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WORDLY WISE
THE BEST ART IS POLITICAL.
— TONI MORRISON

The Indian EXPRESS

FOUNDED BY

RAMNATH GOENKA

BECAUSE THE TRUTH INVOLVES US ALL

Because data is a public good

My resignation from National Statistical Commission was the last act in a long story of disregard for its reports



P C MOHANAN

LET US DIGRESS

Amol Palekar did not stray from the subject. But NGMA has forgotten its duty to provide space for free expression

THE INAUGURATION OF an exhibition in memory of the modernist painter Prabhakar Barve (1936-1995) at the National Gallery of Modern Art in Mumbai has once again exposed the culture of compliance which has been developing in recent years. The actor, filmmaker and painter, Amol Palekar, had chosen the moment to voice his apprehension that as far as he knew, this would be the last exhibition at the NGMAs in Mumbai and Bengaluru organised by an advisory committee of local artists, and that henceforth all decisions might be taken by the central ministry of culture. Besides, few works would be displayed which were not in the collections of the NGMA. Upon which, NGMA director Anita Rupavatham and former chairman of the advisory committee Suhās Bahulikar interrupted him to request him to “stick to” Barve’s work. Palekar asked if he was being censored or disallowed from speaking — and was again told to keep to the subject. He had to wind up his speech. The incident has rightly evoked shock across the country, especially on account of the stature of the speaker and the importance of the venue.

Palekar digressed from the subject after speaking almost 600 words about his friend Barve in a written speech. It was, in fact, no digression, because he was expressing concerns about state and ideological interference in the arts that Barve himself might have articulated, had he witnessed the art that individual freedoms have seemed to take from the time of “award wapsi” to the present. Institutions like the NGMA are expected to push back against perceived pressures, not to encourage self-censorship and expect even their guests to refrain from speaking their mind, or expressing their disquiet. This obsession with the ostensibly approved line is peculiarly Soviet, rather than Indian. An institution cannot invite speakers and expect them to cleave to an invisible line. If that is the expectation, they should invite officials who are accustomed to working within set bounds, rather than artists, whose work springs from the freedom of expression.

When he was rudely interrupted, Palekar alluded to the case of Nayantara Sahgal, who was invited to the inauguration of the prestigious Akhil Bharatiya Marathi Sahitya Sammelan in January, and then swiftly disinvited on fears that she would criticise the government. Indeed, the text of her speech objected to curtailed personal freedoms and the imposition of a uniform cultural identity on a land of diversity. To remain worthy of respect, institutions should jealously guard their intellectual space, which provides autonomy to writers and artists to express themselves freely. Especially when they digress.

AN OWN GOAL

BJP must know that serious allegations against Yeddyurappa could damage its political narrative in Karnataka

FORMER CHIEF MINISTER and the BJP’s tallest leader in Karnataka, Bookanakere Siddalingappa Yeddyurappa, 75, continues to embarrass his party. His admission that he had met the son of a JD-S legislator to discuss the possibility of his father joining the BJP has raised questions about the party’s anti-corruption narrative in the state. Last Thursday, Chief Minister H D Kumaraswamy had released audio clips to back his allegation that the BJP, specifically Yeddyurappa, offered money to lure legislators from the Congress and the BJP, and to the Speaker to enable cross-voting. Yeddyurappa had denied his involvement when the clip became public and claimed it was fake — before accepting his involvement on Sunday. The speaker of the Karnataka assembly, K R Ramesh Kumar, has asked the state government to probe the audio recording and set a deadline of 15 days. But it is not a pretty picture for the BJP in a state where it has bet big — Karnataka sends 28 MPs to the Lok Sabha.

This isn’t the first time Yeddyurappa has forced the BJP on to the backfoot. In 2010, two years after he led the BJP to victory in Karnataka, the first time the party won a state in south India, Yeddyurappa was forced to resign because of allegations of corruption. He was sent to jail and a year later, he quit the BJP to form his own outfit, the Karnataka Janata Paksha (KJP), which won nearly 10 per cent of the votes in the assembly elections that followed, costing the BJP a second consecutive term in office. Just ahead of the 2014 general election, he rejoined the BJP and after the Karnataka High Court cleared him in the corruption cases, he was reinstated as the state party chief. It seems that during his years in the wilderness, Yeddyurappa and the BJP realised that they cannot do without each other. With the KJP, Yeddyurappa proved that he commands a loyal vote, primarily among the politically influential Lingayat community; in his absence, the BJP may find it a challenge to hold on to this section, which it counts among its core vote. The BJP is also handicapped by the absence of other leaders who have a pan-state, cross-sectional appeal.

Can the BJP now look beyond Yeddyurappa? Or will it take the risk of denting its anti-corruption platform? With elections drawing near, that is one of the questions in Karnataka.

WAY OF THE FISH

An eight-metre long fish-pass in the Farakka is inadequate to sustain the hilsa’s mass migration

A LITTLE BEFORE the monsoon rains pour down, a piscine journey of astronomical significance originates in the Bay of Bengal. The hilsa leaves its home in the ocean and spawns in the estuarine waters where the rivers from India and Bangladesh meet the ocean. Large shoals of the silver-scaled fish also move slowly upstream the Padma in Bangladesh and the Ganga in India. The flavours of river and sea mingle to give the hilsa its unique sweet-salty taste. The fish that travel the farthest upriver are said to be the tastiest. Till about 40 years ago, this meant a nearly 1,200-km journey to Allahabad. But the completion of the Farakka barrage in 1975 disrupted the hilsa’s westward migration. A navigation lock in the barrage hindered the fish’s free movement. Hilsa aficionados in India are never tired of lamenting that the last hilsa was caught at Buxar, near Allahabad, more than 30 years ago. On February 8, Union River Development Minister Nitin Gadkari inaugurated a project that aims to assuage their hurt feelings. The lock will be redesigned, at a cost of Rs 360 crore, to let the hilsa return to its spawning grounds of yore.

The new fish pass is expected to be complete by June, when the bony fish begins its journey to the river. Its gates will be opened between 1 and 5 pm, which is known to be the time for peak hilsa movement. The trouble, however, is that the fish-way will span no more than eight metres of the Ganga’s nearly 2 km width at Farakka. It’s anybody’s guess if that is enough to sustain the hilsa’s mass migration.

US ecologist John Waldman’s study in 2013 showed that only 3 per cent of a shoal use a pass to get past a dam. In what should be of salience to the ministry’s new project, one of the fish studied by Waldman is the American shad, a species closely related to the hilsa. A few silver-coloured fish may still sneak in through the new pass. But that is unlikely to undo the culinary damage caused by the Farakka barrage.

WILLIAM SETZER, in the working paper, “Politics and Statistics: Independence, Dependence or Interaction”, published by the UN, lists several possible areas where political interference in official data generation and publication can happen. One of these is the extent and timing of release of data. He cites several examples. Most of the instances quoted by him fortunately happened in the past and in countries not following a democratic political system. However, generation of official statistics with independent oversight was recognised as a key requirement for ensuring data credibility in India from the very beginning. Successive governments have made efforts to create institutions to safeguard the integrity and objectivity of official statistics and recognised official data as a “public good”. The present government also notified in the official gazette the acceptance of a set of principles called the fundamental principles of official statistics that is accepted as the bedrock of an independent statistical system.

The first of the fundamental principles of official statistics notified by the government of India states that “Official statistics provide an indispensable element in the information system of a democratic society, serving the government, the economy and the public with data about the economic, demographic, social and environmental situation. To this end, official statistics that meet the test of practical utility are to be compiled and made available on an impartial basis by official statistical agencies to honour citizens’ entitlement to public information.”

The National Statistical Commission (NSC) was one of the two most visible outcomes of the report of C Rangarajan on the Indian Statistical System, submitted in 2001. The report was commissioned by the Atal Bihari Vajpayee government recognising the increasing importance of official statistics in a world that was getting integrated economically. Credible data was required not only for national governments but also sought by multilateral agencies for inter-country comparisons, as well as for investment decisions by private corporates. The other outcome was the creation of a position called the Chief Statistician of India (CSI) with a fixed tenure and to be selected from a panel given to the

government. The idea was that the CSI heading the Central Statistical Office would be a professional and not a career bureaucrat. The NSC was to be the apex body for all statistical matters with a very wide mandate.

My resignation from the NSC along with J V Meenakshi, its only other non-official member, was the last act in a long story of disregard for the commission’s recommendations, reducing its effectiveness. Many of these instances are noted in the last two annual reports submitted to the government by the commission. The claim of the ministry, that we did not bring these grievances to their notice, clearly brings out the truth that nobody in the ministry cared to read these reports. These reports are supposed to be placed in Parliament along with an action taken report by the ministry of statistics.

The resignation and the government response to the leaked report has brought into question the autonomy enjoyed by the National Sample Survey Office (NSSO). The National Sample Survey (NSS), initiated in 1950, as a nation-wide survey operation, was initially handled by the Indian Statistical Institute and the Directorate of NSS under the government of India. All aspects of survey work were brought under a single umbrella by setting up the National Sample Survey Organisation (NSSO) through a cabinet resolution in March 1970. Since then, the NSSO has been functioning under the overall direction of a Governing Council with autonomy in the matter of collection, processing and publication of survey data, thus ensuring freedom from political and bureaucratic interference. Subsequent to the setting up of the NSC, the council was dissolved and its responsibilities given to the NSC.

One of the reasons for our resignation was the non-release of a survey report prepared by the NSSO and approved by the commission to be released in December 2018. The release date was decided in consultation with the NSSO almost a year ago. Generally, the NSSO produces three to four reports every year and these are routinely approved by the commission and released by them thereafter. The special attention paid to this report by the ministry was possibly because it implicitly contradicted some of the claims of the government. Unfortunately,

in this process, fundamental questions on the independence of statistical agencies have come to the fore and as the acting chairman I felt it my duty to leave the commission rather than acquiesce to the deliberate slighting of the NSC. Meenakshi also took the same view.

Efforts were made to suggest that the report was only a “draft” and the final approval was to be given by the government and later on a series of questions on the methodology were also raised. Surprisingly, it was the NITI Aayog, and not the Chief Statistician whose job it is to uphold the integrity of the official statistics, that took the initiative to raise technical doubts on the report and the survey methodology. A similar involvement of the NITI Aayog in the release of the GDP back series had also raised questions.

Questioning the report is perhaps the first step in the standard government response to such situations and the next step possibly would be to refer the report and methodology to a committee of experts, only to delay the report. Modifying survey estimates would amount to changing the standard procedures based on sound statistical theory.

The NSSO has been the most transparent statistical organisation anywhere in the world, with independent experts outside the government actively involved in all stages of survey work and access to the micro data given to all researchers at a nominal charge. The vast number of research papers that followed this unrestricted access to survey data is testimony to the willingness of the NSSO to be questioned by independent researchers and the acceptance of NSSO data (with all its known limitations) as one of the best sources for economic and social research in India.

The report based on a new series of surveys on employment was coming after a gap of six years. The lack of data on employment had even been commented upon by the Honourable Prime Minister. The report and the survey data would have contributed to our understanding of the economic and social transformation taking place in the country and known to have accelerated in recent times. This opportunity is now delayed.

The writer is former head of the National Statistical Commission

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RAKSHIT SONAWANE

A REGRESSIVE QUOTA

Economic reservation mocks the ameliorative spirit behind the system

THOUGH THE decision of the Narendra Modi government to grant 10 per cent reservation for the general category appears to be a political gimmick to appease upper castes in an election year, it is actually a historic ploy to turn back the wheels of social justice. Assuming that it clears legal hurdles, it will create double jeopardy for the SC, ST and OBC categories, besides pitting the poor in the general category with the middle class (with annual income upto Rs 8 lakh). The decision makes a mockery of the spirit behind the quota system.

Reservation is not a poverty alleviation scheme. Affirmative action came into existence to provide adequate representation for the untouchables, who were historically discriminated against. Tribals and OBCs, who were at the bottom of the caste system, have also been granted the benefit.

The ancient caste system worked in favour of the upper castes (15 to 20 per cent of population), which have traditionally monopolised scholarship, priesthood and dominated trade/industry. The quota system prescribed in the Constitution sought to render social justice by taking on that system in which upper castes had enjoyed reservation with divine sanction. The reservation granted by the Constitution is based on caste because certain people were exploited on the basis of their caste status. Caste prejudice is an inherent part of the orthodox Hindu psyche, which manifests in wide acceptance of other kinds of reservation (like women, senior citizens and

the physically handicapped getting reserved seats in public transport). However, caste-based quota invites opposition, despite the fact that the beneficiaries are socially handicapped.

The Constitution has paved the way for several poverty alleviation schemes, which are already in force. For instance, people living below the poverty line (BPL) are entitled to essential commodities at subsidised rates, while poor students are entitled to scholarships. With eligibility limit for the new quota of 10 per cent placed at Rs 8 lakh per annum, it is still unclear whether the BPL would be raised. Besides, the new definition of poor (of annual income upto Rs 8 lakh) would cover a large number of middle-class people, who would be eligible to compete with their BPL counterparts. With the ubiquitous quota, are we heading for a 100 per cent reservation for all communities as per their population?

The new quota also jeopardises the interests of SCs, STs and OBCs. First, the upper castes would retain their traditional monopolies in professions such as priesthood and trade. Second, they will get 10 per cent reservation in education and government employment. Considering that the stipulated upper limit for quota for the lower castes (75 per cent of population) is 50 per cent, while the upper castes, which are in minority (below 20 per cent of population) have 50 per cent of seats in general category, this makes it a highly uneven playing field.

To make it a level playing field, sectors mo-

nopolised by upper castes should be opened to all. For instance, priesthood must be delinked from caste and made available to all deserving individuals. Similarly, the dominance of certain communities in business needs attention. Also, since government employment is shrinking (because of privatisation), opportunities in the private sector should be subjected to affirmative action.

Looking at it from the perspective of B R Ambedkar’s theory of ‘Revolution and Counter-Revolution’, the Modi government’s decision is a counter-revolution to augment the dominance of upper castes and turn back the wheels of social justice. According to Ambedkar, the history of ancient India is history of struggle between Brahminism and Buddhism. He termed Buddhism as a revolution that propounded egalitarian values. The assassination of Brihadra (descendant of emperor Ashoka) and the revival of Brahminism was described by Ambedkar as “counter-revolution”. When India became a republic, another revolution was ushered in through egalitarian principles enshrined in the Constitution. He went a step further, to embrace Buddhism with his followers. The Constitution started a bloodless revolution in 1950 in the country, much to the chagrin of traditional hardliners wanting to start a counter-revolution to ensure the supremacy of the upper castes.

The writer is a senior journalist based in Mumbai

FEBRUARY 12, 1979, FORTY YEARS AGO

UP RSS BAN

NARENDRAJIT SINGH, UP RSS chief, said the ban would not deter the RSS from holding its shakhas. He said if arrests were made, the organisation would hold peaceful satyagraha and court arrests. Ganga Bhakta Singh, vice president of the state Janata Party and Lok Sabha MP, said the government’s decision was in violation of the election manifesto of the Janata Party. He said the ban provided the proof of an alliance between Indira Gandhi and Raj Narain.

Deshmukh said the ban on the RSS drills by the UP government betrayed authoritarianism. Deshmukh said since the RSS was not born out of fear, it could also not wind up out of any kind of fear. He said a recent dispatch by Tass on the RSS activities was “unfortunate” and said the opinion expressed by a Soviet agency constituted an interference in the internal affairs of India.

JANATA CHIEF DISAGREES CHANDRA SHEKHAR, JANATA Party President, said the UP government’s decision to ban the RSS shakhas in parks and other public places “smacked of vindictiveness -

under the present circumstances”. He said even during the days of Indira Gandhi, when the question of banning the RSS came up, he had said that it would not help.

IRAN TURMOIL

IRAN PRIME MINISTER Shahpour Bakhtiar has drafted his resignation after military commanders announced they had withdrawn their support for the Shah-appointed government. His aides said he could no longer continue without military support. The 62-year-old prime minister took office 38 days ago after Shah Mohammad Reza Pahlavi agreed to leave the country.



15 THE IDEAS PAGE

All is still not well in court

Over a year after an unprecedented press conference by senior judges flagged the challenges, opacity and lack of accountability remain pressing concerns



AJIT PRAKASH SHAH

A LITTLE OVER a year ago, four judges of the Supreme Court of India called an unprecedented press conference to tell the world that everything was not right with the judicial system. Their announcement posed troubling questions relating to the independence of the judiciary, transparency and accountability in the institution and so on. Three of the judges have since retired, and the fourth, Justice Ranjan P Gogoi, has become the Chief Justice of India (CJI). Around the time he took over, in a much-publicised speech, he also spoke about his vision of justice. A lot has happened in the year gone by for the Indian judiciary. Certain developments are of particular concern to me, which I discuss here.

The first major issue is the idea of the CJI as the "master of the roster". The previous CJI was criticised by many for the manner in which cases were allocated to judges under his watch, and for selectively choosing the benches that would hear cases of public importance. In democratic countries around the world, notably in the UK, Canada and Australia, the allocation of work and the selection of benches is a consultative process, and necessarily involves a culture of trust.

Alternatively, there are clear and defined rules in this regard, as, for example, in the European Court of Human Rights and the European Court of Justice. It is not acceptable for the chief justice to have unbridled power. Even in high courts in India, where a chief justice may have official roles such as presiding over administrative meetings, at no point is the chief justice considered or made to believe that he/she is superior to other judges in the court. The sanctity of this principle cannot be overstated: A former chief justice of the South Korean Supreme Court was recently arrested for having allegedly used his influence when he was in office on behalf of conservative governments to delay trials in war-related compensation cases. Unfortunately, in India, the trend of the CJI assuming the role of master of the roster, with unbridled and unrestricted power, continues even under the present CJI, which may have disturbing implications for the dispensation of justice in our country. Urgent reforms in this regard are necessary.

The second issue is of how appointments to and transfers within the higher judiciary continue to be made. Every time a new cohort of judges is announced for selection, a new set of problems emerges. It is almost as though the Supreme Court Collegium is showing us the many paths to opacity that can exist in the appointments process. Two incidents over the past month have been particularly distressing.

One relates to a recent proposal to transfer a sitting judge of the Delhi High Court, whose decisions have been attacked by those within or close to the present Union government. While the transfer was not finally approved, it bodes ill for a judiciary that prides itself in being independent of influence and the other arms of the state.

Another case is the inexplicable reversal of a decision of the collegium to elevate two high court chief justices, both well-regarded as fine judges, to the Supreme Court. A "leak", purportedly from an "official source", in a



C R Sasikumar

leading news publication suggested that this reversal was apparently because certain "adverse material" against these judges had emerged. Ideally, any such material should have been put to these judges in a formal setting, and they ought to have been allowed to defend themselves. Instead, these two judges, along with two others — all high up in the seniority list of high court judges — were bypassed, and relatively junior judges were pushed up the ladder. Unfortunately, such leaks and last-minute reversals can damage the morale of members of the judiciary.

Equally problematic is the overwhelming silence of the government. On an earlier occasion, the same government had staunchly defended the seniority convention in judicial appointments. What happened now? The government, by swiftly approving the latest recommendations, has revealed how hypocritical it, too, can be. This is not to say that I defend the seniority convention. But, at the very least, the government should have been consistent in its position.

I have frequently expressed my views on the workings of the collegium and I believe that the collegium system should go completely. But even if the judiciary is not inclined to revise its position on the appointments process, the present situation could be improved slightly if the Memorandum of Procedure for making judicial appointments were finalised.

More problematically, I worry that not enough attention is being paid to the judiciary as an institution. Ideally, in any democratic set-up, we need the best individuals running the judiciary. In my opinion, one important criterion for selecting judges is merit. But as has been seen, many brilliant judges are overlooked. The appointments of judges on grounds other than merit can be self-perpetuating. Many such appointees will become members of the cabal that is the collegium, and may make the same kinds of choices their seniors made. Short-term decisions to appoint certain individuals affect the long-term condition of the judiciary. We are now in a position where we can predict that the health of the Supreme Court, and the judiciary, will not be in great shape. We should all be very worried.

The third issue that concerns me is the recent fascination of the Supreme Court for the

The appointments of judges on grounds other than merit can be self-perpetuating. Many such appointees will become members of the cabal that is the collegium, and may make the same kinds of choices their seniors made. Short-term decisions to appoint certain individuals affect the long-term condition of the judiciary. We are now in a position where we can predict that the health of the Supreme Court, and the judiciary, will not be in great shape. We should all be very worried.

WHAT THE OTHERS SAY

"The US president's 'jokes' in about Native American genocide in relation to the Democrat Senator (Elizabeth Warren) provide a glimpse into his growing fears about his waning base." —THE INDEPENDENT

A dialogue, an opportunity

US commerce secretary's visit could be an occasion for Delhi and Washington to heed the lessons of the past, ease trade tensions



RAJA MANDALA

BY C RAJA MOHAN

TRADE ISSUES ARE not a formal part of this week's dialogue in Delhi between the visiting US Commerce Secretary Wilbur Ross and Union Commerce Minister Suresh Prabhu. But there is no doubt that mounting trade tensions between India and the US have cast a dark shadow over the talks. The immediate danger is that the US might withdraw India's trade benefits under the so-called Generalised System of Preferences that Delhi has enjoyed since the mid-1970s.

Yet, this week's dialogue must be seen as an opportunity to step back from confrontation and take a more strategic approach to resolving the current differences over a large number of issues. They include market access, reciprocity in tariffs, trade deficit, predictable investment rules and data localisation to mention a few. Over the last two decades, Delhi and Washington have dealt with and resolved far more complex issues. If Prabhu and Ross recall the basic lessons from the transformation of this relationship, they can arrest the current drift and start finding a way out.

The first is to recognise the value of the trade relationship between the two countries and its huge potential. There was a time, less than two decades ago, when "flat as a chapati" was the preferred label for US-India trade relations. Since then, the annual two-way trade has grown rapidly to touch nearly \$130 billion last year (including trade and services).

For India, the US is probably the most important trade partner today and will remain so for a long time. For Washington, the size of the trade volume with India is quite low in comparison with its other key partners like Canada, Mexico, the European Union, Japan and China. But the potential remains high as India emerges as the world's third-largest economy. It should, therefore, be the highest political priority for India and the US to turn this trade relationship into a deeper and more sustainable one.

Second, both countries need to be sensitive to the domestic political considerations. As India enters the election mode, this is perhaps the worst possible moment for the US to take actions like the withdrawal of GSP benefits. The volume of Indian exports involved is quite small, but the political impact could be way out of proportion.

That public pressure is not the best way to negotiate with India is a dictum that President Donald Trump's recent predecessors in Washington understood well. On its part, Delhi needs to pay greater attention to the profoundly altered environment in Washington on trade related issues.

Trump has begun to turn America — for long, the champion of "free trade" — into an advocate of "fair trade". Trump has convinced himself that the rest of the world has taken advantage of America's open market. He is now ready to bring the whole

house down if the rest of the world does not address his grievances. India must bet Trump's concerns about trade outlast his stint as US president. As the Democratic Party moves left of centre, the American concerns about fair trade can only become more intense in the years ahead.

Third, it is quite easy to forget the personal role of the Indian prime minister and the US president in turning the two "estranged democracies" into "indispensable strategic partners" in the 21st century. In India, successive Prime Ministers Atal Bihari Vajpayee, Manmohan Singh and Narendra Modi chose to defy conventional political and bureaucratic wisdom to advance the country's relationship with the US.

Washington has little reason to politically embarrass Prime Minister Modi — who has moved the security and political relationship beyond any one's imagination — on trade issues just before a tough general election. Delhi, on the other hand, should appreciate the great political value of a trade deal with India for Trump and the importance of having the White House on India's side.

Indian officials who negotiated the complex nuclear deal can recall how George W Bush repeatedly overruled objections of his cabinet colleagues and national security aides to facilitate the resolution of difficult issues in India's favour. On its part, Delhi must recognise goodwill earned with Trump can easily compute into his valuable support for Delhi on other important issues.

Finally, the secret to successful engagement with the US involves two simple propositions — never stop negotiating and keep making deals small or big. India often can't close a negotiation because it's opening bid tends to remain the final position. Americans, on the other hand, are always open to splitting the difference, finding a compromise and moving on.

It was with the ability to give and take, while keeping the larger and long-term interests in mind, that India and the US were able to overcome the multiple problems in the nuclear and defence negotiations during the last two decades. Continuous forward movement — however slow and incremental — is critical.

Unlike security issues, trade is not a zero-sum-game and should be more amenable to deal-making. No one understands this better than the Chinese President Xi Jinping, who continues to tease Trump with the prospects of a deal despite the expanding range of political and economic contention. The issues at stake between Trump and Xi are much harder than those holding up progress in the India-US trade talks.

Given the return of geopolitical confrontation and the unfolding rearrangement of the global trading order, "doing nothing" is not an option for Delhi. If the spirit of Valentine's Day prevails — Prabhu and Ross are meeting on February 14 — there would be much room for political reassurance and confidence building between India and the US on trade issues.

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G S BAJPAI

What witnesses really need

Witness Protection Scheme does not recognise the many pressures on them

WITH TWO RECENT developments, some crucial questions relating to witnesses came to the surface. First, the Supreme Court (SC), while hearing a PIL in *Mahendra Chavla and Ors*, approved the Centre's draft Witness Protection Scheme (WPS). Second, all accused in the Sohrabuddin case were acquitted. In the latter, 88 witnesses out of a total of 212 who were examined by the court turned hostile.

The SC has asked the states to implement the WPS till Parliament comes out with legislation in this matter. In principle, this measure is laudable. However, the scheme falters with respect to the core concerns and issues that witnesses face in their day-to-day interactions with the courts. The draft scheme, prepared by the National Legal Services Authority (NALSA) and Bureau of Police Research and Development (BPRD), does not seem to be premised on any empirical study and, therefore, the deeper insights about the varied sufferings and consequences of being a witness remain unaddressed.

The core of the WPS remains the security to witnesses. An almost crude estimate suggests that not more than 20 per cent of all witnesses require this kind of a protection measure. In cases involving terrorist acts, organised crime and powerful people with connections and resources, there may be a dimension of security. However, a vast majority of cases in

the lower courts wherein witnesses refuse to be present or become hostile involve certain other factors which need to be appreciated.

The WPS relies heavily on concealing the identity of witnesses and undertaking a detailed threat analysis report, to be prepared by the police. Both things look quite uncertain in the present context. Given the way the police and prosecution work in this country, the idea of hiding the identity of a witness as a measure of protection does not seem to be practical. Overworked and understaffed, the police are also unlikely to make any meaningful threat analysis for a witness. A police force which roughly devotes only 20 per cent of its time to investigative work would be justifiably right in avoiding this task. Therefore, ensuring and "executing" a "Witness Protection Order" under the WPS by the police appears to be unlikely. The lower courts, where all the witnesses have to appear, do not have the infrastructure to satisfy the mandate of the present WPS. Nor can they do much to avoid contact between the witness and the accused. The in-camera trial arrangements in all such cases also have the same issue. The most problematic and unrealistic factors in this scheme are the arrangements to change identity and relocate witnesses. Even in the rarest of rare cases, the witnesses would perhaps not like this to happen to them. This borrowed idea —

devoid of empirical understanding — does not fit Indian conditions.

This brings us to the search for the real picture based on hard data and a workable arrangement rooted in the Indian conditions.

What we actually need is a "Witness Assistance Programme". A study conducted by this author based on 800 witnesses in the premises of courts in Madhya Pradesh, Uttar Pradesh, Rajasthan, Maharashtra and Karnataka clearly revealed that a vast majority of witnesses do not need protection — they require more assistance, care and dignity. Moreover, the need is to understand and take into account the fact that witnesses are also a harassed lot, who at times are dealt with much like the accused.

The major source of harassment for the witnesses stemmed from the frequent adjournment of cases, which was confirmed by 65 per cent witnesses in the said study. As many as 80 per cent of witnesses also reported monetary loss and other kinds of deprivation due to their repeated appearances in the courts. Around 65 per cent of the witnesses reported frequencies of adjournments.

The profile of witnesses also offers crucial insights. A majority of witnesses before the courts are wage-earners, agriculturists, the not so well-educated, or belonging to Scheduled Castes. Many have health issues. In

most cases, they were unaware of the consequences of being a witness. In 40 per cent of the cases, they were persuaded through social or caste-related pressure to assist to being witnesses. Most crimes in India take place amongst people known or related to each other and, consequently, the witnesses also shares some relationship with both the victim and the accused. Thus, giving statements in favour or against a particular party casts tremendous pressure on the witness, generally of a social or caste-related nature.

While in around 40 per cent cases the witnesses reported threats or being manhandled, this was not of a magnitude that would imply the need for police protection or relocation. A vast number — 44 per cent — complained of an unfair deal meted out to them by agencies like the police, prosecution or the courts. The admissible allowance for the appearance of witnesses before the court was not only meagre but also was difficult to claim, as reported by a majority of the witnesses in this study. In view of this, the present WPS needs a complete shift in focus to make it rights-based rather than security-centric.

The writer is chairperson, Centre for Criminology & Victimology at National Law University, Delhi. He is the president of Indian Society of Victimology

LETTERS TO THE EDITOR

DOUBLE TROUBLE

THIS REFERS TO the editorial, 'The spectacle' (IE, February 5). A political slugfest between West Bengal CM Mamata Banerjee and the BJP government at the Centre has created a constitutional crisis. The tussle between the CBI and the Bengal government over Kolkata police commissioner Rajeev Kumar's role in the Saradha scam probe has thrown up an alarming fact — IPS officers toeing the line of their political masters. The CBI's attempted swoop may have been politically motivated, but the WB police clearly misused their authority.

Lal Singh, Amritsar

AN HONEST MAN

THIS REFERS TO the article, 'Modi's farewell speech' (IE, February 10). I have observed that of late it has become fashionable to blame Narendra Modi for whatever wrongs (so called) that happen in the country. Modi has become a target for intellectuals.

Veena Shenoy, Thane

RIGHT SAID THE POPE

THIS REFERS TO the article, 'The Pope, the Dharamaraja' (IE, February 9). No faith professes hatred towards others but instead of promoting the positives, most of the major religions have misused their essence to divide the people.

The writer is chairperson, Centre for Criminology & Victimology at National Law University, Delhi. He is the president of Indian Society of Victimology

LETTER OF THE WEEK AWARD

To encourage quality reader intervention, The Indian Express offers the Letter of the Week award. The letter adjudged the best for the week is published every Saturday. Letters may be e-mailed to editpage@expressindia.com or sent to The Indian Express, B-1/B, Sector 10, Noida-UP 201301. Letter writers should mention their postal address and phone number.

THE WINNER RECEIVES SELECT EXPRESS PUBLICATIONS

Pope Francis's message during his recent visit to the UAE — that all faiths must unite and religious extremism, intolerance, ideological and cultural bigotry must be shunned is highly commendable. No human progress, social welfare and prosperity is possible without harmony and peace in society.

MN Bhartiya, Goa

Pakistan's water crisis not India's fault



LT GEN PRAMOD GROVER (RETD)
FORMER INFORMATION COMMISSIONER, PUNJAB

metres is being constructed at a cost of Rs 8,110 crore. Pakul Dul will not only be the largest hydroelectric power project in Jammu and Kashmir, but will also have the first storage unit. Also, subsequent to its commissioning, Jammu and Kashmir will get 12 per cent free power after 10 years.

The Lower Kalnai HEP is located on the left-bank tributary of the Chenab, about 19 km downstream of Dulhasti HEP and 180 km upstream of the boundary between Pakistan and India. A concrete gravity dam with a height of 34 metres is proposed to be constructed with an installed capacity of 48 MW.

Pakistan has raised technical issues, alleging that the design parameters constitute a violation of the restrictions imposed as per the treaty. Pakistan has objected to the designs of the projects — freeboard, pondage, spillway and intake crest elevation.

India, however, has rejected such assertions, stating that the projects were being built in adherence to the parameters laid down in the treaty. As against 3.6 MAF (million acre ft) which India can store on the western rivers, the total storage capacity created so far is a mere 0.5 MAF. Pakal Dul is a storage project with a capacity of 88,000 acre ft, but this is within the permissible limit of storage of 0.6 MAF on the tributaries of the Chenab. The gross storage capacity of Lower Kalnai (1,508 acre ft) is so small that it has negligible downstream impact on Pakistan. Other design differences are small and not of much significance with respect to downstream impacts.

Water is becoming an existential issue for Pakistan. The country is facing a grim situation regarding its fast-



DISPUTE: Pakistan has been accusing India of constructing hydroelectric power projects in violation of the Indus Waters Treaty.

Pakistan is facing a water crisis due to poor management and anticipated reduction in intake through the nine trans-border rivers from Afghanistan and in the Indus river from China. Pakistan's allegation that India is trying to usurp its share of water by constructing hydel power plants on the western rivers is not based on facts.

depleting fresh water resources. Pakistan has been attributing its problems of water scarcity to Indian action of constructing hydel projects on the western rivers. In Pakistan's perception, the construction of dams by India could lower the quantity of water in these rivers.

However, their water-related problems need to be attributed to Pakistan having drawn limited benefit of India's benevolence, despite the fact that it has been receiving more than its authorised share. Projects being undertaken by India are in tune with the provisions of the treaty. In 1950, the water available per capita annually was 5,500 cubic metres when the population of the erstwhile West Pakistan was 33 million; at present, it is down to 850 cubic metres annually, while the population has increased to 210 million. The overall quantity of water flowing in the western rivers to

Pakistan remains approximately the same. As per a recent report, Pakistan is receiving about 154 MAF of water annually against an authorisation of 136 MAF.

As far as India is concerned, the Kashmir dispute and the water dispute are inextricably intertwined. Pakistan's attempts over the years to annex Kashmir can be seen in the context of attempts to ensure water security. Despite India's generosity in the sharing of the Indus river waters, Pakistan has consistently adopted an obstructionist strategy since 1977, raising issues regarding run-of-river projects under construction on the western rivers by India.

Such an attitude has not only stressed the treaty itself, but also has had a considerable negative impact on the economic progress of Jammu and Kashmir. The state, even though being upper riparian, exploits merely

one-seventh of its hydel power potential. India, at present, irrigates 0.8 million acres area against the limitation imposed on the extent of area to be irrigated (1.32 million acres) with the waters of the western rivers. The annual energy loss suffered by Jammu and Kashmir is 60,000 million units; evaluated at the rate of Rs 2 per unit, it is approximately Rs 12,000 crore. These restrictions have, therefore, imposed a loss in terms of development of industry, power and agriculture equal to around Rs 40,000 crore annually.

The World Economic Forum rates the water crisis as the biggest risk in Pakistan, with terrorist attacks third on the list. Pakistan is facing the crisis due to poor management and anticipated reduction in intake through the nine trans-border rivers from Afghanistan and in the Indus river from China. The reduction in discharge is the result of construction of hydel power projects with storage facilities by Afghanistan and China. Shortage of water in Pakistan, thus, has very little to do with the non-adherence of the provisions of the treaty by India. As such, its allegation that India is trying to usurp its share of water by constructing hydel power plants on the western rivers is not based on facts.

A recent report of the World Bank puts into perspective the massive wastage of water in Pakistan. Water worth \$25 billion flows into the sea annually. As per the report, agriculture, which consumes more than 80 per cent of water, contributes less than 5 per cent of the GDP. Pakistan needs to initiate necessary action on its own to improve the water availability to overcome the crisis.

Spare a thought for bystanders at encounter sites



RAJBIR DESWAL
FORMER JOINT DIRECTOR, HARYANA POLICE ACADEMY

THE location of police encounters is usually a culvert, a jungle, bridges, railway tracks, subways, fields or abandoned buildings. Not that this is just by default; it can be by design also, since for extrajudicial killings, as is generally believed, there may be things the police want to hide from public view.

However, the recent encounter at Zirakpur by the Organised Crime Control Unit of the Punjab Police left much to be desired as far as the 'urban operations' standard operating procedure is concerned. Credit goes to the Punjab Police for decimating a dreaded gangster, Ankit Bhadu, wanted in over a score of criminal cases and carrying a reward of Rs 1 lakh on his head. The chasing cops ultimately delivered, putting their lives in danger. The inter-state gangster had been a headache for people in Punjab, Haryana, Himachal Pradesh, Delhi, Rajasthan and Uttar Pradesh for his role in extortion, gang war and liquidating rivals. The criminal had the audacity to shoot at the raiding police team and was a potential threat to the life and liberty of people at large.

Sadly, the incident leaves behind a trail of related issues. First and foremost is the question: Are the police fully trained to engage fugitive criminals in inhabited areas, where there is every possibility of innocent citizens being hurt or even killed in crossfire? The anxiety on the part of the cops on the trail of the criminals is obvious, since for days and months



FATAL: Dreaded gangster Ankit Bhadu was killed in the Zirakpur encounter.

they keep chasing them, till the latter are engaged at an appropriate time and place. The police cannot decide where they might have to indulge in what they call an 'encounter'. But would it be justified to expose the public to the gory scenes which they might not be used to witnessing? Such operations need to be planned meticulously, allowing the people around to have faith in security aspects of their cohabitation.

Having been the Joint Director of the Haryana Police Academy, Madhuban, I recall a training programme organised in collaboration with the National Police Academy (NPA), Hyderabad, regarding 'urban operations' in 2015, which involved strategising the attack or zeroing on the criminals, maybe terrorists or gang-

sters, in a populated urban area. The idea was to gain entry into a building, where the suspects might be hiding or taking shelter, in a way that no civilians were harmed or traumatised. Fighting in the streets is different from jungle warfare; hence, the training. In the US, the UK and other Western countries, they use a technique called 'kettling' for smoking out the wanted criminals. The NPA module incorporated issues such as target analysis, approach to the target house, house intervention, multiple entry and hostage evacuation, arrest and control, vehicle intervention, slithering, embarkation and disembarkation, VIP security and study of explosives. This training was organised for officers from Punjab and Haryana and this module cries for replication in

view of the Zirakpur operation.

Another question which can be asked in such a situation is whether the police are trained in hostage negotiations too, since the gangster jumped from the third floor to the second to take a six-year-old girl as hostage, threatening to shoot her in the head if he wasn't given safe passage. One can understand that the strict rules of hostage negotiations cannot be applied in such a violent situation, but still if there was even one per cent chance for the criminal to settle for something like surrender, it could have been effected. In plane hijacking and kidnapping cases, hostage negotiation techniques result in a justifiable and justiciable rounding off of the critical scenario, for the hijacker eventually gets tired.

The third question is whether the Incident Command Centre will be established for meeting such exigencies, which are unusual and require for their tackling a concerted effort by various agencies in a joint operation. The pooling of their resources is most expedient. In an 'encounter' lasting five hours, as has been reported, there should have been pressed into service an ambulance, the fire brigade and volunteers from social organisations. In such situations, evacuation of people might have to be done. There could be any number of injured people who would need medical assistance there and then. I witnessed during a programme organised by the Federal Bureau of Investigation (FBI) at Louisiana University that every stake-

holder department of the State took active part in containing such a critical incident without inviting the ire of the public or the media.

The fourth question relates to 'tenant verification', which the Dhakoli police have confirmed they had done in this case. Why should we always give this very important aspect the go-by is baffling. In urban dwelling units, which are available for hire, it should be a mandatory requirement for a property owner to have the person's antecedents verified when he rents out or leases out his property. Reports suggest that the residents of the building in question confirmed that some 'strange' persons who looked like musclemen and goons had visited them. Awareness needs to be created among people residing in a building, colony, locality etc. about the necessity and importance of tenant verification. The Neighbourhood Watch system can be very effective in such a situation.

Last but not least is the question of psychological rehabilitation of the victims and witnesses of such an incident. Can the six-year-old girl, who was injured in the feet by the gangster, ever forget the traumatic moments? Counsellors should visit such victims till they come to terms with what they have been through.

These critical encounters aren't there only for the police to take on; rather, various state agencies need to orchestrate such operations, which require transparency, not 'in-house ops' by the police.

QUICK CROSSWORD

1	2	3	4	5	6	7
8						
9			10			
11			12	13		
15		16		17		18
19						
20			21			

SATURDAY'S SOLUTION
Across: 1 Hitch, 8 Live it up, 9 Stalk, 10 Tired out, 11 Defer, 12 Neo, 16 Malawi, 17 Linger, 18 Lid, 23 Judas, 24 Of course, 25 Sunny, 26 By itself, 27 Seamy
Down: 2 In the bag, 3 Cul-de-sac, 4 Divine, 5 Fever, 6 Stoop, 7 Spate, 12 Nil, 13 Old, 14 In future, 15 Per annum, 19 Insult, 20 Hobby, 21 Acid, 22 Fussy

- ACROSS**
1 Various (7)
5 Flowering bulb (5)
8 As a result (2,11)
9 An area's plant life (5)
10 Theatrical entertainer (7)
11 Playful (6)
12 Behave insincerely (6)
15 Sports official (7)
17 Perfume (5)
19 Soon enough (3,2,4,4)
20 Smelling stale (5)
21 Cargo (7)
- DOWN**
1 Unyielding (5)
2 Zambesi cataract (8,5)
3 To plunder (7)
4 Room to manoeuvre (6)
5 Jeer at (5)
6 Very patient (4-9)
7 Go ahead of (7)
11 Gun (7)
13 What remains (7)
14 Start a journey (3,3)
16 Slim and long-legged (5)
18 Deal with (5)

SU DO KU

4			1			6
			4	3		8
2	1	8		5		7
	3			4		5
	9	1				4
8		5		7		3
		9	1		2	7
		7		9	3	
8				2		1

V. EASY

CALENDAR

FEBRUARY 11, 2019 MONDAY

- Vikrami Samvat 2075
- Shaka Samvat 1940
- Magh Shaka 22
- Magh Parvishte 29
- Hijari 1440
- Shukla Paksh Tithi 6, up to 3:21 pm
- Shubh Yoga up to 12:06 pm
- Ashwin Nakshatra up to 9:13 pm
- Moon in Aries sign
- Gandmool up to 9.13 pm

SATURDAY'S SOLUTION

8	1	2	3	7	9	5	4	6
6	4	9	2	1	5	3	8	7
5	3	7	8	6	4	1	9	2
4	8	5	9	3	7	6	2	1
1	7	3	4	2	6	8	5	9
2	9	6	5	8	1	7	3	4
3	2	1	7	9	8	4	6	5
7	5	8	6	4	2	9	1	3
9	6	4	1	5	3	2	7	8

FORECAST

SUNSET: MONDAY 18:06 HRS
SUNRISE: TUESDAY 07:07 HRS

Sunny	Partly Cloudy	Cloudy	Rainy	Foggy
CITY	MAX	MIN		
Chandigarh	21	09		
New Delhi	22	06		
PUNJAB				
Amritsar	20	07		
Bathinda	21	08		
Jalandhar	21	07		
Ludhiana	19	10		
HARYANA				
Bhiwani	22	10		
Hisar	22	09		
Sirsa	21	09		
HIMACHAL PRADESH				
Dharamsala	14	05		
Manali	10	-02		
Shimla	14	02		
JAMMU & KASHMIR				
Jammu	20	07		
Leh	01	-08		
Srinagar	08	-02		
UTTARAKHAND				
Dehradun	24	07		
Mussoorie	12	02		

TEMPERATURE IN °C

THE ISSUE OF AGRICULTURAL subsidies in India has been a hot potato for long. The government subsidises agriculture in a number of ways. It provides direct subsidy through fixation of minimum support price for essential crops and purchase of machinery, drip and sprinkler irrigation under various centrally-sponsored schemes. The indirect subsidy is extended through provision of inputs such as irrigation, fertiliser and power at prices much below their cost of production. Short-term institutional loans are also advanced to farmers at lower rates of interest compared to the prevailing market rate. As of today, even the waiving off of institutional loans is becoming a norm. Input subsidies—though these aim to incentivise farmers—to accelerate investment and output—have mostly been provided to compensate them for the loss owing to a deliberate policy to keep output prices low for consumers.

It goes without saying that the price-based support has been a catalyst in increasing the acreage and output of foodgrains and making India self-sufficient and food secure. But it has become a central concern of every policy discourse in India that the misconceived policy framework has made farming non-remunerative and squeezed farmers' income mainly due to manifold increase in the price of inputs vis-à-vis output. The efficacy of input subsidies is, therefore, questioned on grounds of enormous fiscal burden on the exchequer, lower marginal returns from the additional expenditure, price distortions in input and output markets, and excessive use of inputs and their adverse impact on natural resources. Small farmers hardly benefit from subsidies due to prevailing corruption, leakages, lack of ownership of pumps and land titles.

The flow of time has increased manifold over the time. The subsidy estimated for fertiliser, power, irrigation (canal) and credit (interest) across 20 major states has grown from ₹127 billion in 1983-84 to ₹1,050 billion in 2013-14 (at 2004-05 prices)—at an annual rate of 6.2%. During 2013-14, per-hectare subsidy was ₹7,891, with a high percentage share of fertiliser (36), followed by power (31.9), credit (19.5) and irrigation (12.6), respectively (according to IFPRI, 2017). Its share is almost 19% in the average net income of farmer estimated at ₹42,000 per hectare.

Pulling out subsidies, as has been argued in various fora, is feared to increase input prices, especially of fertilisers that may adversely affect their application and consequently productivity and income. It may also be not a sound proposition in view of high volatility in output prices due to vagaries of nature and large uncertainties that farmers face in the disposal of the produce. The process of price discovery of commodities in the regulated markets (*mandis*) is still opaque, with hardly any policy intervention to support farmers in a situation of plunge in prices.

One feasible policy change that merits attention for the larger benefit of farmers is to opt for direct benefit transfer (DBT). Telangana has taken the lead by providing an investment support at ₹20,000 per hectare (₹8,000 per acre) irrespective of the size of the landholding, crops grown and inputs used. Lately, Jharkhand and West Bengal have also announced cash assistance of ₹5,000 per acre to farmers. Without deliberating into the rationale of fixation of this amount and *modus operandi*, we deliberate on the amount of cash transfer to farmers in lieu of the current practice of providing subsidised inputs.

One simple way is to transfer the amount that the government incurs on subsidy. For 2013-14, our estimates for 20 major states indicate a total expenditure on input subsidy at ₹1,970 billion (at current prices). Taking the net sown area of 138 million hectares, the average expenditure of ₹14,000 per



ILLUSTRATION: ROHNIT PHORE

SEEMA BATHLA & ANJANI KUMAR

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DBT more efficient, effective than input subsidies

The prerequisites for implementation of DBT are proper land records, appropriate strategy to target farmers by issuing 'cultivator cards', along with a criterion to cap the size of landholdings for receiving subsidy

hectare can be directly transferred to farmers' bank accounts. This amount tantamount to ₹2,044 billion if the government decides to transfer cash as per total 145.7 million operational holdings across the country. It would considerably be lower at ₹1,760 billion and save money if support is restricted to marginal and small farmers representing 86% holdings (Agriculture Census 2015-16). The second approach is to estimate the percentage increase in expenditure on input equals per-hectare subsidy/actual expenditure*100. Multiplying this percentage (increase) with elasticity of production with respect to input price (i.e. cross price elasticity) provides an estimate on the impact of subsidy withdrawal on percentage loss in the value of output per hectare.

The third approach, which we have used for quantifying DBT in fertiliser, is to multiply the percentage increase in input price in a situation of subsidy removal with estimated cross price elasticity. It indicates a percentage reduction in the value of output, which is taken to represent loss in net farm income due to consumption of inputs at market price. It provides a case that the same amount be directed towards cash transfers in the form of income support. Our calculation based on NSS-AIDIS 2012-13 shows that keeping changes in demand, price of output and other factors constant, a complete withdrawal of fertiliser subsidy would result in an increase in price and hence a 12%

DBT should exclude large farmers and enable small, marginal, tenant and women cultivators, who are large in number, and are generally indebted and devoid of land titles

decline in output, which can be prevented through cash transfer of ₹5,180 per hectare, very close to ₹5,100 per hectare estimated under the first approach. The DBT for fertiliser varies from ₹1,300 per hectare in Chhattisgarh to almost ₹10,000 per hectare in Haryana, contingent upon its consumption and response to own price and output in each state.

A DBT to the end-users, i.e. farmers, seems to be more cost effective. In case of fertiliser subsidy, the government does out nearly ₹730 billion each year. This year, an additional amount of ₹700 billion is allocated towards a pilot project initiated in 14 states on sale to farmers, duly verified through e-machines installed at input dealers. The fertiliser companies will get a subsidy amount on receipt of sale records submitted by each dealer. Owing to high digital infrastructure requirements, errors in operating Aadhaar card and transaction costs of DBT to companies, it would barely save money. In contrast, the benefit of DBT to farmers at ₹14,000 per hectare is a guaranteed delivery to their accounts, which has never been the case due to rampant leakages and forced share of middlemen. It will also enable farmers in taking independent decisions on use of inputs. The cash transfer can be revised based on the rate of inflation, use of inputs and their respective prices.

The prerequisites for implementation of DBT are proper land records, appropriate strategy to target farmers by issuing 'cultivator cards', along with a criterion to cap the size of landholdings for receiving subsidy. This move should essentially exclude large farmers and enable small, marginal, tenant and women cultivators, who are large in number, generally indebted and devoid of land titles to receive the monetary benefits and come out of the agrarian crisis.

INTERIM BUDGET

Past, present and the 'future'

GAUTAM MEHRA

The author is partner & leader, Tax & Regulatory Services, PwC India



Laying out a vision on the 10 most important dimensions, going up to the year 2030, is thoughtful move

THE BUILD-UP TO the Interim Budget was interesting, with the announcement of farm loan waivers by some state governments, different expectations from the Budget, concerns about the fiscal deficit being contained, and the parliamentary norm of not tinkering with the Income-tax Act.

Amidst this, the finance minister stood up and presented on the past, the present and the future—summarising the achievements of the present government over its term, announcing benefits to farmers, workers in the organised sector and income-tax payers, all in the lower strata of their respective groups, and laying out a vision on the 10 most important dimensions, going up to the year 2030.

While this, along with the shortfall in collection of GST revenue, has resulted in the fiscal deficit slipping to 3.4% in the current year, the glide path to containing the fiscal deficit to 3% by 2020-21 was simultaneously laid out.

Physical infrastructure is important to business, and the Budget speech brought out the accomplishments in this regard. Regulatory infrastructure is also important to business as physical infrastructure, and does get factored in as the goalsposts of the state of maturity of the economy.

Notwithstanding teething issues, an rolling out of the insolvency law and GST have indeed been big and bold developments on this front, and should hopefully bring in the full benefits in the years to come.

Digital and technology spanned across many of the 10 most important dimensions stated up to the year 2030. At a more granular level, the proposal to process income-tax returns in 24 hours along with a simultaneous issue of refunds is a very specific and laudable goal. And the plan to verify and assess almost all returns electronically by both tax experts and tax officials is another big one.

Two tax proposals were very targeted in their approach and wide in their coverage. One was that of increasing the TDS free receipt of interest from banks and post offices from ₹10,000 to ₹40,000, and the other pertained to benefiting individual resident taxpayers having a total income of up to ₹5 lakh. The latter would ensure that while taxpayers in the income range of ₹3.5 lakh to ₹5 lakh get the tax benefit, they continue in the tax database by filing a simple tax return electronically. And, of course, there is the small benefit for the salaried class beyond ₹5 lakh, in the form of a hike of ₹10,000 in the standard deduction.

Given the vast employment opportunity that the real estate sector generates, and the impact that demonetisation, RERA and GST have collectively had on this sector, industry and investors will indeed welcome the direct and indirect benefits spanning across various fronts, including removal of the notional tax on the second self-occupied property, extending the tax exemption on stock-in-trade to two years, extending the approval time for affordable housing projects by another year to March 2020, permitting the capital gains benefit for investment in two houses for gains up to ₹2 crore, and hiking the TDS free receipt of rent income from ₹1.8 lakh to ₹2.4 lakh. Of course, home-buyers would also be keenly awaiting recommendations from the GST Council.

Various reasons have led to a step downward revision of ₹1 lakh crore in the GST collection estimates for the current fiscal, and it is heartening to note that corporate tax collections estimates are encouraging and the revised numbers are expected to make up about half of this shortfall.

Last, but certainly not the least, a big thank you to the finance minister, for thanking taxpayers and noting their valuable contribution towards nation building and providing a better life to others. In the din and noise, this piece gets lost out more often than not.

At a more granular level, the proposal to process income-tax returns in 24 hours along with a simultaneous issue of refunds is a very specific and laudable goal

INDEPENDENT DIRECTORS

A FEW DECADES AGO, the typical director of a company would conjure an image of a person with lots of grey hair, socially-networked men who spend their time in closed-door boardroom meetings over tea/coffee with their agendas as enigmatic as them. Life has changed significantly for and around them, and it seems like the closed door is now quite open. Anxiety is a word that now resonates more than enigma, and the presumption of grey-haired men is also undergoing a change, both in terms of gender and colour of hair. Power is getting overshadowed by responsibility and accountability, and risk has become a bigger word than reward in recent times. The pace of change, its impact/consequences and media scrutiny has exceeded the expectations of most people, including lawmakers and regulators.

The first dimension of change has been the business ecosystem itself. Volatility and disruption have become constant companions of businesses, and technology has been a significant catalyst along with changing demographics and government policies, especially in the Indian context. Businesses have become more complex, and economies have become more interrelated and interdependent, thereby disproportionately increasing variables that may cause seismic shifts. Staying ahead of the curve when the ground under your feet is always moving is no mean feat. The second dimension of change has

A tightrope walk

The critical success factor is the ability to balance well

PANKAJ ARORA

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been the regulatory environment that has constantly been on the move, trying to push towards international standards and to keep pace with the dynamic business ecosystem. The Companies Act, 2013, and Kotak Committee amendments just by themselves have significantly altered the roles, responsibilities and liabilities of independent directors, and some recent cases have significantly altered the 'what can go wrong' scenario for them. The constantly changing goalposts have been a test of mental agility, even for the most seasoned professionals.

The third dimension of change has been increasing expectations of and accountability to a plethora of stakeholders. Independent directors are expected to bear a fiduciary responsibility towards all stakeholders, which is a broad spectrum,

including minority shareholders, retail investors, community at large, etc. While theoretically that was always the case, what has changed is increased shareholder activism, increase in voice of institutional investors, increased PE/VC investor activity, emerging role of proxy advisers and the persistent media scrutiny.

The impact of these change dimensions has been exponential due to the playing out of one scandal after another. A lot of ire has been directed towards independent directors, some justified, some not. It is important to recognise that independent directors are part of the cast, and there are more actors that play their part. Putting the entire onus on them, without adequate empowerment, protection and support from the ecosystem, will be counterproductive. Having strong independent



directors on a board is a competitive advantage, but if they are focused only on defence and not offence—to use a sports terminology—their edge will get blunted.

Being an effective independent director has essentially become a tightrope walk and, therefore, the critical success factor is the ability to balance well. This balance is of multiple types, some of which are mentioned below:

■ **Balance between governance and management:** A board's primary responsibility is governance, and a typical kneejerk reaction to scandals can be to dig deep and crossing the line into management function. Governing effectively without interfering in management matters may sound elementary, but is a fine line.

■ **Balance between strategic and compliance matters:** An overtly compliance-

focused board, which may be a reflection of liabilities playing out on the minds of directors, is underutilisation of the skills and experience of independent directors. Also, only looking at strategic matters may lead to missing out the obvious non-compliance and related consequences.

■ **Balance between participative and disruptive:** There is no script to get this balance right. However, this is a significant balance to get right. There is a clear difference between being disruptive and speaking one's mind. Similarly, there is a difference between being a team player and being a yes man. Constructive challenging is the key to being effective, and demonstrating independence of mind for an independent director.

■ **Balance between breadth and depth:** The breadth of topics that enter the board-

room is extremely diverse, but the knowledge of independent directors may be deep in certain pockets. Unfortunately, the liabilities of independent directors are uniform regardless of their educational or professional background. Hence, where to use external experts and where to rely on the management is an important balance to strike. Also, how deep to go into what matter is an important judgement call.

■ **Balance between theory and practice:** While this balance is imperative for success in all fields, more so as an independent director as practicalities of business may force sometimes to lean away from textbook approach, but too much leaning away may topple the balance.

■ **Balance between being prepared and being spontaneous:** Being well prepared for every meeting is a hygiene factor, but being too scripted can impair spontaneity in the boardroom. With the range of topics, the moment may just pass to object, raise dissent, ask some tough questions, etc, and hence being instinctive is as important as being prepared.

Independent directors need to strike the right balance in every meeting, on every board, every time, to navigate this maze of regulations, expectations and liabilities that are akin to mines in a minefield. Every scandal teaches lessons, and those should be used to be more assured, confident and independent. This art of balancing is more complicated than the science, and while some of it comes with instinct, a lot of it comes with experience.

