margin of 230 votes: 202 in favour versus 432 opposed. In what was a huge embarrassment for the beleaguered PM, 118 Tory MPs crossed-voted against their leader's proposal — something that hasn't happened in the Commons for several decades.

What next? As expected, after this huge loss, Corbyn, as the leader of the Opposition, put forward a vote of no confidence, which was debated and voted upon on 16 January. Theresa May ought to wriggle out of that one, because no Tory MP wants another general election right now. But in today's Britain, who can tell?

If Corbyn prevails and the House expresses no confidence in the present government, then there will be another general election in another 60 to 90 days. All re-working of the Brexit strategy will go out of the window, as each MP scrambles to his constituency to garner votes.

If, however, the PM wins the vote of confidence, she has a very tiny window of opportunity to re-fashion her Brexit

proposal, make it more palatable for her party, and try and sell it yet again in the Commons. It will be a herculean task. May is badly bruised, has lost all her wits and negotiating skills — of which she had little to start with — and is looking like a loser with whom few wish to talk and to whom none of the recalcitrant MPs wish to submit.

Only one thing is certain. The UK will have to quit the EU on March 29, 2019, a mere 73 days away. And as yet, not a soul in that country has a clue what that exit will be: Ultra-hard, hard enough, hard-with-soft edges, soft-with-hard edges, or anything in between.

It is a right royal mess of the kind that Great Britain hasn't seen for a very long time. Not only has Theresa May become a colossal political embarrassment, but also the country's politicians are looking at best stupid, and at worst self-serving. Jeremy Corbyn couldn't care less if everything fails. He has a single point agenda: Of his becoming the next PM with a Labour government in power. And the agenda for over 37 per cent of the Tory MPs is to shaft their PM, devil take the hindmost.

Great Britain is now looking so stupid that one can easily remove the lofty adjective to the proper noun. I had never thought of Brussels' briefcase-toters as worthy politicians. Yet today, they look like statesmen who are saying, "We didn't initiate this. You did. So why can't you fix it?" It will need a profound miracle for Little Britain to do what is so desperately needed. If it at all can. The tea leaves look terrible.

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INNOCOLUMN

Old truths, fresh startups



R GOPALAKRISHNAN

Reportage and commentaries on startups attract huge interest, creating an unreal image about startups as Bollywood and cricket. In a Martian's reading of our newspapers, start-up founders need not bother about a path to profits, they should chase something called GMV, and losses over long periods of time are alright. Startup founders are considered innovative, youthful and energetic, untrammelled by the bureaucracy of 'grownup' companies and PSUs. Within five years, they magically create companies with a value that takes the grownups 50 years to achieve. However, these test-tube-cultured adults also cry like infants, loud and shrill, for example, for protection from foreign capital or intrusive tax regimes and regulations. Amidst such cacophony, the Martian would read a recent article by a young founder, who eulogised an old truth — continuing losses don't constitute a sustainable business model. "Aha, the rules of entrepreneurship have not fundamentally changed," the Martian would think.

Startups are not confined to yuppies, bursting with irrepressible technology ideas. Godmen too have been entrepreneurs, leveraging their considerable public influence. Think of Osho Acharya Rajneesh, Bal Yogeshwar and

Maharishi Mahesh Yogi: they ran a business-like institution, often accumulating a large amount of wealth.

In the relatively staid Indian FMCG market, one 'upstart', Patanjali, made a huge impact through a superb timing of entry and scaling up. After incredible bluster and posturing, Patanjali's leadership has settled down to reality now. I reflect on what such an FMCG entrant must be watchful of to convert such a big-bang beginning into a sustainable, long-term business.

First is excessive brand extension and distraction. So long as the product range is squarely in the wellness space, it will pass muster with the consumer. Patanjali has a choice to make: create scale by being a minor player is a huge number of categories or be a significant player in chosen categories.

Second is the ability to deliver consistent quality, day after day, year after year. FMCG companies have built systems of quality assurance, safety, food standards and general excellence over decades. These are not rocket science, but delivering results reliably requires a strong systems orientation. Because consumers are hassled with lifestyle pressures, they long for the natural, the grandmother and ayurveda remedies that are pre-sold in the consumers' minds. They trust blindly, and that trust must never be broken in terms of ingredients, quality and freshness. That is a tall order to deliver. Some of the quality complaints about Patanjali displayed in the social media are horrendous.

Third is to remain focused on the consumer rather than on the competitor — who is portrayed as the national enemy. The fact is that long-lasting, value-creating consumer companies are rarely controversial entities; they are self-effacing because they are always trying to strengthen consumer trust!

Advertising or product claims that get struck down by legal courts or by the standards councils do not augur well for Patanjali. Suggesting that other edible oils in the country carry carcinogens or claiming that the product is 'chemicals-free' after adding sodium benzoate as a preservative are avoidable! How can a detergent be chemicals-free? The consumer does not really care whether Patanjali deals a death blow to MNCs or other Indian manufacturers.

Fourth is to work on product distribution. 'Hero-related' brands like VLCC and Body Shop rely on exclusive stores rather than general trade. Patanjali offers tight retailer margins but reaches well under 10 per cent of the retail universe. It may succeed in expanding distribution, but there is a long, long way to go.

Fifth is to dilute the political connections of the business. Consumer research data shows clearly the disapproval of consumers when business folks make political statements. Changes of government regimes can change fortunes, for example, the availability of bank loans, favourable tax breaks, easing up of investigations into pending quality/tax cases, access of the business to powerful people and so on.

Sixth is the Icarus syndrome. If an entire business is constructed on the platform of one brand ambassador, there is the inherent risk of 'life-after'. With growing success, differences of opinion and compatibility among stakeholders could crack open.

History shows that it is only when commercial god/men die that the putrid remnants of their ashram or empire became visible to the public.

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LETTERS

Time to exit



This refers to the editorial "Exit the cockpit" (January 16). The continuing financial problems of Jet Airways are posing a threat to the Indian aviation sector. The airline's inability to pay salaries to its pilots and other staff for some months is worrisome. Normally, in the time of financial crisis the first cuts in expenditure appear in the safety area. This is dangerous and is compounded by an unpaid and disgruntled workforce — pilots, engineers, cabin crew etc. The Directorate General of Civil Aviation should seriously examine the continuing adherence to safety procedures by Jet Airways.

The banks, especially the State Bank of India, should be very careful in assessing the financials of the airline and figure out if it would be able to recover its money or the promoter family needs to be removed from the management. The government and the public sector banks (PSBs) are already sinking a lot of tax payer and depositor money in propping up Air India and can't do that for Jet as well. IDBI Bank and other PSBs lost a lot of money on Kingfisher Airlines. The need for fresh financing should be carefully assessed.

It shouldn't be a case of fools rushing in where angels fear to tread.

Arun Pasricha New Delhi

A new plan

The latest data released by the Reserve Bank of India (RBI) show a sharp decline in small savings in the first eight months of the financial year 2017-18 when small savings schemes amounted to just ₹40,429 crore, a seven-fold dip from ₹2,75,682 crore in the corresponding period of the previous year. Evidently, it is at the cost of more investment in mutual fund schemes where political and other factors can suddenly harm investors like it happened with investment in properties.

A sharp decline in the interest rate was anticipated after demonetisation when the Jeevan Akshay pension plan of LIC of India witnessed maximum investments. But with currency circulation crossing what it was before demonetisation, government savings schemes require total overhaul, rationalisation and simplification.

An exclusive long-term government savings scheme to be available in all branches of public sector banks and post offices should be introduced with an annual interest rate of 8 per cent where interest may be auto-credited for senior citizens on a monthly basis. For others, auto-credit of interest may be done on an annual basis. Deposits

under this scheme should be exempted under section 80-C of the Income Tax Act. Other savings schemes and pension plans can then be discontinued. Special savings schemes such as the Public Provident Fund should also attract 8 per cent annual interest rate.

Subhash Chandra Agrawal New Delhi

Walk the talk

There can be no second opinion that the Bharatiya Janata Party (BJP) got the jitters after the new alliance between the Samajwadi Party (SP) and the Bahujan Samaj Party (BSP) took shape. By agreeing to share seats equally among themselves, the two parties have seen to it that no fissures erupt between them in the future. Though the seat-sharing formula set by the SP and BSP has left the Congress party high and dry, the grand old party should support the Mayawati-Akhilesh combine instead of trying to tilt their plebiscite by contesting all the 80 seats. Such a move will only help the saffron party.

Tharcary S Fernando Chennai

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HAMBONE



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Build defence aerospace

IAF must stop ignoring domestic manufacturers

The Indian Air Force (IAF), which has long preferred to import rather than build its aircraft, continues to treat Hindustan Aeronautics (HAL), the country's only experienced aircraft integrator, like a stepchild. For example, in the recent cases of the Tejas Mark 1A and the HTT-40 basic trainer aircraft, the IAF has discouraged indigenous development projects, especially by delaying the placement of manufacturing orders. This is disrupting the smooth and uninterrupted flow of HAL's aircraft assembly lines. Then the IAF cites the resultant delay and expense to further criticise HAL and argue for more imports to meet "critical needs". A new phenomenon is the IAF's non-payment of bills for aircraft and services already delivered by HAL, adding cash-flow issues to the defence public sector unit's (DPSU's) brimming pile of woes. This neglect of indigenous manufacturers, combined with the IAF's poor force planning, has resulted in its fleet consisting of seven different types of fighters, which will rise to eight when the first Rafales arrive this year. This logistical nightmare in peacetime could become an operational nightmare during war.

In contrast, the navy, which embraced indigenisation whole-heartedly half a century ago and now operates mostly Indian warships, has systematically created the ecosystem needed for designing and building warships in the country. It has instituted its own design bureau, a directorate of indigenisation, and ensures that carefully chosen admirals head the four DPSU shipyards that build its fleet. Unlike the navy, which has taken ownership of the process of designing, developing and manufacturing warships, the IAF stays aloof from HAL, preferring to sit in judgment. If the IAF is convinced that HAL is not functioning efficiently, it too should ensure a steady flow of recently retired air marshals to head the organisation and make it conform to the IAF's requirements.

It is a truism that India has long been the world's largest importer of defence equipment. However, unlike other large importers such as Saudi Arabia and the UAE, India has a well-developed industrial base, skilled workers and a large and well-qualified pool of scientific manpower. As one of the world's largest automotive component manufacturers, and as a leading space power, India has demonstrated its ability to conceive, plan and achieve high-technology outcomes. And as the navy has demonstrated, this can be done in the field of defence. If India continues to lag in the field of aviation, this is largely because it has failed to leverage its large defence budget — and the IAF has the largest capital allocations of any service — to build capacity within Indian industry. There is no shortage of good intentions. The defence ministry has ordained that Indian-designed, developed and manufactured weaponry will be top priority for procurement. A "Defence Production Policy" has declared that India will become one of the world's top five defence producers by 2025, with defence exports multiplying 10-fold to \$5 billion that year. But all this will remain just talk until the IAF follows the navy's lead and starts developing an ecosystem of domestic aerospace vendors by ensuring the flow of indigenous projects. No other country with as big a defence budget as ours — be it the US, China, Russia or the European nations — ignores its key domestic manufacturers, as the IAF disregards HAL. This situation must change.

A glimmer of hope

Aser 2018 finds some improvements in primary education

P ratham, a non-governmental organisation engaged in education, has been coming out with its Annual Status of Education Report (Aser) since 2005. And each year's report has been presenting a dismal picture of primary education in the world's second most populous country. The reports focus on children aged between 6 years and 14 years in rural India and maps the schooling status of and the "impact" of primary education on a child's ability to complete basic reading and arithmetic tasks. Despite enacting Right to Education in 2010, which made it incumbent on the state to ensure that each child between the age of 6 and 14 years was provided free and compulsory education, learning outcomes remained poor.

It's a relief that ASER 2018 is different, even if only slightly. The latest report shows that for the first time since India adopted RTE, reading abilities of Class V students in government schools have improved and their basic mathematical abilities have started growing faster. For instance, the proportion of government school students in Class V, who can read a Class II-level text has risen from 41.7 per cent in 2016 to 44.2 per cent this year. This ratio had been declining from 53.1 per cent in 2008. Similarly, 27.3 per cent of students in Class III can now read a Class II text, up from 21.6 per cent in 2013. There are other bits of good news as well. For instance, India has moved further ahead on gender parity, with the proportion of girls in the age group of 11-14 years who stayed out of school declining from 6 per cent in 2010 to 4.1 per cent in 2018. Moreover, it is the first time that the proportion of children not enrolled in schools has fallen below 3 per cent.

But while these are heartening developments, the broader trend is still worrying. That's because the basic reading and mathematics abilities of children in Class VIII continue to slowly decline. For instance, among Class VIII students attending government schools, the proportion that can read a Class II text has continued to decline from 83.6 per cent a decade ago to 69 per cent in 2018. The proportion is similar when it comes to mathematical abilities. The picture is slightly more encouraging at the Class III level, where there has been gradual improvement since 2014. However, even in 2018, less than 30 per cent of students in Class III are actually at their grade level, that is, able to read a Class II text and do double-digit subtraction. The performance in private schools is better than government schools. In fact, in private schools, reading and mathematical abilities for students in both Class V and Class VIII have shown improvement.

This means the improvements in educational achievements are not broad-based. In particular, higher primary — that is, class VI to Class VIII — have not shown enough improvements. This is the group that is closest to joining the labour market or the next level of education. But as Aser 2018 that mapped over 546,000 students over 596 districts in India shows, they need adequate foundational skills — that is, literacy and numeracy — among its school-going children. India continues to stare at a crisis if concerted efforts are not taken to correct that.



No first use, for us and for all

It is far more in India's interests to invest in the diplomacy that reduces the salience of nuclear weapons

In my previous column "Towards global no-first use" (November 20), I had argued that as India acquires a reliable nuclear triad — the ability to carry out retaliatory strikes by land, air, sea and under-sea — we must adopt a new approach to our nuclear policy: "The completion of the triad calls for a profound review of India's policy on nuclear weapons. Now that we are close to achieving credible second strike capability, we must shift focus from negotiating our way through international nuclear weapons control regimes, to shaping a world where these weapons of mass destruction are not used."

I go on to advocate that India persuade China and other nuclear powers and champion a "global no-first use" (GNFU) policy, wherein all the world's nuclear states declare that they won't carry out first strikes. Obviously this is going to be very hard. Obviously merely declaring no-first use won't be enough to prevent the outbreak of nuclear war. Yet the GNFU is the only feasible first step in avoiding a nuclear catastrophe, intended or accidental.

India is perhaps the only nuclear power that can credibly champion GNFU, because we ourselves are doctrinally committed to NFU. If our commitment to NFU were to weaken, our ability to champion it globally would weaken even more. So it is with some concern that I read a very well-argued piece by Kunal Singh in *Hindustan Times* that drew attention to the new strains on India's NFU doctrine.

Singh gives three reasons why India's NFU doctrine must be reviewed. First, India would need to rely on nuclear weapons to counter China's growing conventional superiority. Second, that Pakistan's acquisition of lower-yield battlefield nuclear weapons demands India neutralise them before they are used against our forces. Third, that India has access to technologies makes it easier to adopt a first-strike posture today, than 15 years ago, when the doctrine was first promulgated.

Let's examine each argument in turn. First,



THE ASIAN BALANCE

NITIN PAI

Banking: Where do we go from here?

We have entered 2019 with the banking sector still in distress. True, there are signs of improvement. The gross non-performing assets (NPAs) ratio of scheduled commercial banks has declined from 11.5 per cent in March 2018 to 10.8 per cent in September 2018. The Reserve Bank of India (RBI) expects the ratio to decline further to 10.3 per cent in March 2019.

That does not mean the sector is out of the woods. There is no dearth of businesses that can pose shocks in the year ahead — telecom, aviation, non-banking financial companies (NBFCs), small and medium enterprises (SMEs). We would be lucky if the sector were to return to normalcy by the end of 2020.

In retrospect, the primary reason that the crisis has proved protracted should be clear enough. It is the failure to recapitalise public sector banks (PSBs) adequately and early enough. Once the RBI started tightening its norms for NPAs under its asset quality review in December 2015, NPAs started shooting up. The government should have moved swiftly to provide the PSBs with capital to cover provisions as well as growth in credit.

That did not happen. In August 2015, the government had announced an infusion of ₹70,000 crore over a four year period. Thereafter, it was only in October 2017 that the government announced a further infusion of ₹1.35 trillion. This infusion, too, will happen over a period.

There is a world of difference between providing enough capital at one go and providing it in instalments. When capital is provided at one go, there is enough to cover losses and to finance credit growth. Growth in credit, in turn, creates profit that can be ploughed back into capital.

When the same capital is provided in instalments, it goes mostly towards covering losses. Credit growth is tardy. Banks and borrowers are

both adversely impacted, making things worse. This is precisely what has happened. The RBI's latest Trend and Progress in Banking notes that more than 70 per cent of the capital infused was absorbed into losses incurred by banks, leaving little for credit growth.

Commentators never tire of saying that, without governance reforms at PSBs, recapitalisation is 'money down the drain'. Well, the infusion of capital is happening in instalments anyway without the governance reforms that many have urged. There was little to be lost, therefore, in infusing the same capital upfront. Dithering on bank recapitalisation has proved costly for the economy.

Where do we go from here? We need measures that are politically feasible, not ones that commentators think are ideal. The recent report of Parliament's Standing Committee on Finance is a guide to what is feasible. The Committee was chaired by Congress leader Veerappa Moily and it comprised members drawn from many political parties. What does the Committee have to say?

First, the Committee does not believe that privatisation of PSBs is the solution — the present crisis, the Committee believes, is "transient".

Secondly, on two issues on which the government has had differences with the RBI, the Committee supports the government's position. The Committee thinks it important to suspend RBI's capital adequacy requirement for banks, which is one per cent higher than that stipulated under the Basel norms. The Committee also wants the RBI to provide a roadmap for the 11 banks covered under Prompt Corrective Action (PCA) to come out of the framework as quickly as possible.

The RBI's latest Trend and Progress sticks to the RBI's stated position on both counts. It contends



FINGER ON THE PULSE

T T RAM MOHAN

China's conventional military advantage is real but can be countered without changing the nuclear doctrine. Not all of its firepower and forces can be concentrated against us — for it has other, stronger, strategic adversaries — so what concerns is the fraction it can dedicate in and around the Indian subcontinent. What this implies is that we must cooperate with China's adversaries to ensure that it remains engaged in many places elsewhere. What it also implies is that we must take our own conventional military modernisation seriously: Fixing the dysfunctional procurement system and getting out of the fiscal hole of ballooning revenue expenditure ought to be top priorities.

In my view, we can continue to manage China's military preponderance in such ways.

Also, let me be a little naughty here and say that the strategists in Beijing don't entirely believe our solemn declarations that we won't use nuclear weapons first. In an earlier column on nuclear doctrine, I had pointed out "any declaration of no first use by one side cannot avoid being seen by its adversary as deception for a surprise first strike. It is the fear of unacceptable damage caused by being at the receiving end of a nuclear attack that prevents either side from using them first. This is the essence of nuclear deterrence."

Second, should we threaten first strikes to counter Pakistan's well-advertised readiness to use battlefield nuclear weapons? There is no reason to believe that the Pakistani military-jihadi complex will be deterred from using cross-border terrorists should India adopt a first strike posture.

In fact, it would make terrorism a far more valuable instrument. If the space between a terrorist attack and a nuclear attack is reduced, the Pakistani establishment will find it much easier to blackmail us and scare the rest of the world. Instead of ending up in such a situation, it is far better to stick to our current position: That a nuclear attack will invite massive retaliation. It doesn't matter if the Pakistanis call their weapons "tactical", "theatre" or "battlefield" — if used against our territory or troops, they must expect certain massive retaliation.

Third, the availability of new technology and the modernisation of India's arsenal does not in itself call for a change of doctrine. Few proponents of first-use are conscious of the costs of a first-strike arsenal and the command and control infrastructure required to manage it. Fewer still are conscious of the arms race this will set off, without commensurate increase in national security or planetary safety. The folly of American and Soviet nuclear strategy during the Cold War ought to warn us against getting onto a slippery slope where nuclear weapons will be abundant, but security scarce.

Without doubt, the Indian government must conduct regular, official reviews of its nuclear weapons policies. Academic debate on the merits of retaining or abandoning no-first use are very important. At this time though, no fundamental change is warranted. On the contrary, it is far more in India's interests to invest in the diplomacy that reduces the salience of nuclear weapons.

that the cumulative default rates and the losses given default are higher in the Indian context. But this is an argument for applying higher risk weights to the loans in question. It does not imply that the minimum capital requirement should go up.

The RBI also argues that provisions made by Indian banks are inadequate, hence higher capital buffers are appropriate. It makes the same argument for having a PCA regime that is more stringent than elsewhere. If the RBI's concern is that, in the event of losses, the required top-up of capital at PSBs may not happen quickly enough, there is a way of addressing it.

Let the RBI enter into a Memorandum of Understanding (MoU) with the government of India. The MoU should lay down that the RBI will reduce the capital requirement for banks to the Basel minimum on the understanding that the government undertakes to meet the minimum capital requirement of PSBs within, say, three months of capital dipping below it. Such an MoU should help resolve the present impasse.

The Committee proposes several reforms. Development financial institutions need to be revived. The RBI's powers to regulate PSBs must be reviewed. At PSBs, there must be promotions from within the bank to the posts of executive director and managing director. Incentives and remuneration for senior management at PSBs must be improved. PSB boards need to be professionalised and empowered. The Committee wants an appraisal of whether the RBI has adequately exercised its authority in respect of "digressions" by private banks such as ICICI Bank. Finance ministry, please note.

This is the political class as a whole speaking. And it's saying that there are many sensible reforms that can happen within the existing framework of government ownership. Is the commentator listening?

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AIDS memoir



BOOK REVIEW

GEETANJALI KRISHNA

Avahan's work through those tumultuous early years when HIV/AIDS prevention methodologies and best practices hadn't even been established, the memoir offers not only a rare inside glimpse of the key players involved but also the thinking behind the development of a preventive model that has now been recognised the world over.

Mr Alexander was an unlikely choice to head the Bill and Melinda Gates Foundation in India. The memoir begins with an engaging account of his move from corporate life at McKinsey's to a bewildering, looking-glass world of sex workers, injecting-drug users and HIV positive people in India. Early on, he realised that replicating HIV prevention models implemented in Thailand wouldn't work in India. Unlike in other countries where sex work was localised in brothels, in India sex was bought and sold in alleys, parks and bus stops. The very diffuse nature of sex

work in India made the distribution of condoms, monitoring of the health of sex workers and regulating sex work in general a difficult task. Mr Alexander writes about his early days, using life-size mannequins to learn exactly how the female condom is used, sidestepping people having sex in parks on his early field visits, and more. Understandably, all this was a bit of a shock to someone who'd worn a suit to work every day till then.

The first section of the memoir deals with these early learnings from the field. As Mr Alexander travelled across the country meeting sex workers, transgender people and truckers, he began to catch glimpses of rare beauty and powerful lessons in leadership and courage. Sex workers, he realised, weren't all victims. Many members of the sex trade displayed, he writes, some of the best traits of leaders — the capacity to judge character, negotiate well, personal courage, charisma and sense of humour. Consequently, he tailored Avahan's work not only bearing in mind their needs — but by enabling them to become the pri-

mary agents of change themselves. This community-based approach has, in fact, been cited as the reason Avahan's programmes have succeeded where others have not. As he details his field experiences in which some of the richest and most powerful people in the world crossed paths with some of the poorest and most desperate, Mr Alexander gained valuable insights into the needs of communities most at risk of getting infected by the HIV virus — female sex workers, MSMs (men who have sex with men), transgender people, injecting-drug users and truckers. The memoir becomes, thus, a richly detailed and sensitive ethnography of sex work in India.

What sets *A Stranger Truth* apart from other such field reports and ethnographies is the respect the author has for sex workers. In spite of heading the country's largest funding agency for HIV/AIDS prevention, Mr Alexander refuses to patronise. The more he learnt about the world of the female sex worker, the more he admired her will to survive. She deals with emotional, health and financial crisis all the time — that

too without any support system. She has no power, is constantly under the threat of violence and yet she must be in control. Mr Alexander writes that there is much he has learned about life, leadership and values from the sex workers he has met. So much so that when years later he was invited by the McKinsey offices in Chicago to speak on Values Day, his speech was entitled Leadership Secrets of the Commercial Sex Worker. In spite of an initially squeamish response, Mr Alexander received a standing ovation.

The memoir offers many unique takeaways. For example, the reader learns that all sex workers aren't equal. Some are destitute, but many, who serve four to five clients a day, are able to earn between ₹500-800 a day. Some do it to ward off starvation. Others do it to save money for a new laptop or to pay their children's fees. Some look like housewives, others school teachers. All are, however, vulnerable to daily assault, abuse and discrimination. From the perspective of HIV prevention, rather than removing brothels,

Alexander believes that the solution lies in legalising and regulating them better. The most interesting takeaway from the book is that learnings from the corporate world can be very successfully applied to ensure the success of social development projects such as Avahan.

A Stranger Truth paints a portrait of contemporary India that remains hidden to most readers. This is what makes this memoir a must-read for activists, policy makers and students of Indian society. The book could have, however, benefited from tighter editing. Some readers may feel that Mr Alexander tends to look at sex workers, the transgender community and injecting-drug users through rose-tinted lenses. But, inspiring, positive and thoroughly readable, the truth it tells is a strange truth indeed.

A STRANGER TRUTH: LESSONS IN LOVE, LEADERSHIP AND COURAGE FROM INDIA'S SEX WORKERS

Ashok Alexander
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