

Missing in the manifestos

Litigant distress is forgotten among the cascade of election promises



OUT OF COURT

M J ANTONY

This is the time when political parties knock up manifestos. Some of them have taken down their old ones from their websites lest inquisitive persons try to check the implementation score. Parties have also made bonfires out of 2014 manifestos of their rivals in New Delhi to highlight the unfulfilled promises.

Few would remember any manifesto that seriously dealt with the crisis in judiciary persisting for decades. So no promises have been broken. There is no vote bank here, and the litigants' distress is not on par with that of farmers or jobless youth. Several chief justices had warned the government that the legal edifice is collapsing. One of them said so before Prime Minister Narendra Modi at a public function and was seen wiping his eyes. Judges have speculated the time it would take to clear the 30 million arrears of cases, and the guestimates run up to one or two centuries. More education, rise in awareness of rights among the people and the neglect of this sector by successive governments will bring the apocalypse closer.

Though it is well known that budgets allocate a measly 0.2 per cent for judiciary, no election manifesto has

touched on the lack of infrastructure of courts. A report to the Supreme Court last month showed that the central grant to state judicial infrastructure reduced by half in recent years. A bench presided over by Chief Justice Ranjan Gogoi stated in court that a visit to some subordinate courts revealed that their condition was unimaginably pathetic for years. "Court rooms are dilapidated, judicial officers work in court rooms partitioned by curtains. They are expected to write judgments expeditiously," the judges remarked. It is reported that 140 cases were pending in subordinate courts for more than 60 years.

The situation at the apex level is no better. Digging into the archives of the Supreme Court one would realise the enormity of the crisis. There are more than 260 Constitution matters that have been referred to benches of five judges. Some of them were ripe for

hearing in 1992. The questions are extremely complex, like the right to property after the constitutional amendments during the 1975 Emergency. Then there are 11 matters referred to benches of seven judges. They also belong to the same old vintage and involve intricate topics like the privilege of legislature versus freedom of the media. Then there are 132 cases waiting to be heard by nine-judge benches. If those gnawing issues are to be heard by Constitution benches, the rest of some 60,000 cases in the Supreme Court would be further delayed. Many old civil appeals have titles in which the name of the petitioner or respondent is followed by (D), which means they have passed away bequeathing the files to their legal representatives. The situation in the high courts is even worse.

It would seem that politicians want the judiciary to remain the way it is. It was found recently that cases of lawmakers had gone on for three decades though the Supreme Court had ordered they should be concluded within one year. In cases involving ordinary citizens some of them have

exceeded four decades. As a result, jails are overcrowded; some of them accommodating more than double their capacity. Two out of three prisoners are waiting for their trial to conclude. Many of them have spent more time in detention than the maximum prescribed punishment for their offence. Reports to the Supreme Court showed that 4.3 lakh inmates shared rooms built for 3.8 lakh. This is in contrast to the plush suite allegedly provided to a politician in a Karnataka jail or a cell in Mumbai "redecorated", in the words of a London magistrate, waiting for a fugitive tycoon.

These grim statistics crave the attention of the architects of manifestos. Linked to them is the nagging tussle between the government and the collegium that selects judges. However, the litigants' anguish finds no mention in the cascade of promises showered on the economic, religious and communal sectors. The harvest is high there. It is not that the voters take election promises at their face value. But even a few words of reassurance are missing for those litigants who listlessly trudge the gloomy court buildings.

The great Indian fuel retail bonanza

Global majors are bullish on fuel retailing, but recent mega-expansions by state-owned oil majors will crowd the field

SHINE JACOB

In December 2018, Udaipur, the city of lakes, was the centre of attention as the pre-wedding festivities of Mukesh Ambani's daughter, Isha, got underway. But for those in the oil industry the lavishness of the celebrations hosted by India's richest man was of incidental interest. On the sidelines, Saudi oil minister Khalid al-Falih met Ambani, sparking speculation about a tie-up between the world's largest oil producer, Saudi Aramco, and Reliance Industries (RIL) — including for a retailing partnership. Later, al-Falih clarified that the discussions centred on tie-ups for a refinery and for petrochemicals.

Still, Saudi Aramco's interest in oil retailing is an open secret. And it is not the only major that has an eye on this fast-growing sector. French energy major Total SA has tied up with Gautam Adani-led Adani Group and the duo is set to open 1,500 outlets to supply compressed natural gas (CNG). UAE's national oil company Abu Dhabi National Oil Company (Adnoc), too, had expressed interest in tapping the Indian market, while BP plc holds a licence to set up 3,500 fuel retail outlets, which it acquired in October 2016. On the other hand, Russia's Rosneft has marked its presence through the acquisition of Essar Oil and its aggressive expansion in the Indian retail market through Nayara Energy.

Why are global majors queuing up for the Indian oil retail market? The answer lies in the prospects: Nowhere in the world has petrol sales increased 153 per cent and diesel by 70 per cent

in the past 10 years. Plus, the opening up of city gas distribution networks has stoked the interest of players like Total. Petroleum minister Dharmendra Pradhan's recent prediction would have added to this enthusiasm. He said diesel and petrol consumption in India could rise to 150 billion litres and 50 billion litres a year respectively by 2030, from 90 billion litres and 30 billion litres now.

Which is why when the three state-owned oil marketing companies (OMCs) — Indian Oil Corporation (IOC), Bharat Petroleum Corporation (BPCL) and Hindustan Petroleum Corporation (HPCL) — invited bids to set up retail outlets at 78,493 sites recently, it raised eyebrows. "Increasing the number of outlets by government companies that already have a monopoly may not serve the business interests of private players like Reliance Industries, Nayara Energy (former Essar oil) and Shell. They were starting to regain their lost market share and again the OMCs are strengthening their footprint," said a senior official from a private sector retail company.

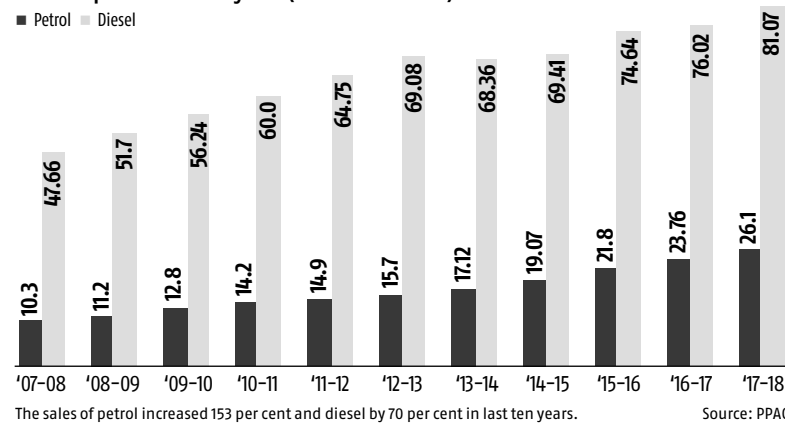
The country has 64,214 outlets currently. With 95 per cent of the new areas on offer attracting bids from 400,000 applicants, the number of outlets owned by the OMCs will more than double in the next two to three years. Days before the election code of conduct

came into force on February 21, the government allotted letters of intent (LoIs) to successful bidders for 2,579 locations. In addition to this, the OMCs have already written a letter to the petroleum ministry to get Election Commission approval to allot LoIs for another 31,800 sites for which winners

FUELLING OPPORTUNITY



Consumption in last 10 years (in million tonne)



have been finalised.

According to the Petroleum Planning and Analysis Cell, OMCs own almost 90 per cent of the retail outlets (see chart). Among private sector majors, Nayara, RIL, and Shell account for most of the remaining share. Apart from massive expansion plans, such as adding 2,000-3,000 outlets by Nayara and reported talks between BP and RIL to set up as many as 2,000 petrol pumps, the private players will be dwarfed by state-owned players once

Fuel retail outlets in India

Indian Oil	27,510
Hindustan Petroleum	15,402
Bharat Petroleum	14,689
Nayara Energy	5,063
Reliance Industries	1,400
Shell	144
Others	6

the new outlets come on stream.

This state-led expansion is symptomatic of the policy uncertainty that has characterised the Indian oil retailing business. RIL, Essar Oil Ltd and Shell had their first entry in the business in April 2002 after the administered price mechanism was scrapped, and fuel markets were opened to private sector. By 2005-06, the private players had built up a respectable market share of 17 per cent. The price controls were re-estab-

lished in 2006 when global crude rates rose sharply, so much so that their market share fell below 1 per cent by 2009-10. With the OMCs being heavily compensated by the government for selling fuel below cost, private players struggled to compete.

Now that the market-driven price regime has been restored, the assurance of a permanent level playing field remains paramount. Many of the private players, however, see hope in plans doing the rounds in government circles about changing retail landscape. Innovative marketing models, such as selling fuel through hypermarkets (as is done in UK and France), is one such. A committee led by economist Kirit Parikh, set up in October 2018, is considering options to ease entry rules for private players, including proposals such as this one. Currently, to enter the retail segment, companies must have a basic infrastructure investment of about ₹2,000 crore in the domestic market or provide bank guarantees of an equivalent amount. The Parikh panel may also be looking at restructuring of these norms too.

According to a media report, major oil marketing companies in the UK have suffered after supermarket promotions started luring more vehicle owners to Tesco, Sainsbury, Asda and Morrison forecourts. Supermarkets accounted for 45.52 per cent of total fuel sales last year in the UK. Experts too are upbeat about this potential in Indian market. "If you look at global trends, we are seeing that non-fuel is becoming a greater source of value than fuel. With more private participation, India will also be opening up for that," said Anirban Mukherjee, partner and director, Boston Consulting Group.

Ironically, though, it remains advantage OMCs in India's fuel retail market.

TAKE TWO

INSIGHT

Accident by design?



VIJAY VERGHESE

In 1959, a French passenger plane took the aviation world by storm with its sleek design and rear-mounted twin engines. Passengers flocked to enjoy the novel Caravelle jet service as airlines raced to place orders, abandoning the crash-plagued de Havilland Comet, which had ushered in the passenger jet era in 1952. With the BAC One-Eleven already in the air and the McDonnell Douglas DC-9 inexorably grinding through its design phase, Boeing had decided by 1960 that it urgently needed a short-haul "feeder" jet to complement its mid-range Boeing 707-120. That's when the B-737 idea sprang to life.

While late to the party with its initial order placed in 1965 and first flight in 1967, the single aisle B-737 has gone on to become the most successful aircraft model in history, on par with the legendary twin-prop workhorse, the Dakota DC-3, and the B-747 jumbo.

The B-737 has racked up a phenomenal 10,000 deliveries — and 4,600 more in its groaning order book, prompting the company to ramp up production to 52 aircraft a month. Yet by mid-March 2019, the B737 MAX fleet had been grounded worldwide. The fast unfolding script was unusual in that industry safe-

ty bellwether the Federal Aviation Administration (FAA) was the last to act as Boeing lobbied feverishly to keep its planes in the air. As countries from Canada to China grounded their fleets, US President Donald Trump stepped in to deliver the coup de grâce.

The Ethiopian Airlines flight that plunged from the skies on March 10 killing all 157 on board eerily mirrored the October 29, 2018 Lion Air Java Sea crash. It set alarm bells ringing around the world. Confronted by a second fatal incident involving a B737 MAX 8 and riled at Boeing's suggestion that poor maintenance or pilot error might have played a crucial role, Lion Air moved to reconsider its \$22 billion 200-aircraft order. Garuda, the Indonesian national carrier, may follow suit.

Has technological wizardry got in the way of human skill and judgement? The MAX-8 is an impressive plane but, as with its predecessors on the 737 line, it has niggles. Sporting larger repositioned engines (altering the weight balance) and a naturally high angle of attack, low-power performance stuttered with a tendency to stall at slower speeds. Boeing's fix was to install a new MCAS (manoeuvring characteristics augmentation system) designed to bring an aircraft's nose down to increase speed and augment lift in low-speed situations. During the flaps-out take-off phase as the ill-fated planes banked sharply before gaining speed the MCAS would have been triggered.

The MCAS is a major new addition to the 737. Incredibly, it was not highlighted to pilots who, even after the Lion

Air incident, were unaware of this feature or why it had been introduced despite a belated bulletin from Boeing.

In the early 1990s, two mysterious crashes in America involving a United B737-200 and a US Air B737-300 had aviation circles stumped until investigators traced it to a faulty valve that caused a rudder malfunction. Three other crashes — China Southern in 1992, a Sahara Airlines training flight in 1994 and a SilkAir flight over Indonesia in 1997 — followed in similar fashion. In each case the results were either inconclusive or cited pilot error or "intent" (as in the case of SilkAir). The Singapore carrier's insurer took the matter to court in Los Angeles and Boeing eventually retracted its "pilot suicide" claim, arriving at an out-of-court settlement.

What has emerged over the years is a pattern of obfuscation by Boeing; its consistent deflection of media discussion to pilot incompetence or poor maintenance; intense political lobbying by the manufacturer (a major player in US military contracts); and a dangerously cosy relationship with the FAA.

The *Washington Post* reports that in October 2017 Brazilian airline regulators checking the new B737 MAX-8 concluded they needed "over 60 operational changes" including having pilots familiarise themselves with the MCAS with additional supervised flight hours. At about this time, the FAA published its MAX-8 pilot training guidelines where "it did not once mention the anti-stall system".

This egregious lapse is easier to comprehend when one looks at the manner in which the FAA manages its certification procedure. Strapped for funds and lacking manpower as its remit grew dra-

matically following the September 11, 2001, terrorist attacks, the agency outsourced critical tasks and vetting. This has resulted in an absurd situation where Boeing engineers perform tests on their own aircraft while other Boeing personnel certify the models "acting as representatives" of the FAA (all the while pressured by airline management — which pays their salaries — to speed up the process).

Boeing isn't the only company allowed to self-certify its products. As many as 80 companies are afforded the same privilege. FAA engineers expressed their disapproval of this procedure as early as in 2012. The discussion was shelved.

The MAX-8 basic fuselage has not changed from the first 737s though the cigar tube has grown longer to accommodate 210 passengers at 39.52m in length. The MAX-10 will accommodate 230. The original aircraft seated 85. The larger General Electric engines on the MAX-8 necessitated a repositioning of the mounts and an elevation of the nose wheel to provide the engine housing sufficient clearance on a low-slung plane. A toxic combination of design flaws and sloppy certification raises questions for not just the MAX-8 but other multi-generation aircraft that have outgrown their original design parameters.

Passenger safety will require a muscular new approach to oversight and the swift dismantling of the nexus between the examiner and examinee. The regulatory framework must look at the integrity of new aircraft designs as well as seemingly innocuous cost savings on assembly lines that may have a multiplier effect on product performance. The focus must be on saving lives, not cost. Planes that fall out of the skies don't sell.

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LETTERS

Marginal setback

This is with reference to "Winners and losers" (March 19). The termination of duty free benefits by the US on the import of goods from India does not call for a major panic. First, the US cannot afford to provoke India that is its major trading partner. Indian exports to the US is a small percentage of our overall export trade. The US, on the other hand, needs India to support their economic growth.

Second, the prevailing US laws exclude imposition of import duties for essential commodities like textiles, bags and apparels and as pointed out, only a few nominal ones actually get affected. Accordingly, preventing imports exceeding 50 per cent from any one country cannot be strictly applied to India. The US can at best roll over or delay the excess percentage of imports from India to the next financial year. It is only a technical necessity.

Third, Indian exports do not cover the entire gamut of economic requirements of the US for its import trade. Fourth, the Indian economy of the 21st century is far more advanced and modernised with its products to be globally competitive. Last but not the least, the US government has to buy the confidence of its Senate that has been highly critical of its government policies. The setback for India is at worst marginal, if not temporary.

C Gopinath Nair Kochi

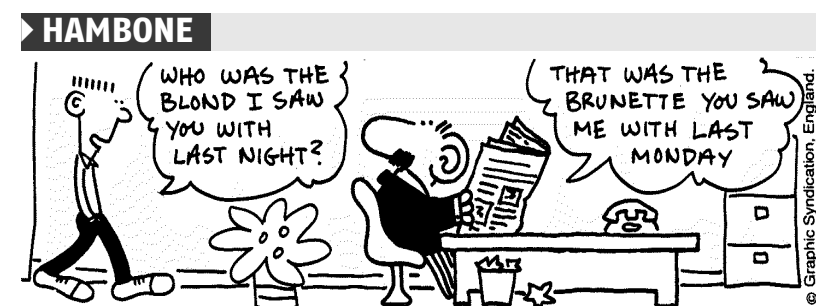
Mere showpieces

The selection of Pinaki Chandra Ghose, as India's first anti-corruption ombudsman, or Lokpal is well timed with the next general elections being merely a few months away. However, it's heartening that the first Lokpal in the country is someone like Ghose who with the former chief justice of India J S Khehar-led bench, had sentenced Calcutta High Court Judge C S Karnan to six months in jail for contempt of court. He will also be remembered for his verdicts that barred photos of politicians in government advertisements, the prosecution of former Tamil Nadu chief minister J Jayalithaa and her aide V K Sasikala, restoring criminal conspiracy charges against senior leaders of the Bharatiya Janata Party in the 1992 Babri Masjid demolition case. Such a man at the helm of Lokpal will surely rise for the *aam admi*.

But we should not forget that the Lokpal and the Lokayuktas will not have powers to punish the guilty, but only book charges. Without the power to punish, the Lokpal and the Lokayukta are like showpieces of a political showroom

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Review takeover code

IT industry's first hostile bid has created high drama

Hostile takeover bids are a rare occurrence in Indian corporate culture. For the software services industry, which is a relatively young industry, rival promoter-CEOs have been extremely cordial and friendly with one another. The reporting, disclosures and corporate governance standards of software companies are generally good, so a buyer would have the comfort of there not being skeletons in the closet. While there have been deals in listed software companies, Larsen & Toubro's attempted takeover of Mindtree is the first hostile one. The Mindtree promoters have opposed Larsen & Toubro's bid to acquire 67 per cent in their company, calling it a "grave threat to the unique organisation" and that the transaction will be "value destructive" for all shareholders. Whatever be the final outcome of the battle between the two sides, such an outburst on the part of Mindtree founders will hardly meet the end objective as L&T is well within the law.

The logic of the takeover bit can't be faulted either. For L&T, which has two software services arms, L&T Infotech and L&T Technology Services, it is a move to diversify its services base further. Mindtree, with its focus on the banking, financial services and insurance vertical, will be complementary to the L&T group's manufacturing specialisation. It will also bring scale to the business and the group can aim a shot at larger contracts. L&T believes it will be able to create more value for its shareholders with this investment. Mindtree's promoters may not agree to this, but it's perhaps illogical for them to expect that V G Siddhartha will hold his 20.3 per cent stake in the company for eternity just because he was once the driving force in getting all of them to quit their jobs and start the company as co-founders in 1999. Mr Siddhartha let his intention to quit known quite some time ago, but the promoters have been blocking all efforts by him to liquidate his holdings by refusing to co-operate with any potential buyer. For a company which believes in fair play and meritocracy, this is a strange move.

On a broader point, a bid like this one does raise some questions on the takeover code, which seems to be a work in progress today, given the absence of a leveraged buyout where the company buys all its shares by raising debt. This is not possible under the current code. The Mindtree promoters, many of whom are also the management, own 13.3 per cent in the company, which falls short in case they have to make any counter-offer. While they do have the option of getting an investor who will pay a higher price for the company's shares, chances of getting someone on board so soon are slim. At the end of the day, it is a case of capital triumphing over management. Moreover, top-tier tech companies, despite having plenty of cash, have stayed away from acquisition in India because they have either found valuations to be high or have not seen enough benefits that they cannot build over time. With its bid, L&T is reposing its faith in what the Mindtree promoters have created over the last 20 years and is willing to pay top dollar.

A Lokpal, finally

Appointing Justice Ghose is only the first step

Fifty-six years after it was first proposed and more than five years after the President signed the fiercely contentious Lokpal Bill into law, the National Democratic Alliance has finally got round to appointing a Lokpal. The move must be welcomed as a milestone in the cause of fighting corruption in high places. But for a government that had made anti-corruption a crusading platform in 2014, and leveraged it for an unprecedented exercise in demonetisation in 2016, this move at the fag end of its term is curious. The initial reason offered for this deferral was that the selection committee required a member of the Opposition, and no party had the requisite 10 per cent of the Lok Sabha seats to qualify. The government could, however, have adopted a precedent from the CBI Act, which allowed an invitation to the leader of the single-largest party to be part of the selection committee for the appointment of the chief of the investigative unit. To ask the leader of the Congress in the Lok Sabha to attend as "special invitee" without decision-making powers amounted to no real solution, which is perhaps why Mallikarjun Kharge chose to sit this out. It is a decision fraught with potential problems once the next government is sworn in.

Still, in Justice P C Ghose, who has a track record for impartial judgments concerning politicians of all hues during his Supreme Court stint, the selection committee appears to have made an unexceptionable choice. Justice Ghose is remembered for being part of the two-member Bench that held Jayalalithaa and her associate Ms Sasikala guilty of misusing public office to enrich themselves. He was also part of the two-member Bench that directed a trial court to frame charges against several Bharatiya Janata Party stalwarts for the demolition of the Babri Masjid.

The principal issues are two. First, appointing other members, who will be appointed by the same procedure as the Lokpal. The law provides for up to eight members, half of whom should be from a judicial background. Half the members must be people belonging to scheduled castes, scheduled tribes, other backward castes, minorities and women. If these conditions are challenging, they are heightened by the fact that the same rules apply for the search committee for these members. Setting up enquiry and prosecuting wings will also be time-consuming, and given the inherently controversial nature of such posts plus the turmoil of impending elections, the Lokpal is unlikely to be a functioning entity anytime soon. The second challenge concerns institutional independence. From the Supreme Court to the Election Commission, institutional respect has not been a strong point for most regimes, including the current one. The CBI, famously described as a "caged parrot", offered a bizarre public spectacle of this erosion following a controversy involving its director and his deputy.

It is the moral authority of the Lokpal and its members that matters most. For instance, the Act covers most public servants, including the prime minister. One critical point of contention is the exclusions for prime ministerial scrutiny — on grounds of international relations, external and internal security, public order, atomic energy and space. These can be as widely or narrowly interpreted as the Lokpal chooses. India's increasing engagement with the global economy demands that the Lokpal should hold itself to a higher standard, abjure inevitable political pressures and evolve into an institution that commands universal respect.

Appropriate tax administration

A soft touch with an eagle eye from the top is the best approach

At a discussion at the London School of Economics led by the recently retired head of the UK tax department—Her Majesty's Revenue and Customs (HMRC)—interesting observations were made with lessons to be learnt. The central question relates to what a successful public service is in the context of taxation.

Thus, the outcome of a good tax administration reflects three fundamental components: Tax determination, computation, and payment. Associated questions immediately arise. Since tax determination necessarily requires information, who will be responsible for obtaining information? Since computation requires knowledge, on whom will it depend, who will verify it, and what if there is a dispute? On payment, how is a taxpayer to be treated? A good tax administration will address all three fundamentals adequately.

An obvious measure of performance is cash received by the administration, though this is not without conflict for, the tax administration is likely to consider the best way to organise tax administration differently from the finance ministry. Rather than meet a specific revenue objective, the tax administration typically prefers to minimise the tax gap—how much revenue could not be collected—since this comprises a measure of the effort made by the administration rather than reaching a specific revenue target irrespective of the means or method in so doing.

However, collection cannot be made willy-nilly. There are alternative approaches. The US depends on private sector support such as H&R Block which helps fill tax returns for a significant number of taxpayers.

In the UK, over two decades, there has been a rebranding of UK taxpayers as customers, a concept that substituted the earlier overbearing appearance of the revenue officer. And the administration itself provides filled-in tax return forms based on its own data, and asking customers to make adjustments to it to reflect the last tax year's developments.

Yet, the UK's is a passive approach—that is, the citizen takes responsibility for his own timely tax payment, building on the tax code provided by the tax administration, a term used by the UK to denote each customer's tax calculation made and provided by the administration. The Indian tax administration aspires to do so. This is preferable to active chasing by the administration for money. Reliance on voluntary compliance is of the essence with greater emphasis on data analytics rather than use of paper, phone or seizures. In the UK, 98 per cent of tax comes in without any intervention. This occurs from two motivations — citizens pay up since paying up is a good thing to do or due to risk aversion to possible adverse action from the administration. It is the former motive that Indians have to arrive to.

HMRC is averse to changing this model since it is perceived to have worked well, essentially spending some £5 billion and collecting some £600 billion. In the background are 54,000 staff members, the high number reflecting the responsibility that falls ultimately on its shoulders. To buttress voluntary compliance, one assurance in the UK is to get customers from one end of the process to the other as quickly as possible, an objective that the Indian tax administration is yet to accomplish. As I have indicated on several



PARTHASARATHI SHOME

Market concentration is hurting US economy

The world's advanced economies are suffering from a number of deep-seated problems. In the United States, in particular, inequality is at its highest since 1928, and GDP growth remains woefully tepid compared to the decades after World War II.

After promising annual growth of "4, 5, and even 6 per cent," US President Donald Trump and his congressional Republican enablers have delivered only unprecedented deficits. According to the Congressional Budget Office's latest projections, the federal budget deficit will reach \$900 billion this year, and will surpass the \$1 trillion mark every year after 2021. And yet, the sugar high induced by the latest deficit increase is already fading, with the International Monetary Fund forecasting US growth of 2.5 per cent in 2019 and 1.8 per cent in 2020, down from 2.9 per cent in 2018.

Many factors are contributing to the US economy's low-growth/high-inequality problem. Trump and the Republicans' poorly designed tax "reform" has exacerbated existing deficiencies in the tax code, funneling even more income to the highest earners. At the same time, globalisation continues to be poorly managed, and financial markets continue to be geared toward extracting profits (rent-seeking, in economists' parlance), rather than providing useful services.

But an even deeper and more fundamental problem is the growing concentration of market power, which allows dominant firms to exploit their customers and squeeze their employees, whose own bargaining power and legal protections are being weakened. CEOs and senior executives are increasingly extracting higher pay for themselves at the expense of workers and investment. For example, US corporate executives made sure that the vast majority of the benefits from the tax cut went into dividends and stock buybacks, which exceeded a record-breaking \$1.1 trillion in 2018. Buybacks raised share prices and boosted the earnings-per-share ratio, on which many executives' compensation is based. Meanwhile, at 13.7 per cent of GDP,

annual investment remained weak, while many corporate pensions went underfunded.

Evidence of rising market power can be found almost anywhere one looks. Large markups are contributing to high corporate profits. In sector after sector, from little things like cat food to big things like telecoms, cable providers, airlines, and technology platforms, a few firms now dominate 75-90 per cent of the market, if not more; and the problem is even more pronounced at the level of local markets.

As corporate behemoths' market power has increased, so, too, has their ability to influence America's money-driven politics. And as the system has become more rigged in business's favour, it has become much harder for ordinary citizens to seek redress for mistreatment or abuse. A perfect example of this is the spread of arbitration clauses in labour contracts and user agreements, which allow corporations to settle disputes with employees and customers through a sympathetic mediator, rather than in court.

Multiple forces are driving the increase in market power. One is the growth of sectors with large network effects, where a single firm — like Google or Facebook — can easily dominate. Another is the prevailing attitude among business leaders, who have come to assume that market power is the only way to ensure durable profits. As the venture capitalist Peter Thiel famously put it, "competition is for losers."

Some US business leaders have shown real ingenuity in creating market barriers to prevent any kind of meaningful competition, aided by lax enforcement of existing competition laws and the failure to update those laws for the twenty-first-century economy. As a result, the share of new firms in the US is declining.

None of this bodes well for the US economy. Rising inequality implies falling aggregate demand, because those at the top of the wealth distribution tend to consume a smaller share of their income than those of more modest means. Moreover, on the supply side, market power weakens incentives to invest and inno-

occasions, it is the speed of assessments and time elapsed on closing a scrutiny that are the ultimate judge and jury of the efficiency and equity achieved by a tax administration and, therefore, the confidence that it generates in the taxpayer.

It is not as though there are no weaknesses, challenges or difficulties faced by the HMRC. Some challenges appear to continue from the time I served as its chief economist almost a decade ago. One challenge is to break the inertia of a certain category of taxpayers who are generally willing to pay but tend to stay on the fence until nudged. A second is the recognition of the existence of some tax evasion reflecting cash transactions at home and evaders investing in financial funds abroad but not reporting it. Third is a challenge to minimise tax avoidance which is strictly legal but lies outside the intention of legislation. Of a £33 billion tax gap, tax avoidance is £2 billion. However, fourth, the taxman faces massive political and social resistance to his crossing a perceived threshold of justifiable action. In India, this has appeared strongly in the Tax Administration Reform Commission (TARC) recommendations.

Fifth, considerable challenge emerges from a territorial basis of taxation. Tax is collected on a national basis while, for collection outside the border, international collaboration becomes important. Indeed, while this is a universal problem including for the UK, emerging economies such as India face it more intensively. OECD's Base Erosion Profit Shifting (BEPS) Actions recommended automatic exchange of information among tax administrations in certain aspects but pre-condition for much exchange of information would occur only after a process of justifications. Whether powerful tax administrations would take this up seriously is, of course, to be seen.

In the future, HMRC plans to increase third party information, in particular from the financial system, since most economic activity is recorded somewhere in today's e-world. In the UK, reflecting privacy, information is based on businesses—what are their volumes of operation—rather than on their customers. In India, however, the Annual Information Returns (AIR) collected from a comprehensive list of businesses and institutions actually include information directly on the financial transactions of their individual customers. Erroneous information from AIR resulting in mistakes in scrutiny and causing taxpayer anxiety has occurred in India. HMRC's approach to third party information is more cautious. Indian administration needs to rethink its strategy on this.

Thus, HMRC's approach has been one of soft touch and will continue to be so. Other than covert action, policy and action are attempted to be transparent. Search and seizure as an instrument is rarely used. Finally, individual tax accounts are kept away from politicians. Government can drive overall tax administration policy but cannot access individual accounts.

Many of UK's practices, challenges and policies have found place in India's 2014 six-volume TARC report. Its recommendations are being selectively implemented. For best performance, the UK merged its direct and indirect tax departments in 2006 following the global pattern. This fundamental comprehensive structural reform is awaited in India.

Firms know that if they produce more, they will have to lower their prices. This is why investment remains weak, despite corporate America's record profits and trillions of dollars of cash reserves. And besides, why bother producing anything of value when you can use your political power to extract more rents through market exploitation? Political investments in getting lower taxes yield far higher returns than real investments in plant and equipment.

Making matters worse, America's low tax-to-GDP ratio — just 27.1 per cent even before the Trump tax cut — means a dearth of money for investment in the infrastructure, education, health care, and basic research needed to ensure future growth. These are the supply-side measures that actually do "trickle down" to everyone.

The policies for combating economically damaging power imbalances are straightforward. Over the past half-century, Chicago School economists, acting on the assumption that markets are generally competitive, narrowed the focus of competition policy solely to economic efficiency, rather than broader concerns about power and inequality. The irony is that this assumption became dominant in policymaking circles just when economists were beginning to reveal its flaws. The development of game theory and new models of imperfect and asymmetric information laid bare the profound limitations of the competition model.

The law needs to catch up. Anti-competitive practices should be illegal, period. And beyond that, there are a host of other changes needed to modernise US antitrust legislation. Americans need the same resolve in fighting for competition that their corporations have shown in fighting against it.

The challenge, as always, is political. But with US corporations having amassed so much power, there is reason to doubt that the American political system is up to the task of reform. Add to that the globalisation of corporate power and the orgy of deregulation and crony capitalism under Trump, and it is clear that Europe will have to take the lead.

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Intimations of apocalypse



BOOK REVIEW

CHANDRASHEKHAR DASGUPTA

Diverse crowds of NGO demonstrators lend passion and colour to the UN climate change negotiations held in November or December each year. I vividly recall a session in Montreal in an icy December. On our way to the conference venue, we were greeted by impassioned demonstrators, standing in deep snow, holding aloft banners demanding an "end to global warming". These men and women might have been forgiven for taking a more benign view of a phenomenon that might actually make their native habitat a more hospitable place in deep winter but

their devotion to a universal cause was undimmed by such selfish considerations. But for the constant pressure exerted by climate activists, the outcome of inter-governmental negotiations would have been even more modest than they actually are.

Nowhere is there a greater need for climate activism than in the United States in the Age of Trump. The president of the world's largest economy maintains with a straight face that climate change is a concept "created by and for the Chinese in order to make US manufacturing non-competitive" and has served notice of his intention to withdraw from the Paris Agreement.

Hopefully, the book under review will help counter the climate complacency so evident in the United States today. Mr Wallace-Wells, deputy editor of the *New York* magazine, has delved selectively into the scientific literature to produce an apocalyptic account of the multiple impacts of climate change. He paints a picture of massive floods and forest fires, economic col-

lapse, pestilence and war induced by climate change. His declared intention is to shock and alarm the reader. Each chapter of the book, he states, "contains by rights, enough horror to induce a panic attack in even the most optimistic of those considering it". Here are a few samplers from his rich offerings.

"At two degrees [the current goal of limiting global warming], the ice sheets will begin their collapse, 400 million more people will suffer from water scarcity, major cities in the equatorial band of the planet will become unlivable, and even in the northern latitudes heat waves will kill thousands each summer."

"There is a 51 per cent chance, this research suggests, that climate change will reduce global output by more than 20 per cent by 2100, compared with a world without warming, and a 12 per cent chance that it lowers per capita GDP by 50 per cent or more by then, unless emissions decline."

"2.4 million American homes and busi-

nesses, representing more than \$1 trillion in present-day value, will suffer chronic flooding by 2100..."

"[In Africa] by just 2030, projected temperatures are expected to cause 393,000 additional deaths in battle."

Science does not enable us to "predict" the precise scale of climate change or its impacts. Given the large number of unknown or variable factors, we can only project alternative "scenarios" offering an approximation of what might happen. Mr Wallace-Wells recognises this fact but frequently ignores it, selecting the most horrific scenarios and then substituting "will" for "may" in describing the impact. His aim is to create shock and awe.

How should we respond to the threat posed by climate change? Mr Wallace-Wells touches briefly on various technological approaches but provides no clear answers. The point he emphasises is that, in the absence of political will, technology alone cannot provide an adequate response to climate change.

The book appears to be addressed principally to an American audience but it is universal in its scope. In fact, the United

States is identified as only the second-most vulnerable country in the context of climate change impacts, the first position being reserved for India! Though it has little responsibility for causing climate change, India will be its major victim. "India's share of climate burden," writes Mr Wallace-Wells, "was four times as high as its share of climate guilt" — showcasing the "moral logic of climate change at its most grotesque". Despite climate injustice, he points out, India is one of the only seven countries (among the 195 signatories of the Paris accord) that are in range of meeting their targets under the agreement.

The reader is left to ponder on the appropriate policy option for India. Climate change is not the only critical challenge this country faces in the first half of the 21st century. We must also meet the challenge of rescuing a billion people from the shackles of absolute poverty. There can be no trade-off between development and climate change goals. Without rapid development, we will be unable to generate the financial and human resources needed to adapt to the impacts of climate change. Creating a physical infrastructure capable

of withstanding powerful cyclones, typhoons and floods requires massive financial resources. So does drought-proofing agriculture. In the absence of trained manpower, we will be unable to switch over to the new industrial and agricultural technologies required to adapt to climate change. Inclusive economic and social development is the *sine qua non* of an effective response to climate change.

For the first time in the history of our planet, climate and its associated phenomena are being shaped by human activities. Simultaneously, for the first time in history, there is a real prospect of rescuing mankind from the curse of mass poverty. Meeting these twin challenges requires a massive global shift from hydrocarbons to clean renewable energy as early as possible.

The reviewer is a retired foreign service officer

THE UNINHABITABLE EARTH: A Story of the Future
David Wallace-Wells
Allen Lane, ₹799, 320 pages