

The mysterious ways of geomagnetism

The geomagnetic field is weakening and often flips orientation. It's unknown what causes flips and how long flips take



QUANTUM LEAP

DEVANGSHU DATTA

One fallout from the United States (US) government shutdown was a delay in updating global navigation systems. Many navigational systems, starting with the humble compass, are anchored to the Magnetic North Pole (MNP).

The MNP shifts and it's necessary to reorient the position of the MNP, every five years or so. The next update was due in 2020. But MNP has shifted so much in the last four years, an emer-

gency update was in progress when the US government shut down.

The Earth is a roughly spherical body, spinning west to east. The geographic North Pole is the northern-most point of the axis on which it spins and the geographic South Pole, the southern-most. Maps use a grid marked with lines circles of longitude and latitude. There are 360 circles of longitude, each joining the geographic North and South Poles, with Greenwich Observatory, the UK as the zero-point. There are 90 circles of latitude running east-west, with the equator as zero-point. Each circle is further sub-divided into minutes and seconds (navigation systems use decimals). Every spot on the Earth's surface has coordinate references. Military applications like the GPS are accurate to a few metres.

There is no easy way to locate the geographic poles. But the Earth has a strong magnetic field. The northern point at which the magnetic field "dips" into the Earth is the MNP (ditto for the Magnetic South Pole or MSP).

Compasses (or loose iron filings in school experiments) point along the axis of the line joining the MNP and MSP. A magnetic needle points towards the MNP, except when it's actually at the MNP, when it will point straight down into the Earth.

The MNP (actually a large area, not a point reference) is therefore, used as an anchor for mapping. If we know where the MNP is, in relation to the geographic north pole, navigational accuracy is possible, using even a simple compass. A compass points to the MNP and, if we know the degree of difference between MNP and North Pole (the "magnetic declination"), we can calculate the location.

The magnetic field is believed to be caused by flows of molten iron, and other metals with magnetic properties, deep inside the Earth. Those flows generate electric currents, which cause the Earth's geomagnetism. But as liquid metal flows, it causes the magnetic poles to wander around.

The MNP's shifts require regular

position updates and the shifts have, for unknown reasons, been accelerating. The MNP is moving at about 55 km per year. It is currently about 10 degrees south of the geographic North Pole, somewhere in the Arctic Ocean. It was in Northern Canada when it was first mapped in the 1830s, and it is now headed towards Siberia, moving north-by north west. It crossed the international dateline in 2017.

The World Magnetic Model (WMM) as it's called, was scheduled for an update on January 15. That update was finally released on February 4, after delays caused by the shutdown. The WMM is maintained by the United States' National Geospatial-Intelligence Agency and the United Kingdom's Defence Geographic Centre.

The WMM is a predictive model. It estimates likely MNP movement across the next five years. It was developed jointly by the US National Geophysical Data Center and the British Geological Survey. The WMM is used by defence forces, and for commercial sea and air navigation, surveying and mapping systems, satellite tracking, commercial GPS services and to help telecom networks derive location data for users. Airport

runways, for example, carry a numeric coordinate reference from the WMM.

GPS bounces signals from three or four satellites off a given spot and exactly locates it by calculating the delays in each signal. So GPS itself doesn't need magnetic data. But it can't tell the direction in which a car, ship, or drone, is heading. That's why WMM references are useful for navigation.

The WMM crunches magnetic observations by mariners, by specialised magnetic-field tracking satellites and by 120 magnetic observatories around the world. A historic record of MNP and MSP movements are maintained in the International Geomagnetic Reference Field. The geomagnetic field is weakening. Ever so often, it flips orientation. Molten metallic rock aligns along the field. A study of geological records suggest many flips have occurred and the last flip was around 780,000-800,000 years ago.

It's unknown what causes flips and how long flips take. The effect on the environment and animals is also unknown. Many animals and birds use geomagnetism to orient themselves. Migratory birds, bats, butterflies use the geomagnetic field and so do dolphins and whales. Going beyond the utility of geolocation and navigation, there are mysteries worth researching here.

CHINESE WHISPERS

History visits Supreme Court



PIC: TWITTER

After the visit of a 'Mughal prince' two days ago, it was the turn of another historical figure to visit the Supreme Court premises on Thursday. A man dressed as Mahatma Gandhi visited the court premises and was seen entering one of the court rooms. While it was unclear which case that gentleman was planning to attend, his presence did turn quite a few heads, thanks to his attire and gait. On Tuesday, a man who claimed to be the sixth generation descendant of the last Mughal emperor Bahadur Shah Zafar, had visited the court during the hearing of Ram Janambhoomi land title dispute case.

Upset commission

Fourteen months after it was formed, the Justice (retired) A Arumughaswamy Commission, which has been probing the death of former Tamil Nadu chief minister Jayalalithaa, is nowhere near completing its task. The reason? No one seems to heed its summons. Former chief minister O Panneerselvam, who demanded a probe into the circumstances leading to Jayalalithaa's death, is finding it difficult to attend its sessions. He missed the Commission's summons for the seventh time on Thursday as he was visiting Delhi in connection with a case related to his party's (All India Anna Dravida Munnetra Kazhagam) symbol. He missed an earlier summons because he was busy forging alliances for the coming Lok Sabha election. Earlier, Apollo Hospitals, where the late chief minister was admitted till her death, had also urged the Commission to defer the appearance of its doctors stating that a related matter was pending with the High Court.

An anthem and a challenge

Here is a challenge for next generation entrepreneurs and innovators. On Thursday, Union Minister Harsh Vardhan said it was up to them to completely abolish the use of single-use plastics by 2022. He said that while launching an anthem as a part of a campaign to make India plastic-free by that year. Prepared and produced by Pandit Deendayal Upadhyaya Smriti Manch, a non-profit organisation that works on various social and environmental issues, the anthem was launched in seven languages — Hindi, Marathi, Gujarati, Tamil, Telugu, Malayalam and Kannada. While launching the anthem, the minister also stressed on the need for plastic waste management and recycling.

Nexus between governance & share value

The day is not far when the announcement of governance scores and movements on ESG indices trigger buy-sell decisions of investors



CYRIL SHROFF & AMITA GUPTA KATRAGADDA

by the perception that a well-functioning governance framework drives better present value through: (a) attracting and retaining better talent; (b) receiving better quality capital for growth; (c) reducing the cost of debt; (d) ensuring better risk management and lower volatility; (e) improving the stability, operational efficiencies and longer-term sustainability of businesses; and (f) yielding reputational value, which will, in turn, translate into better top-line and bottom-line metrics.

The presence of this governance premium is also backed by empirical data. A quantitative analysis of price to book ratios and corporate governance scores by Roberto Newell and Gregory Wilson concluded, "even after allowing for the effect of characteristics such as financial performance (measured by returns on equity) and size on valuations, we found that companies with better corporate governance did have higher price-to-book ratios, indicating that investors will pay a premium for shares in a well-governed company".

In fact, the most recent 2018 study by IFC, Institutional Investor Advisory Services and BSE Ltd, shows that the BSE Sensex companies that were scored in 2016 and 2017 in the "Good" and "Leadership" categories pay on their scorecard have shown a stronger price performance than those in the

CEOs are under constant pressure from internal and external stakeholders to improve share price performance. Typically this expectation translates into the management focusing on top-line growth, bottom-line accretion and other financial metrics such as return on capital and dividend distribution. A close look at the winds of change in investor priorities, however, shows that there is a growing nexus between corporate governance and share value. We believe CEOs and boards can, and must, strategically unlock this "governance premium" as an avenue to drive stock performance.

This assertion is backed by OECD's observation that investors do pay a higher premium for good corporate governance. The premium is justified



ILLUSTRATION BY BINAY SINHA

"Fair" and "Basic" categories over a two-year period, and one-year period, respectively. We anticipate that as more data becomes available over the next few years, there will be a more robust endorsement of this trend. Conversely, companies with seemingly bad corporate governance standards have seen a slow decline or on occurrence of specific "governance issue" lost value immediately.

Driven by these compelling rationales and market evidence, it is hardly a surprise that investors are closely monitoring governance scores. Internationally, companies are being evaluated and rated on their environmental, social and governance (ESG) performance by various third party providers of reports and ratings for instance Bloomberg ESG Data Service; Corporate Knights Global 100; Dow Jones Sustainability Index (DJSI); Institutional Shareholder Services (ISS); and MSCI ESG Research.

Of the \$88 trillion assets under management globally, more than one quarter is now invested bearing in mind ESG principles — a trend that is, and will continue to be, on the rise. Various

jurisdictions including the United Kingdom, Sweden, Australia and Netherlands have mandated investment entities such as pension funds, insurance companies and asset managers to consider ESG factors and also report on the manner in which they are taking ESG factors into account. Leading asset managers such as BlackRock, State Street and Vanguard have also taken a strong and open position on the role of ESG factors in their investment decisions. There are more than 2,000 asset managers globally that are currently signatories to the United Nations Principles for Responsible Investment.

There is also the shift in the changing demography of the "investor". E&Y, in its report Sustainable Investing: *The Millennial Investor* has noted that there is a greater demand for sustainable investments, with such demand being driven by millennials who, when compared to non-millennials, are more likely to invest in companies that use high ESG practices and have specific social or environmental outcomes.

In this changing investment environment, a focused and concerted

effort to adopt and engage with better governance practices that speaks to the "Sustainable Investor" could go far in improving share value by meeting the needs of this fast growing market segment. In addition to ensuring compliance with mandatory regulatory norms, the board and management would do well to strategically consider the voluntary adoption of best practices. In the spirit of "we get what we measure", we would recommend close review of measurable improvements in the areas of wholesome composition of the board, the quality of disclosure, stakeholder engagement, conflict of interest and related party transactions, sustainability (both environmental and social) and business responsibility initiatives, strategy, integrated reporting, risk management, succession planning, transparency in executive compensation and employee welfare.

While currently it is the quarterly financial results that are closely monitored for CEO performance, with the changing investor priorities, we anticipate that the day is not far when the announcement of governance scores and movements on ESG indices trigger buy-sell decisions of investors. This may even be accelerated by the increasing institutional holding in the markets and decreasing holding of traditional Indian promoters. It is time for India Inc to prepare for this game changer.

Shroff is managing partner, Cyril Amarchand Mangaldas; Katragadda is a partner in the firm's disputes, governance and policy practice

INSIGHT

The liberal's dilemma



YOGENDRA YADAV

The Pulwama terror attack and subsequent developments have exposed a gaping hole in our liberal conscience. The lack of a cogent view on national security.

The result is for everyone to see. Any such incident catches us liberals on the wrong foot. We readily condemn any such attack. We ritually, and these days hastily, pay homage to those who are 'martyrs'. And after that, we don't quite know what to say.

We know what is not to be done. Warmongering is obviously no solution. We point out, rightly so, that any knee-jerk reaction would be counterproductive. No doubt, an armed offensive by itself is not an enduring solution. We are quick to point out that the problem is not just external. Outsiders would not be able to do very much if there was no domestic support for the cause that the terrorists espouse. Clearly, it is not just a law and order problem. And, needless to say, targeting of our own citizens, mostly minorities, would only compound the problem.

This is all fine. The question is: What, then, is to be done?

Our answer is usually placed in a time horizon called "the last instance". We say, again rightly so, that in the last instance, Kashmir is a political problem that can only have a political solution. In the last instance, you have to address the deep alienation affecting the population in the Valley. And this is not possible without demilitarisa-

tion of Jammu and Kashmir and beginning of a genuine democratic process. We have all the good answers, in the last instance.

But, what about this instance? What about all the instances before the last one? The trouble is that most of us live most of our lives in those in-between instances. And this liberal response does not equip us to deal with real life questions that we face.

Let me clarify. By "liberals", I do not mean only those who believe in a doctrine called Liberalism, as opposed to Socialism or Communitarianism. I use it in a more generic sense to mean all those, the present author included, who share the vision of a constitutional order that guarantees basic liberties, human rights, rule of law, institutional autonomy and procedural norms. Those who share this belief may hold left or right economic visions. They may have different political preferences. But they are united by their opposition to creeping authoritarianism, a majoritarian culture that sanctions lynching and a growing xenophobia and by their desire for a more plural and tolerant India.

We liberals, honourable exceptions apart, do not think through our position on national security. Take the Pulwama attack, for instance. A terror group operating from across the border owned up the act. The Jaish-e-Mohammed (JEM) has a free run in Pakistan and is known to play to the tune of Pakistan's "deep state", the army's GHQ and the ISI.

How should we respond to it, here and now? To this, we have no cogent answer. Not to put too fine a point on it: When it comes to national security, we live in denial.

This denial comes from two sources. One, our post-Independence liberal elite feels awkward about nationalism.



Like the European elite, we have started associating nationalism with negativity, jingoism and ethnic supremacists. In doing so, we have cut ourselves off from the rich and inclusive legacy of Indian nationalism. We want to live in a modern nation-state without caring for our nationhood.

Two, we all partake in civilised hypocrisy: in liberal circles, it is not politically correct to discuss unpleasant matters like defence. At the butcher's shop, we politely look away after ordering minced meat. We all wish to be protected. We want better policing, better law and order, and more secure borders. But we don't want to discuss security.

This denial results in political schizophrenia or a perverse division of political labour: The Bharatiya Janata Party-led (BJP) government is in charge of the security of our borders, while we take charge of human rights. The flip side of this division of labour is that right-wing hawks, if not amateurish TV studio gladiators, have captured popular imagination on national security. Over the years, the BJP has captured this issue despite its poor record during Kandahar or the worsening of national security situation during the Narendra Modi regime.

No wonder, at a moment like Pulwama, the liberals are on the defensive. Their condemnation of terror attack and condolences to the victims appear suspect. Their suggestions

seem woolly or beside the point. In the wild world of political rhetoric, it opens them to false but powerful allegations of being unpatriotic.

This can be the starting point of making amends for this deep rooted error. There is no shortage of sensible and knowledgeable defence experts in the country, including those who have served in the armed forces and those with liberal disposition. Some of the sanest advice and analysis over the last fortnight has come from those who have themselves donned the uniform. But their view does not become our common sense, as it is not integrated into a liberal vision.

Let our response to Pulwama be the starting point of a fuller and serious engagement with a national security doctrine. While everyone talks about Pakistan, we need to think hard about the more serious long-term security challenges — especially from China. The size and resources of our armed forces need to be aligned with the requirement of India's security challenges in the 21st century. And we need to refurbish the entire security apparatus to respond to the internal security challenges in a professional and humane manner. That can provide us with the space not just to respond to terror attacks like Pulwama but also to resolve the Kashmir issue and Maoist insurgency within a democratic frame.

By special arrangement with ThePrint

The author is the National President of Swaraj India

LETTERS

Optimise returns

This refers to the editorial "Beyond PCA" (February 28). The phased infusion of fresh capital during 2017-18 and 2018-19 by the central government enabled six public sector banks to come out of the prompt corrective action (PCA) framework of the Reserve Bank of India. Notwithstanding the lifting of restrictions on lending activities of those banks, they need to be selective while deploying funds to curtail various risks, ensure quality of assets and optimise returns.

Owing to capital infusion, the banks will resort to increased provisioning and accordingly, the level of net non-performing assets will go down. As a result, the lending capacity will decline. To restore and augment the capacity to lend, these banks will need to focus on the resolution and recovery of bad assets, besides the return on assets. Maintaining the quality of assets until repayment to prevent any addition to the bad loans is crucial to improve returns and curtail the cost of credit.

With growing competition in resource mobilisation, the interest rates on deposits are becoming more competitive and costly, resulting in a rise in the cost of funds. The lenders that came out of the PCA must concentrate on mobilising current and savings deposits to supplement the margins. Cutting operational costs, preventing loss on frauds, and plugging the leakage of revenue must become a serious concern to the entire human capital of the banks. The business like attitude and approach by the board of the banks will pave the way for bringing in professionalism and better governance. Instead of

relying on the central government for additional capital, lenders must raise capital from the market.

VSK Pillai Kottayam

Shift focus

Pakistan must focus on investing in quality education for all, production of goods, innovative and profitable agriculture, industries, renewable clean fuel (solar and hydrogen energy), and on stopping plastic usage. Above all, it should nullify terrorist activities and the arms buying race urgently.

Elsewhere, people are uniting and working on the development of their countries peacefully. Koreans are sending united teams to international competitions. Take China's Belt and Road Initiative across land and maritime route, think of the two Germanys uniting to break the wall.

In every country the common man wants to simply go about his business. While this presumably is the case in Pakistan also, it does not prevent the country from indulging in destructive activities. But all that is a waste of money and results in the loss of precious lives of soldiers, innocent citizens and even assets on both sides of the border.

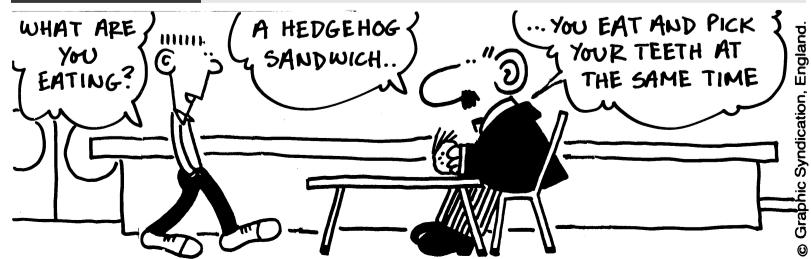
Who can solve problems between two nations arising from man-made issues?

PVM Rao Manuenderabad

Letters can be mailed, faxed or e-mailed to: The Editor, Business Standard, Nehru House, 4 Bahadur Shah Zafar Marg, New Delhi 110 002. Fax: (011) 23720201 • E-mail: letters@bsmail.in

All letters must have a postal address and telephone number

HAMBONE



© Graphic Syndication, England

Lower than expected

Disappointing GDP print buries some good news as well

The Union Ministry of Statistics and Programme Implementation on Thursday released the Second Advance Estimates of gross domestic product (GDP) for the ongoing fiscal year of 2018-19, which incorporate the quarterly estimates for the third quarter of the financial year, namely the quarter between October and December 2018. These figures came as a negative surprise, and the estimate for GDP growth in 2018-19 had to be decreased from the previous 7.2 per cent to 7 per cent for the full year. GDP growth was clearly decelerating over the course of the financial year. The third quarter saw growth of only 6.6 per cent. To be sure, India still grew faster than China in the third quarter (that country grew by 6.4 per cent in the December quarter), but that is a small consolation.

The second quarter, between July and September 2018, had seen growth at 7 per cent, and the first quarter of the year, between April and June, had clocked in 8 per cent GDP growth. This is, as is evident, quite a sharp deceleration. What should be particularly worrying is that agriculture after solid growth of 5 per cent in 2017-18 might grow at only 2.7 per cent — in terms of gross value added in basic prices — over the ongoing fiscal year. This, together with the wholesale price deflator of -0.8 per cent for food items, is a clear reflection of possible agricultural distress that requires focused attention from the government.

It appears likely that one of the main reasons for the slower growth might well be a reduction in the pace of government expenditure over the year. A key indicator, namely Union government revenue expenditure (net of interest payments and subsidies) grew by 9.2 per cent over the period between April and December 2018, as compared to a growth of 16.7 per cent in the equivalent period one year previously. Gross value added at basic prices for the government sector is estimated to grow at 8.5 per cent over the current financial year as opposed to almost 12 per cent growth in the previous financial year. This suggests that much of the previous growth was pushed up by high government expenditure and now the fiscal mathematics makes this growth model unsustainable.

However, there is also some good news suggesting that a more normal and sustainable private investment-led growth path might be returning. Gross Fixed Capital Formation, or GFCF, at current and constant prices are estimated to be 28.9 per cent and 32.3 per cent of GDP, respectively, during the current financial year. This is up from the corresponding rates in the previous year, 2017-18, of 28.6 per cent and 31.4 per cent. The rates of GFCF are also up in the third quarter of 2018-19 as compared to the previous quarter of the year. It is also worth noting that the manufacturing sector is due to grow — measured in terms of gross value added at basic prices — at over 8 per cent over 2018-19, as compared to under 6 per cent in the previous year. If accurate, this should eventually be reflected in healthy earnings for the private corporate sector, which comprises more than three-fourths of manufacturing output.

Needless controversy

India has not attempted to violate the Indus Water Treaty

Water resources minister Nitin Gadkari's statement on stopping India's share of water from going to Pakistan has got blown out of proportion to create a pointless controversy over the Indus Water Treaty (IWT). Though the minister's remarks are unambiguous, it has been clarified through the subsequent official statements that the reference was to the unutilised water of the rivers Satluj, Beas and Ravi that belongs to India and is flowing to Pakistan. This water is now proposed to be gainfully used within the country. Any misinterpretation to project it as a threat of punitive action against Pakistan in the wake of the recent dastardly terror attack on the Indian armed forces' convoy in Pulwama in Jammu and Kashmir is wholly uncalled for. In fact, an indication of this move had come soon after the Uri attack in 2016 when Prime Minister Narendra Modi had said, "Blood and water cannot flow together".

What needs to be realised is that the IWT, brokered by the World Bank and signed in 1960, is one of the world's most successful international water accords that has withstood the test of time and even three full-fledged wars between the two neighbours. India, behaving as a responsible upper riparian, has seldom threatened to abrogate the treaty or curtail Pakistan's share of the water. This is despite the fact that the Jammu and Kashmir Assembly passed unanimous resolutions twice, in 2003 and 2016, seeking revocation or revision of the IWT to safeguard the state's interests.

Indeed, the noteworthy point is that the IWT is principally flawed as it divides the rivers between the two countries rather than apportioning their water to them. The three east-flowing rivers — Beas, Ravi and Satluj — having a mean water flow of 33 million acre-feet (MAF) have been allotted to India while the remaining three west-flowing rivers — Indus, Chenab and Jhelum — with a much larger water flow of 80 MAF have been given to Pakistan. India has, no doubt, been allowed a limited use of the western rivers, but this is mostly for non-consumptive purposes. To make it worse, such use has been subjected to strict regulations, thus, providing Pakistan enough leverage to impede implementation of water projects by raising objections and calling for adjudication. It has made full use of it to inordinately delay projects such as Tulbul, Baglihar, Ratle, Kishanganga and others, most of which involved only the non-consumptive use of the waters of western rivers.

Unfortunately, India has also failed to create adequate infrastructure to fully tap the water of the rivers over which it has been granted unrestricted control. Consequently, nearly 5 per cent of India's water, including about 2 MAF of water from the Ravi, continues to drift across the border. It is only now that India has launched three projects — the Shahpurkandi dam on the Ravi, the second Ravi-Beas link in Punjab, and the Ujh dam on the river Ujh in Jammu and Kashmir — to harness this water. Apart from generating power and additional irrigation potential, these projects will augment water availability in several states, including Jammu and Kashmir, Punjab, Haryana, Uttar Pradesh, Rajasthan and Delhi. Considering the potential gains from this move, the work on these projects needs to be speeded up. Equally important is to amicably resolve some of the lingering inter-state water-sharing disputes that are hindering progress on this front.

ILLUSTRATION: BINAY SINHA



Pakistan's dangerous blind spot

Its tolerance and encouragement of jihad have harmed it more than a thousand Indian raids could ever have

On December 11, 2008, two weeks after the attacks in Mumbai, Pakistan's Dawn newspaper (founded by Jinnah) reported this: "During the course of Dawn's own investigations last week our reporters were able to locate a family who claimed to be the kin of the arrested young man in Mumbai. The sole survivor among the 10 attackers was named as Ajmal Kasab and... a man who said he was Amir Kasab confirmed to Dawn that the young man whose face had been beamed over the media was his son."

"I was in denial for the first couple of days, saying to myself it could not have been my son," he told Dawn in the courtyard of his house in Faridkot, a village of about 2,500 people just a few kilometres from Deepalpur on the way to Kasur. "Now I have accepted it. This is the truth. I have seen the picture in the newspaper. This is my son Ajmal."

The thing to notice here is the dates. The report was published 15 days after the attack and at least one week after the newspaper itself had verified the identity (December 11 was a Thursday). Why was the information held back? The answer to that has two elements.

The Indian media is thought to march in lockstep with its government when it comes to national security and particularly when it comes to Pakistan

and China. To a large extent this is true. Also true is the fact that Pakistan's media, which is often braver and more honest than ours, is compromised on the matter of jihadi groups. This is out of fear of their country's military. Even reporters we would consider to be right wing, like Hamid Mir of Geo TV, have been shot for their work (Mir survived the attempt). Others, like Syed Saleem Shahzad, who reported on details of the Mumbai attackers' training, have been tortured and killed.

So fear is one reason why such things are not reported or, as in the case of Dawn, reported late and after much hesitation. There is another reason why the Pakistani media has not done as much work as it should have on the jihadi groups inside the country. And that has to do with its denial of the damage that the jihad project has done internally to Pakistan.



AAKAR PATEL

An Al Jazeera report (filed by a brave Pakistani reporter) confirms that the structure attacked in Balakot was linked to Jaish-e-Mohammed. The board outside the place carries the names of Jaish chief Masood Azhar and his brother Yousuf. The report suggests that while access to the structure is restricted by Pakistan's military, it appears that the damage done was peripheral. However, what

has enraged Pakistan is not the fact that India's raid killed several Pakistanis, but the fact that the intrusion by our military represented a loss of their sovereignty. There are two aspects of this loss to sovereignty. The first is the one that the Pakistani state and most of its media are focused on. That is the loss of sovereignty to an external, whether the US Navy Seals in the case of the raid in Abbottabad or the Indian Air Force's jets. In a warrior society, this physical intrusion into your space results in a loss of honour and must be corrected.

The events of Wednesday in and around Jammu and Kashmir, which one must accept were not expected in any way by either the Indian government or the media, were precipitated by this desire to avenge the loss of sovereignty. Pakistan felt compelled to act even though India had specified it sought no escalation and even though it was obvious that Pakistan's actions would lead to escalation.

The second loss of sovereignty is the more serious one and that is the loss of internal sovereignty. Pakistan's acceptance of covert jihad as a weapon first against the Russians in Afghanistan and then in Kashmir has brutalised their own country internally.

Indians may not know that jihad emanating from Pakistan has killed more people in Pakistan than it has in India. Violence peaked in Kashmir in 2002 when 4,507 people died (violence has fallen 90 per cent since then). But in Pakistan as recently as 2014, terrorism claimed 5,519 lives.

Jihad has damaged Pakistan so much that it will soon fall behind even Bangladesh, which was once seen as a "basket case".

The hard Islamising of Sunni groups like the Jaish and its predecessor the Harkat-ul-Mujahideen has produced an army of volunteers for anti-Shia activity inside Pakistan itself. Ordinary clerics can not only capture land in Islamabad but defend it militarily against the Pakistan army (as happened in the case of the Lal Masjid episode) when they try to clear it.

So entrenched is jihad in Pakistan that the leader who tries to reverse course is himself attacked. Jaish-e-Mohammed organised two suicide bombings against president Pervez Musharraf, when he tried to ban the group.

Lashkar-e-Taiba is so widespread and powerful today that moderate Pakistanis fear it can no longer be touched, even though its damage to Pakistani interests outweighs any leverage it can give to the military.

Pakistan has suffered four intrusions into its territory — two by the American and coalition forces from the West, and now two from India. It has responded to the last one, and we do not know for now what the long term implications of our raid will be.

However, the pain that Pakistan has inflicted upon itself through the state's tolerance and encouragement of jihad and the media's ignoring of it has harmed it more than a thousand Indian raids could ever have done.

Imperfect ruling on constitutionality of IBC

On January 25, 2019, the Supreme Court upheld the constitutionality of the Insolvency and Bankruptcy Code, 2016 (Code henceforth), in its entirety. The scheme of the Code, as a whole, was challenged on the ground that it violated Article 14 of the Constitution. The main argument was that the Code unfairly discriminated between operational and financial creditors. While the court's judgment brings respite to the financial sector, we argue that the judgment is partly inconsistent with the legislative intent underlying the Code, and may end up diluting the Code's effectiveness.

First, the judgment repeatedly emphasises that the objective of the law is reorganisation of the debtor, and that liquidation is a "last resort". For instance, relying on the preamble of the Code and its own judgment in the case of ArcelorMittal, the Court observed that the "primary focus of the legislation is to ensure revival and continuation of the corporate debtor by protecting the corporate debtor from its own management and from a corporate death by liquidation".

A plain reading of the preamble suggests that the Code is agnostic to the outcome of any given case. The Code does not prioritise resolution over liquidation. On the contrary, the law provides for automatic liquidation if no resolution is agreed upon, at the first instance, by the committee of creditors. The report of the Bankruptcy Law Reforms Committee (BLRC), which serves as the foundation for the rationale and design of the Code, is similarly outcome agnostic.

The repeated insistence on liquidation as a "last resort" reinforces the notion that liquidation is a bad outcome. This is inconsistent with the fundamental economic theory that capitalism requires easy exit, and that unsustainable firms must be allowed to die so that resources can be reallocated to more productive activity in the economy. A philosophy that liquidation must be avoided regresses the Indian legal framework to the days when sick firms were sought to be mandatorily rehabilitated.

A conscious endeavour to avoid liquidation at all costs, has practical implications. It encourages the judiciary to defer an outcome until a resolution is achieved. Active judicial intervention to revive a firm which is commercially resolved to be liquidated will

adversely affect the timeliness of an insolvency process. Symptoms of this are evident. Most of the 12 large cases that were referred by the Reserve Bank of India in 2017 for resolution have been under the insolvency resolution process for more than 500 days. Even the smaller ones are taking an average time of more than 350 days to reach an outcome.

Second, for an Article 14 challenge to survive, it must be shown that the law unintelligibly discriminates between equals, and that such discrimination has no relation to the objectives sought to be achieved by the law. The main ground of challenge to the Code was that there was no intelligible difference between operational and financial creditors. This is a relevant distinction as operational creditors do not have a vote on the choice between reorganisation and liquidation of the debtor.

The court identified four main differences between operational and financial creditors. First, while financial creditors are secured, operational creditors are unsecured. This is largely true of the Indian debt market, as it currently stands. However, conceptually and in developed debt markets, financial creditors can be equally unsecured. For example, bond holders are often unsecured. In fact, the avowed purpose of the Code is to encourage lending to entrepreneurs who may not have assets to secure the borrowing. If the Code has its desired effects, we should see an increase in unsecured lending to firms. Over time, therefore, this distinction will be redundant.

Second, the court upheld the distinction on the basis that financial creditors are likely to be fewer by volume and value, compared to operational creditors. This is also not true, especially in the case of small and medium enterprises, whose largest creditor may be a supplier or vendor. Similarly, operational creditors may, as a group, be the largest creditors in value of a firm.

Finally, the court reasoned that financial creditors are more sophisticated, relative to operational creditors, and are involved in assessing the viability of the firm from the very beginning. The court then sought to draw a nexus between this distinction and the object sought to be achieved by the Code, as under: "...preserving the corporate debtor as a going concern, while ensuring maximum recovery for all

creditors being the objective of the Code, financial creditors are clearly different from operational creditors and therefore, there is obviously an intelligible differentia between the two..."

It is unclear why financial creditors are perceived to be more likely to "preserve the corporate debtor as a going concern, while ensuring maximum recovery for all creditors". Intuitively, employees and vendors are more adversely affected by the firm's liquidation as they lose a source of employment and an operational revenue source. For this reason, such operational creditors are more incentivised to keep the firm as a going concern, relative to financial creditors for whom the debtor's liquidation is a one-time write-off in their lending portfolio.

The reasoning of the court on the distinction between operational and financial creditors is weak and the judgment warranted a closer and more substantive nexus between the classification scheme of operational and financial creditors and the objective of the Code.

Third, the court took cognisance of the argument that the functioning of the NCLT with the administrative support of the Ministry of Corporate Affairs, and not the Ministry of Law and Justice (MLJ), would be inconsistent with its own earlier judgments. This is underpinned by the rationale that statutory tribunals, which perform quasi-judicial functions, must be independent of the executive wing in charge of implementing the law. This rationale is directly applicable to revenue tribunals as in such tribunals the litigant is contesting the claims of the revenue department. Arguably, it is less of a concern for tribunals that merely adjudicate disputes between private parties.

The reality is that several statutory tribunals continue to function with the administrative support of their respective nodal ministries. For example, the TDSAT continues to function with the administrative support of the Department of Telecommunications, and the labour courts with that of the Ministry of Labour and Employment. If the MLJ is now to administratively support these tribunals, capacity-building at the MLJ will be imperative.

To conclude, while the judgment offers greater stability to India's legal insolvency regime, it is an unsettling precedent both in terms of ideological outlook and implementation of the law.

The writers are researchers at the Finance Research Group, IGIDR

The road to world power



BOOK REVIEW

SHYAM SARAN

Bruno Macaes is a former Portuguese Minister for Europe and has authored a well-received book, *The Dawn of Eurasia*, which explored the re-emergence of Eurasia as the likely centre of gravity of a new international order. It focused on China as the key factor in this transition and its Belt and Road Initiative (BRI) as an instrumentality in reshaping the emerging order. Mr Macaes' latest book, *Belt and Road*, takes the story forward. It narrates in sharp relief the breath-taking ambition of the BRI, its domestic and external dimen-

sions, the manner in which China has integrated political, economic, financial and technological assets in driving a project of unprecedented scale and complexity.

The first two chapters, *What is the Belt and Road* and *Nuts and Bolts*, respectively, offer a comprehensive picture of how the worldwide project is unfolding. The next two chapters, which relate the project to the world economy and to current international relations, set the stage for the final chapter on *The World After the Belt and Road*. There are a number of valuable insights in these chapters.

One, BRI represents Chinese conviction that sustaining its march towards centrality in the global system and advanced economy status requires that it should become a rule-maker and standard-setter for the global economy. The current controversy over whether Huawei, the Chinese telecom giant, should be the supplier of choice for the 5-G network across the world

is a case in point. The internationalisation of the Chinese yuan and the creation of a China-based petro-yuan market, leveraging China's dominance of the global and oil trade respectively, point in the same direction. China is using the BRI to impose its own standards and benchmarks in participating countries.

Two, recognising that the global economy is currently structured around global value chains, which are dominated by Western commercial entities, China seeks to use the BRI to create value chains that are led by its own state-owned enterprises or private companies. The importance of this is highlighted by the fact that the US-China trade war is already leading Western companies to relocate key parts of the China-centred value chains to other countries. This exposes China's vulnerability. Through BRI, China is attempting to create, through the more than 120 participating countries, value chains stretching

through them but directed from Beijing.

Three, these value chains will be underpinned by the modern physical and digital infrastructure that is being put in place, as trans-national highways, high-speed railways, fibre optic and under-sea cables, oil and gas pipelines and modern ports. This is the visible and often awe-inspiring component of BRI. These transport corridors are the base for broader economic corridors leveraging local resources, manpower and even cultural resources. This is the vision that underlies the China-Pakistan Economic Corridor. Central Asia and Eastern and Southern Europe are being reshaped most dramatically by BRI and this is the reason the author believes that Eurasia will emerge as the geopolitical cockpit of the future global order eroding the centrality of the Western-dominated trans-Atlantic.

Four, the BRI manifests and incorporates the power of ideas. Its very scale of ambition has captured the imagination of a global audience and it has also become the vehicle for spreading a Chinese value system and ideology across the world. This

explains why at the 19th Party Congress, Xi Jinping held up China's growth model as an example for developing countries. The BRI was put forward as an expression of China's belief in a future "community of shared destiny", a world of interdependence and collaboration, leading to the catch-phrase, "win-win outcomes". This harks back to the old Chinese notion of "Tianxia" or "All Under Heaven", linked together in collective harmony. Left unsaid is the underlying belief that harmony is inseparable from notions of hierarchy, of there being a leader who is able to impose order by rewarding those who conform and punishing those who don't.

Based on these insights, Mr Macaes then analyses four scenarios for the world order in the making, but in effect there are only two: That China becomes a central player but accepts the existing liberal world order as the template through which it seeks enhanced global influence and power; or that it remakes the global order in its own image, altering the very structure and values of the world system. The nature and scope of BRI leaves us in no doubt that

China is committed to the latter vision.

Mr Macaes has a Preface in the Indian edition looking at India's options vis-à-vis BRI. He finds India's response to BRI critical but also apprehensive that its success may push India to the margins of the emerging world order. This is true, but BRI is a long-term project and not assured of success. The US-China trade war has exposed the several serious vulnerabilities in China's economy. Its grand economic vision is contradicted by its political brittleness and the deep insecurity of its leadership. There are countervailing forces that contest whatever plans China may have for re-ordering the world system. There is no need for India to throw in the towel just yet.

The reviewer is a former Foreign Secretary and is currently Senior Fellow, CPR

BELT AND ROAD: A Chinese World Order
Bruno Macaes
Penguin, ₹599, 208 pages