The 1-in-10 achievement

The share of renewable energy in generation is reaching 10 per cent, and the country's first gigawatt-scale floating solar tender is out

VANDANA GOMBAR

India's renewables and electric mobility story for 2019, and beyond, is evident from a few key numbers. The share of renewable energy in generation is reaching 10 per cent, and the country's first gigawatt-scale floating solar tender is out.

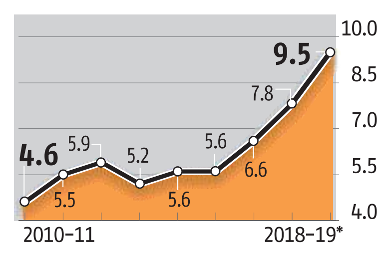
■ Renewables share: The power produced by renewable energy plants in the country is reaching an important milestone. Almost 10 per cent of the total generation is from renewables now — mostly wind and solar [see box]. At the other end of the spectrum is Germany, where renewable energy became the biggest source of power in 2018, accounting for 40 per cent of the total generation, marginally ahead of coal's 39 per cent share.

In terms of installed capacity in India, the share of renewables is touching 21 per cent, with over 70 gigawatts of capacity operational, according to the latest data.

■ Gigawatt-scale floating solar: Maharashtra State Electricity Distribution Company invited bids for procuring 1 gigawatt of solar power via competitive bidding from floating projects on the Ujjani Dam in Solapur.

RISING RENEWABLES SHARE

Share (%) of generation from renewables



*up to November Source: Parliament questions

This is a fairly large tender, given that globally, commissioned floating solar projects total about 1.3 gigawatts currently, according to BloombergNEF. These are mostly in countries with limited land available for solar such as China, which accounts for 80 per cent of this capacity, followed by Japan, South Korea and Taiwan.

The ceiling tariff for the Maharashtra tender has been set at ₹3 per unit. The power purchase agreement signed by the discom will be for 25 years. The 1 gigawatt capacity is broken down into 10 clusters of 100 megawatts each. The last date for submission of technical and financial bids is January 28, 2019.

Additionally, last week, the Solar Energy Corporation of India issued a tender to build 7.5 gigawatts of solar power in the state of Jammu and Kashmir. The capacity is offered in three tranches of 2.5 gigawatts each, with a 35-year power purchase agreement. A 1.2-gigawatt wind tender has also been issued — with a ceiling tariff of ₹2.85 per unit — though dates for receiving bids, and for the reverse auctions, are yet to be announced.

■ Net power export: India's exports to its neighbours Bangladesh, Nepal and Myanmar have been rising.

India exported 4,809 million units of power to Bangladesh in 2017-18, against 4,420MUs in the year earlier. Exports to Nepal totaled 2,389MU against 2,021MUs in the year prior to that. Exports to Mynamar were limited to about 5MUs in 2017-18, higher than 3MUs the year before.

We also continue to import power from Bhutan, and that import will increase as the 720-megawatt Mangdechhu hydro project starts generating. "At present, the country is a net exporter of electricity," power minister Raj Kumar Singh told parliamentarians on December 20.

■ Thousand-plus charging sites for electric vehicles: The power ministry set out guidelines for public and private electric vehicle charging infrastructure last month. In the first phase (one-three years), nine mega cities with populations of four million or more, and the expressways and highways connecting them, will be taken up for coverage. BloombergNEF estimates that over 1,000 charging sites (having multiple charging stations) will need to be built to meet the targets set by the government for this phase. The policy prioritises the existing retail outlets of oil marketing companies for installation of charging stations, especially company-owned and company-operated outlets.

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CHINESE WHISPERS

A mock session

Opposition members on Tuesday held a "mock session" of Parliament inside Rajya Sabha after the chair adjourned the House for the day. They said their protest was aimed to highlight the "dictatorial" manner in which the chair extended the sitting of the House by a day without gauging the mood of the House, which is customary in such cases. While the chair adjourned the House, the Opposition members lingered at their seats for nearly an hour, and some senior members, including Congress' Ghulam Nabi Azad, Trinamool Congerss' Sukhendu Sekhar Roy and others spoke about how the Narendra Modi government was "eroding parliamentary democracy". These members later trooped out to the statue of Mahatma Gandhi inside the Parliament premises to continue their protest. The Opposition members have threatened to disrupt the proceedings on Wednesday as well.

No cakewalk for Bhargava

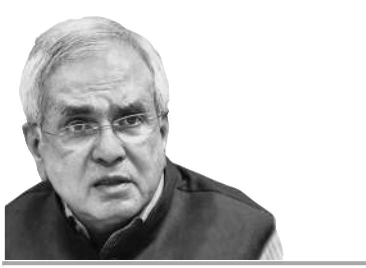
Ending days of speculation, the Bharatiya Janata Party (BJP) named former cabinet minister Gopal Bhargava the leader of the Opposition in the Madhya Pradesh Assembly on Monday. The decision was announced by Union Home Minister Rajnath Singh who said Bhargava was the unanimous choice of the party. His name was proposed by former CM Shivraj Singh Chouhan and was seconded by former minister Narottam Mishra. Former ministers Rajendra Shukla and Narottam Mishra were also in contention, it is learnt. Shukla is a close aide of Chouhan and Mishra is considered close to the party top brass. Chouhan had distanced himself from the race early on.

Battle lines drawn in Andhra

As the Lok Sabha elections draw near, the battle in Andhra Pradesh is hotting up. The state Assembly polls and the Lok Sabha polls will be held simultaneously. On Wednesday, YSR Congress Chief Y S Jaganmohan Reddy is slated to complete his 3,500 km *padayatra* in Srikakulam. Meanwhile, rival N Chandrababu Naidu, Andhra Pradesh chief minister and chief of the Telugu Desam Party, landed in New Delhi on Tuesday evening to meet Opposition leaders, including Congress President Rahul Gandhi and Communist Party of India (Marxist) Chief Sitaram Yechury. After the drubbing the Congress-TDP alliance suffered in the Telangana Assembly polls, there are voices in the Congress that want the party brass to rethink its alliance with the TDP in Andhra. Naidu is keen on continuing with the alliance and also convince the CPI (M) to join it.

A blueprint for inclusive & sustained growth

Contrary to what some have said, NITI Aayog's 'Strategy for New India @75' attempts to provide a framework for making development a mass movement



RAJIV KUMAR

The Strategy also suggests specific measures for promoting growth of the dairy and the horticulture sectors, essential for diversifying sources of farmers' incomes

It has been gratifying to see the response to NITI Aayog's 'Strategy for New India @75' (henceforth Strategy), which was released by Finance Minister Arun Jaitley on December 19, 2018. Arun Maira writing in *The Hindu* (December 27), while emphasising that the "shape of growth matters" also lauds the document for changing the "... approach to planning from preparation of plans and budgets to the creation of a mass movement for development in which every Indian recognises her role and experiences the tangible benefits." Similarly, Madan Sabnavis (*Business Standard*, December 20) finds the focus on agriculture to be well taken and the Strategy having provided useful sign posts that should be followed by time-bound action plans for achieving them. Most importantly, the Strategy has triggered a spate of commentaries and discussion in the public domain on the pace, direction and shape of economic growth in the coming years. NITI Aayog's focus on rapid, greener, employment-intensive and more formal growth, as spelled out in the Strategy has been welcomed by several experts and economists.

However, some, like Rathin Roy (RR, *Business Standard*, December 26) are baffled about the timing of the document "... so late in the lifetime of this government." I had hoped that my friend RR would have realised that the Strategy that aims to put India on a qualitatively superior development paradigm, can be and should be government agnostic. Its intention is to enrich the public discourse on development and involve the largest number of stakeholders in its preparation.

Moreover, RR has conveniently chosen to overlook the crucial distinction between the government's think tank and line ministries. The line ministries, having agreed to targets and the way forward, as presented in the Strategy, will formulate time-bound action plans and ensure their effective implementation. It is certainly unreasonable and perhaps dysfunctional to suggest that a single document would contain action plans for all ministries and sectors. In fact, it was a conscious choice to limit the length of each of the 41 chapters and provide an outline of measures required and leave it to the line ministries to implement them. State governments, who have extensively commented on the Strategy will hopefully also use this to draw up their own development blueprints.

Some observers have found the Strategy to be utopian in its emphasis on establishing a "development state" in the country that takes on the responsibility of efficient delivery of a clutch of public services. Similarly, its target of doubling exports in the next five years or indeed for its focus on doubling farmers' incomes has been seen by some as infeasible. This is criticism for the sake of it. These observers have perhaps not noticed the massive effort that the government led by the Prime Minister has made in making the government more responsible, transparent and accountable. The Strategy has merely tried to emphasise that this stupendous effort, if sustained over the coming years, will result in putting in place the much-needed development state. Abdication of its mandated role by the state and handing over its functions to the private sector, as was done by earlier governments, is a recipe for uneven, unequal and unsatisfactory growth. This is unacceptable.

NITI Aayog's Strategy points to the alternative path in which the state facilitates the growth of private enterprise and innovation while ensuring that those at the end of the queue or the bottom of the pyramid are looked after efficiently and effectively by the state through more efficient delivery of public services.

The Strategy suggests a range of very specific measures. For example, it does not merely call for raising the investment to GDP ratio to 36 per cent, which will help achieve 9 per cent growth. It also asks for tax to GDP ratio to be raised from 17 per cent to 22 per cent along with raising private investment and ramping up household and public savings, which are both eminently possible and desirable. In this context, there is also a focus on enhancing our effort at mobilising non-tax revenues by expediting disinvestment. This level of detail should suffice for designing a plan of action for the next five years for which the NITI Aayog will now of course work together with all relevant departments.

A similar level of detail for the way forward is evident in a host of other chapters. The three chapters on doubling farmers' income have recommendations ranging from the abolition of the essential Commodities Act to the adoption of zero-budget natural farming and including measures like doing away with export bans and creating collection centres at the village level. We also suggest specific measures for promoting growth of the dairy and the horticulture sectors, which is essential for diversifying sources of farmers' incomes. The Strategy calls for transforming Indian agriculture to a modern value chain and converting farmers from mere commodity producers to 'agropreneurs' who benefit from value addition and market diversification. It has been quite heartening to receive positive feedback from a large number of stakeholders who have noticed the Strategy's focus on specific measures rooted in ground realities in place of ideological and abstract recommendations that have often characterised approach and planning documents of yesteryears.

The Strategy is a fairly unique document given its comprehensive nature on the one hand and focus on specific implementable measures on the other. It has for the first time chosen to put forward a development blueprint that is not burdened either with technical jargon or with dubious quantification based on closed economy assumptions or ideological predilections. Yes, it does not provide detailed time-bound plans of action. This is in deference to the mandate of state governments and line ministers, with which NITI Aayog works in close cooperation. Contrary to what some have said, the Strategy attempts to provide a framework for making development a mass movement that will see a new India emerging as it reaches the 75th year of its independence.

The author is vice-chairman, NITI Aayog

DECODED

On January 4, the Supreme Court allowed the National Consumer Disputes Redressal Commission to go ahead with a probe against Nestle India's Maggi, thereby reviving a 2015 class action suit filed by the Indian government against the Swiss food maker. That was the first time the government had taken action under Section 12-1-D of the Consumer Protection Act, which empowers both the Centre and states to file such complaints. Aashish Aryan explains what constitutes a class action suit, its prevalence in India and related international norms.

Standing together

What are the circumstances under which a class action suit can be initiated in India?

Simply stated, a class action suit is a civil suit initiated by people with respect to a public right or a private right claimed in common for themselves and for others. Such suits are also called representative suits. The people who initiate the litigation claim to represent not only their own interests, but also the interests of people who may not be parties to the suit.

Class actions may be initiated either by private individuals, associations of people like societies and trusts or by the government. Such suits are initiated under circumstances when a wrong deed impacts a large group of people, who may not always have the ability or willingness to represent themselves. Class action suits can be initiated only by private individuals who are part of the wronged community. The government, on the other hand, can initiate a class action suit even if it is not part of the wronged community since it is considered a representative of the people.

What are the laws that govern class action suits in India?

The term 'suit' typically refers to civil suits filed in the civil courts under the provisions of the Code of Civil Procedure, 1908, in conjunction with other applicable laws. In the case of a class action suit arising from a public nuisance or other wrongful act affecting the public, the Advocate General, or, two or more persons may initiate such a suit. In other instances, where there is a group of people with the same interest, one or more such persons may, with the permission of the court, initiate a representative suit, Gyanendra Kumar, partner, Cyril Amarchand Mangaldas, said.

For example, under the Bhopal Gas Leak Disaster (Processing of Claims) Act, 1985, the government took it upon itself the right to initiate litigations on behalf of the affected people.

Generally, the permission of a court or other relevant authority is required for a group to be certified as a "class". Other victims are typically given the right to join the class. Class action suits have proliferated in countries that permit lawyers to get a share of the final damages awarded in the class action suit as their contingency fee. In India, such contingency fee is banned by the Bar Council of India, Kumar said.

What are the different kinds of class actions permissible by law?

There are different kinds of class actions under law. The most common type of class action in India has been in the form of writ petitions filed before the Supreme Court or before the High Courts. These are commonly referred to as public interest litigations (PIL).

Class actions are also initiated under the Consumer Protection Act, 1986, by individual consumers or associations (for instance, the cases filed by flat owners' associations against a builder) or by the state or the central government.

The Consumer Protection Bill, 2018 — which proposes establishment of a Central Consumer Protection Authority empowered to file class action suits on behalf of consumers —has been passed by the Lok Sabha recently. Under this, if an adverse finding is made against a corporation, the defendant can be directed to pay compensation for loss or injury suffered by a group of consumers, Amita Katragadda, also a partner at Cyril Amarchand Mangaldas, said.

Various other special enactments also enable class actions. Under the Companies Act, 2013, action may be initiated by a prescribed number of members or depositors of companies on behalf of the members or depositors unless specific members opt out of the class.

What are the international norms guiding class action suits?

Class action suits are recognised by most countries in the world where consumers or affected parties can pursue a common course of action, Katragadda said. These can be in respect of a wide variety of claims concerning consumer protection, environmental law, securities regulation, among other things. One of the most famous class action suits in the US resulted in the Tobacco Master Settlement Agreement in November 1998 between the four largest US tobacco companies and the attorneys general of 46 states. Under the terms of the settlement, the manufacturers agreed to pay a minimum of $206 billion over the first 25 years of the agreement for the states to recover their tobacco-related health-care costs.

LETTERS

Prudent move

This refers to your editorial "A welcome quota" (January 8). Providing 10 per cent reservation to the economically backward sections in the general category is a step in the right direction. If India is to progress, we need to encourage the culture of meritocracy. This will only be possible if we gradually move away from caste and religion-based reservation system to the one based on economic considerations. Reservation needs to be provided to all the deserving candidates who are marginalised due to their weak financial background, irrespective of their gender, caste, race or religion. Such a move has the potential of rewarding merit and at the same time address the social concern of discrimination. It will help the country realise its potential.

Ketan K Shah Ahmedabad

But where are the jobs?

The government's hasty decision to give 10 per cent quota in jobs and educational institutions for the economically backward upper castes at this point in time seems to be a pre-poll political gimmick. The move is perfectly understandable as upper castes form the Bharatiya Janata Party's core support base.

The object of reservation is to correct the under-representation of the lower castes in education and employment. As for the poor among the upper castes, economic assistance can be extended to them. Reservation is primarily aimed at reversing centuries-old caste oppression and regaining dignity.

In this context, the creamy layer rule precludes the well-to-do among the lower castes from the benefit of reservation. It is significant that the upper castes already have jobs disproportionate to their numbers. Interestingly, the opponents of reservation now have no problem with reservation based on economic criterion and subordination of "merit" to upper-caste interests. Meanwhile, it is interesting to note that the government has not created any more jobs but gone ahead with reservation in jobs instead.

G David Milton Maruthancode

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HAMBONE

BY MIKE FLANAGAN

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Growth deceleration

Advance estimates of GDP growth disappoint

The Central Statistics Office (CSO), which released the first advance estimates of economic growth on Monday, expects gross domestic product to grow at 7.2 per cent for 2018-19. While this is an improvement over the 6.7 per cent growth in the previous year, the estimate has come as a disappointment because it is below the expectation of most institutions mapping the Indian economy. For instance, both the Reserve Bank of India as well as the International Monetary Fund expected the economy to grow by 7.4 per cent this year. Even the Union finance ministry expected a growth rate of 7.5 per cent for the current fiscal. To be sure, the CSO's figures are just the initial estimates and a more robust set of numbers will be released in February-end; yet they are significant as they will provide the foundation for the preparation of the interim Budget on February 1.

The most significant aspect of the latest estimates is the clear deceleration in the growth momentum. The first half of the fiscal witnessed a respectable growth rate of 7.6 per cent. But that's only half the story. GDP growth rate, in fact, dipped sharply from 8.2 per cent in the first quarter to just 7.1 per cent in the second quarter. A full year growth of 7.2 per cent implies that the CSO expects economic growth to drop to just 6.8 per cent in the second half of the year, which corresponds to the last six months of the current government's tenure. This clear dip is seen in most sectoral estimates. For instance, manufacturing is expected to grow at 8.3 per cent in FY19, sharply higher than the 5.7 per cent in FY18. But it is expected to slow down sharply from 10.3 per cent in the first half of the year to just 6.4 per cent in the second half. Similarly, on the expenditure side of the national income accounts, estimates suggest that while both private and government consumption will moderate, it is the gross fixed capital formation (or investments) that will rise sharply in the second half of the year.

While a rise in the rate of investments from 7.6 per cent a year ago to 12.2 per cent in 2018-19 is welcome news, it is arguable whether the increase in investments will necessarily sustain as new projects tend to be held up before a general election. It is also possible that even these estimates have an element of overestimation. After all, data compiled by the Centre for Monitoring Indian Economy showed a fall in investment projects being completed, as well as a 30 per cent drop in new investment projects taken up between December 2016 and 2018. What could drag down growth in the second half is the government's inability to come up with economic boosters as fiscal deficit in the first eight months of the year has crossed 112 per cent of the full-year target.

Overall, there is indeed some merit in the government's optimism (Economic Affairs Secretary S C Garg has described the advance estimates as "very healthy") as India remains the fastest-growing major economy in the world. No one can also deny that the average figure of 7 per cent-plus growth is good news as it indicates that the economy has put behind it the pangs of demonetisation and the rollout of the goods and services tax. But it is the secular deceleration that is the worry.

Apt reversal

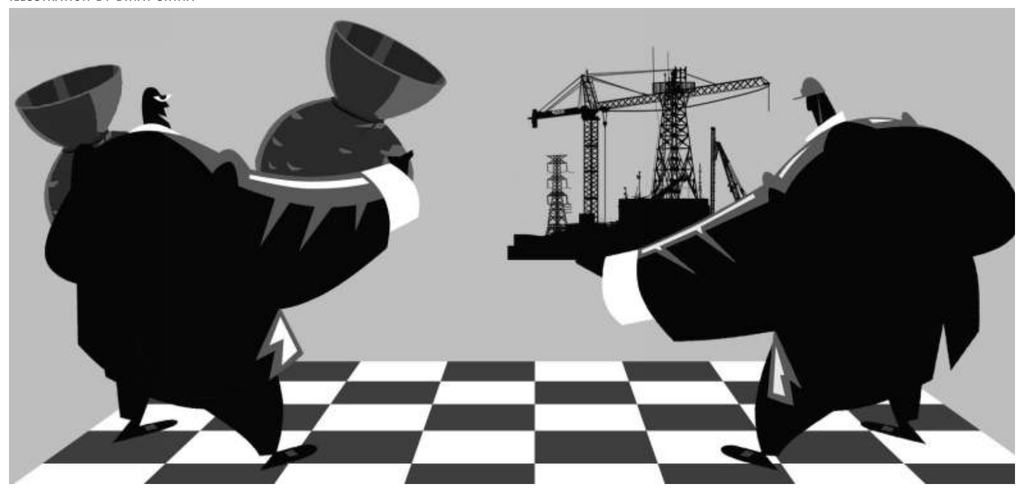
Order restoring CBI director follows the letter of the law

In ordering the reinstatement of the Central Bureau of Investigation (CBI) director, Alok Verma, a three-member Bench of the Supreme Court has underlined the Union government's failure to observe institutional propriety. In an implied rebuke, the court also ordered the government to convene the selection committee within a week to consider Mr Verma's status. The committee comprises the prime minister, the chief justice of India (who was a member of the three-judge Bench that unanimously passed Tuesday's order) and the leader of the Opposition, in this case, Mallikarjun Kharge of the Indian National Congress. At one level, the order could be seen as a setback to the government, which had controversially transferred Mr Verma following the outbreak of a toxic dispute between him and his deputy, Rakesh Asthana, in October last year.

However, a closer reading of the judgment shows that the apex court has scrupulously avoided passing an opinion on the controversy between Messrs Verma and Asthana, which involved a dramatic midnight raid on the CBI headquarters. It has not, for instance, ruled on Common Cause's petition seeking the removal of Mr Asthana and the constitution of a special investigating team to examine corruption charges against him and CBI officials, including an FIR filed by Mr Verma. Instead, the apex court has focused on a strict interpretation of two laws that govern the terms of the CBI director's appointment and dismissal. The thrust of the Supreme Court's judgment is that neither the Central Vigilance Commission (CVC), which oversees the CBI's functioning, nor the Department of Personnel and Training (DoPT) is competent to order Mr Verma's transfer under the terms of the CVC Act and the Delhi Special Police Establishment Act, which created the CBI. In reviewing the judicial history of the formation of the CVC and the CBI, the court pointed out that, among other things, the CBI director would be identified by a selection committee, have a minimum tenure of two years and, critically, could be transferred "in an extraordinary situation", only by the endorsement of the selection committee. In the court's words, therefore, it has raised a "pure question of law answerable on application of known and established principles of law".

Predictably, the judgment has not entirely pleased either party. Though the ruling has sent out an unambiguous message to a government that has demonstrated scant respect for institutions these past four years, there are questions as to why Mr Verma's powers have been curtailed and the three lost months of tenure not restored to him (he has 21 days to go before his term officially ends). The court ruled that Mr Verma could not take "policy decisions", but conduct routine affairs. Many have chosen to interpret this as enabling Mr Verma to start fresh investigations. Given that Mr Verma still has to run the gauntlet of a selection committee hearing, this is unlikely. Even this sharp rap on the knuckles for the government by the judiciary, however, does not detract from the tawdry power play of this current controversy, nor has it restored the credibility of the CBI. In that sense, Prashant Bhushan, who appeared for the petitioners, offered an apt metaphor in describing the ruling: "Operation successful but patient crippled."

ILLUSTRATION BY BINAY SINHA



From developing to developed

India needs to take the lead in ensuring that the term 'developing country' is defined to exclude China

Is the People's Republic of China (PRC) still a developing country? This is a question that will increasingly be asked going forward, and it is one on which the Indian government must swiftly have a position.

The answer, in many ways, seems automatic. The PRC is now an aspirant superpower. It is one of the top two economies in the world; at gross domestic product per capita, that has likely already passed $10,000, it is now or will shortly be above the median world per capita income. Within four years, it will almost certainly be defined as an upper-income country by the World Bank. The government in Beijing is powerful and well-funded. Indeed, its cash pile is the envy of the world. Its massive reserves can be easily used to cushion domestic crises and to finance the forays of its infrastructure and other companies abroad. Increasingly, its problems are those of a richer country: Managing its transition to a more innovative growth path; controlling its carbon emissions rather than expanding its electricity distribution network; improving urban quality of life; and realigning foreign and trade policy to its new status and its dense web of interdependencies.

POLICY RULES

MIHIR S SHARMA

But this is not how the leaders in Beijing see it. They are insistent that the PRC continues to be seen as a developing country, with the problems and thus the opportunities open to other countries with that status. In this insistence we can determine why exactly this is more than a mere disagreement over definitions. After all, in all other aspects, the administration of Xi Jinping has sought to convey a PRC that has already arrived on the world stage, that no longer needs to, in the words of Deng Xiaoping's memorable admonition, "bide its time".

The truth is that the PRC seeks all the benefits of developing-country status with few of the problems. For example, developing countries that have failed to evolve a sufficiently free, empowered and independent private sector are given a bit of leeway in trade discussions. This is for good reason — the private sector in such countries needs nurturing, and meanwhile, state companies are the primary instruments of economic nation-building. But the PRC is long past such a stage. It now uses its powerful public sector not just to ensure that the control over the economy by the Communist Party continues, but also as agents of its aggressive foreign policy abroad. The question that others will ask is naturally why developing-country status should be used as a shield to deflect criticisms of Beijing's unwillingness to further reform its public sector.

This behaviour is replicated across its various forms of international engagement. In the fight against climate change, for example, the PRC is justly celebrated for its decision to make the Paris Agreement on Climate Change possible by signing a bilateral agreement in advance with the United States. But it should also be recalled that it sought to hide behind genuine developing countries in its opposition to a binding agreement on climate in the past — the Paris targets were of course nationally determined and not binding under international law. This served nobody's interest but Beijing's. Now that the PRC's manufacturing and infrastructure build-out is complete, it can appear to make concessions.

For the developed world, this behaviour is inherently dangerous. It feeds the narrative of populists in the Western world who see the international architecture as privileging the PRC and others like it. In fact, the various institutions, agreements and norms that underpin globalisation very properly embed a distinction between developed and developing economies, and this was a crucial demand when they were being negotiated. The distinction is not sharp enough, and does not extend wide enough — but it is there. If now some in the developed world seek to erase this distinction, it is primarily because it is felt that the PRC is taking undue advantage of it.

What is important, therefore, is for other developing countries to see clear-eyed where their individual national interest lies. Two things are clear: First, that the developed world must not be allowed to end the distinction made between them and developing countries — called "special and differential treatment" in the trade literature and "common but differentiated responsibilities" in climate change agreements. The second basic point is that the PRC must no longer be subject to the exemptions made for other developing economies.

India, with a per-capita income one-fifth of the PRC's, is very much still a low-middle income country. Its interests are not the same as the PRC's in international fora, and it should object to being put in the same bracket as the PRC either by Beijing or by Western capitals. In other words, it is clearly in the Indian national interest to distinguish its own interests, as a genuine developing country, from those of the PRC. It is also in India's interest to ensure that other developing countries see the threat of being lumped in with the PRC in this manner — especially when the latter is being accused of essentially taking advantage of the international system in a manner that India most emphatically does not.

New Delhi needs to take the lead in creating a grand bargain that maintains the special status of developing countries in the international arena while making it sufficiently adaptable to respond to the new status of those who have outgrown the need for special treatment. The $10,000-$12,000 per capita level is a good place at which to set a "graduation ceremony", as it were, for countries that can no longer be considered to be among the developing world. These countries should be deemed to now possess sufficient resources to make their own way in the world, like other developed economies. If India and other genuine developing countries do not make this case, they will find themselves disadvantaged severely in future "reform" of the global governance architecture. In the past, India has suffered severely from its unwillingness to distinguish itself from the PRC, and from remaining in thrall to old-fashioned ideas of "south-south" co-operation. It is now time to outgrow that positioning, given that others in the erstwhile global south have outgrown the need for it.

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White-collar crime: Why they do it

What do Bernie Ebbers, Sanjay Kumar or Kenneth Lay have in common? All these superstars of World Inc were charged with fraud and conspiracy at the peak of their respective careers. India also has had its fair share of members in the corporate Hall of Shame, and B Ramalinga Raju happens to be one of its leading lights. Mr Raju, who once won the Golden Peacock award for corporate governance, was charged with engineering a massive fraud at Satyam Computer Services exactly 10 years ago.

Compared to the harrowing experience of his counterparts abroad after the scams in their respective companies, Mr Raju has had a relatively peaceful existence so far. He was let off on bail after 20 months in prison, and is now busy presiding over his family empire from his palatial bungalow at Hyderabad's Jubilee Hills.

POWERPOINT

SHYAMAL MAJUMDAR

In contrast, Bernie Webbers, who *was* WorldCom, much like Mr Raju's status in Satyam, is serving a 25-year prison term, after he was found guilty of executing what was then the largest accounting fraud in history. In September 2006, Mr Ebbers drove himself to prison in his Mercedes, which he is not scheduled to see again until 2028. Sri Lankan-born Sanjay Kumar, chairman and CEO of Computer Associates, was sentenced to 12 years in jail after pleading guilty to securities-fraud charges. And Kenneth Lay of Enron, who was accused of shady accounting practices, died from a heart attack while awaiting sentencing. His co-conspirator Jeffrey Skilling is in jail since 2006.

And consider what has happened to Carlos Ghosn, who was among the most celebrated chief executives around the world. The chairman of Renault–Nissan–Mitsubishi is locked up at an austere detention centre in Japan for an alleged under reporting of his salary by more than $44.5 million to the Tokyo Stock Exchange between 2011 and 2015.

So why do CEOs allow their reputation, carefully built over decades, to be blown to smithereens? Take Mr Raju, for example. The journey from being the poster boy of India's IT industry to becoming Qaidi No.4148 at a Hyderabad jail must have been tortuous. Money couldn't have been the sole motivation, considering he was the owner of India's fourth largest IT company. In fact, all the fraudster CEOs were fabulously wealthy when they committed their crimes. Nevertheless, they risked their careers, families, reputation, wealth, power, everything. For what? One answer could be that all that power and money made these CEOs feel invincible and above the law.

The other reason, strangely, is that they strongly believe they did nothing wrong. After his initial confession about fudging figures, Mr Raju insisted that he had not taken a "single rupee from the company". Former McKinsey head Rajat Gupta is another example of this. After serving a two-year prison-term on insider trading charges, Mr Gupta talked about some "errors and misjudgements" and started a legal battle to overturn his conviction, arguing that he served a jail term for conduct that is not criminal as the government lacked evidence to show he "received even a penny" for passing confidential boardroom information to the now-jailed hedge fund manager and his one-time friend and business associate Raj Rajaratnam. The effort proved fruitless as on Tuesday, a federal appeals court declined to throw out his conviction, upholding a lower-court ruling, which found Mr Gupta guilty of passing tips to Mr Rajaratnam about Berkshire Hathaway's $5 billion investment in Goldman Sachs and the bank's financial results for two quarters in 2008.

Yet others said after their sentencing they truly believed that they did nothing but try to improve the conditions of their employees. Ironically, their employees and shareholders suffered the most from their actions.

Curious about the motives behind white-collar crimes, Eugene Soltes, a Harvard University professor spent seven years interviewing nearly 50 convicted corporate CEOs and wrote a book, *Why They Do It: Inside the Mind of the White-Collar Criminal*. Most of the subjects in the book exhibit an overwhelming lack of remorse for what they've done. Many of them seem to view their crimes as solutions to a problem at work, rather than moral failings. Many of the convicted executives Mr Soltes spent time with described their conduct bluntly. "Morals go out the window when the pressure is on," explained Steven Hoffenberg, who confessed to running a Ponzi scheme that stole from thousands of investors in his company, the Towers Financial Corporation. "When the responsibility is there and you have to meet budgetary numbers, you can forget about morals."

Yet others feel they deserve anything they could possibly want — money, fame, a bonus and a football field-sized office. They should get these things because they "deserve" them. This level of selfishness can lead to all sorts of slimy decisions and behaviour. By the time they realise their mistake, it's already too late. That's what happened to Mr Raju, prompting him to make that famous statement that he was riding a tiger and did not know how to get off without being eaten.

A 'Westphalia' for West Asia

BOOK REVIEW

TALMIZ AHMAD

The Thirty Years' War began 400 years ago and ended with the "Peace of Westphalia" negotiated between the contending parties over five years. The war involved the major powers of the day — the Holy Roman Empire, France, Spain and Sweden — and the numerous German principalities that were linked to the empire through a series of complex historic agreements and traditions. The war combined contentions emerging from power rivalries, sectarian differences and, following the religious differences after the Reformation, the need to shape new constitutional arrangements linking the principalities with their emperor.

The peace that ended these bloody conflicts was a marathon diplomatic effort based on innovative practices and processes that ended religious strife and set up a new order in Europe that lasted a century-and-a-half. This book by three distinguished historians of Europe and West Asia contends that Westphalia can provide ideas to provide security to West Asia.

In several respects, the present West Asian scenario is very similar to the contention-ridden Europe of the 17th century. Now, too, we have several conflicts taking place simultaneously that involve states and non-state, and sub-state players battling each other in a strategically vital geographical space, with fluid alliances and infirm coalitions.

These confrontations have emerged from security concerns but are being defined on a sectarian basis, recalling Sunni-Shia divisions that go back to early Islam. As in Europe earlier, while the central competition is between Saudi Arabia and Iran, they are engaged in proxy wars in Syria and Yemen.

These contestations have their roots in the Arab Spring when people's agitations had demanded wide-ranging reform, including participation in governance. These demonstrations brought down at least four potentates, but also united the Arab potentates against reform and encouraged them to divert popular attention to religious and sectarian threats by demonising their enemies.

Finally, like the earlier wars, these regional conflicts are taking place amidst an over-arching rivalry between the great powers of the day — France and the Emperor then, the US and Russia now.

The authors contend that the Peace of Westphalia provides the diplomatic tools for peace-making and specific agreements that could serve as models to address the conflicts in West Asia. They assert correctly that, as in the past, a piecemeal approach to resolving regional conflicts will just not work, as the ongoing conflicts are inter-linked. They call for an inclusive peace congress of all the contending players that will take a comprehensive view of regional security, as was done at Westphalia.

They point out that the major powers would be more amenable to compromise if a regional balance of power is in place. To achieve this, borrowing from the Westphalia precedent, they suggest that some preparatory steps could be taken such as a ceasefire and interim peace arrangements in Syria and Yemen.

They do not see the absence of trust between the major powers as an obstacle but recognise that peace talks will work only if there is a genuine desire for compromise on both sides. This will require Iran and Saudi Arabia to set out their core security interests and the legitimate zone of influence acceptable to them.

Three factors that facilitated the agreement at Westphalia were the presence of mediators that had a major stake in peace and the emergence of a moderate "Third Party" of cross-confessional states that worked behind-the-scenes to promote agreement. Finally, the enforcement of the treaty "in perpetuity" was based on "mutuality and reciprocity" in that it was collectively guaranteed by *all* the participating parties, thus effectively defining a regional collective security arrangement.

The writers describe the "Third Party" as powers having a direct and abiding interest in peace, willing to co-operate with others similarly impelled, and having enough clout in terms of legitimacy and geopolitical capability to apply pressure on the contending parties when needed.

The conflicts in West Asia have now continued for eight years and taken the lives of half-a-million people, destroyed cities and civic life, sharpened ethnic, religious and sectarian animosities and encouraged extremist elements. There is also no effective peace effort to address the contentions that divide the main powers and their allies. This book, the product of extensive studies and discussions among western and regional scholars and policymakers, is an important first attempt to promote such an initiative.

The obstacles are several: The contending powers do not have a shared vision for regional order and still believe that, with their allies, they can achieve their interests through ongoing military confrontations. Again, the two principal powers, one regional, the other global — Israel and the US, respectively — do not exhibit any interest in regional peace and the accommodativeness this will require of them.

Until there are changes in these two areas, West Asia will remain condemned to further conflict. This calls for India to lead and shape a "Third Party" made up of China, Japan and South Korea and bring in Russia, France and Germany, when required.

The reviewer is a former diplomat

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