Opinion

FRIDAY, JULY 12, 2019

ON FARMERS IN WAYANAD

Congress leader Rahul Gandhi

In Wayanad, bank notices for non payment of loans given to 8000 farmers. Under a relevant act their properties are attached against their bank loans, this is resulting in rise in farmers suicide

Controlling access is akin to filtering news flows

Logging all meetings restricts a reporter's ability to get sensitive news; the FM's decision is effectively a ban

IT IS NOT quite clear what the finance ministry meant when, in response to the outcry over its proposed restrictions on the entry of PIB-accredited journalists, it claimed that while no ban had been put in place, all that was being asked for was that journalists seek an appointment with officers; and once this is done, a PIB-accredited journalist will not require an additional pass to enter the ministry. That sounds reasonable, and, in fact, a lot of the criticism of the journalists' protest has centred on this very issue: what makes journalists so special that they can just barge into the minister or a secretary's room? This is missing the point and, to that extent, minimising the impact of the ministry's actions. Most PIB-accredited journalists—a privilege given only to journalists after a certain number of years in the profession—do not want to barge into the ministry to buttonhole the minister or bureaucrats unannounced; that does happen, but that is something that can be handled by laying down ground rules that everyone agrees with.

The purpose of the PIB card is to protect sources. If the minister or top bureaucrats know whom journalists are meeting in the ministry, it becomes quite easy to track where information for a story came from and, once that is done, clamping down on information leaks is easy. But, since an accredited journalist does not, at the time of entering the ministry, give the names of officials she is meeting, the meeting remains relatively below the radar. Once a meeting is logged, as the ministry seems to be wanting now, this cloak of anonymity goes; along with that, information sources dry up too with most bureaucrats with any kind of sensitive information becoming wary of meeting. In most ministries, officials below a certain rank—often the ones with the most information—are not allowed to meet the media; the PIB accreditation gets over that hurdle.

Line ministers or bureaucrats are understandably keen to block any source of information that makes them look bad. Indeed, in the current context, the government was unwilling to release the latest labour survey results since it showed unemployment had risen even as the government was saying lots of jobs were being created; given that elections were around the corner, the report was particularly sensitive. Had a finance-ministry-type diktat been in place in other ministries/departments, and were the *Business Standard* reporter who scooped the report forced to reveal the names of people whom he was meeting, chances are the report would have remained buried. Similarly, when prime minister Manmohan Singh was allowing telecom minister A Raja to give out licences for a song, his government would have been keen that his correspondence with Raja—and notings about Raja's actions—were kept secret; the fact that they were not due to enterprising reporters only helped increase transparency in the system. It is for this reason that, the way the system evolved, there was a legitimate space for journalists—RTI is another attempt to create another such avenue—to get information in the public interest. Given how the BJP benefited so much from information about UPA-era scams leaking out, and how it prides itself on being a government with a difference, it is especially unfortunate that it is now being seen as trying to block information flows. The finance minister is right to want to prevent journalists from hounding officials, but it needs to work on a more reasonable solution.

See sense on censorship

Bombay HC right in castigating CBFC

THE CENTRAL BOARD of Film Certification (CBFC) received a sharp rebuke from the Bombay High Court last week for certifying a children's film as U/A, meaning that children aged below 12 couldn't watch it unsupervised. In January, the CBFC—more popular, tellingly, as the Censor Board—had asked the producer, the Children's Film Society of India, to mute a certain word and delete a particular scene to which the latter agreed. Yet, the film was denied the U (unrestricted) certificate that would allow children of all ages to watch the film in theatres. The Bombay HC told the CBFC it was a "certification body and not a censor board", and it didn't have the "intellectual morality and authority to decide what one wants to watch". The HC noted that films were a medium to explain difficult issues like caste discrimination, addiction, etc, to children, and the CBFC's action in this case showed that it considered viewers "infantile and imbecile". Despite a series of questionable, even some reprehensible past decisions, the CBFC evidently continues to think of censoring as its primary function, over a more pragmatic regulatory role that focuses on certification. But, why blame the CBFC? The Union government itself seems to have no clarity on how cinematic content is to be regulated.

It has been three years since an expert-panel headed by director Shyam Benegal recommended shifting to a certification-only regime unless the film violates Section 5B(2) of the Cinematograph Act 1952, which allows the Centre to issue directions for certification if a film, or any part of it, is against the interests of the sovereignty and security of India, or is inimical to friendly relations with foreign states, involves defamation/contempt of court or is deemed to affect public order, or if the film exceeds the limits set for the highest degree of certification. It suggested that the existing UA certification include the sub-categories UA12+ and UA15+, assuming a correlation between age and maturity. The panel had called for scrapping the CBFC's power to recommend cuts. However, two subsequent inter-ministerial meetings on repealing/amending the Cinematograph Act 1952 and Rules 1983—the Act needed significant amendments for many of the Benegal recommendations to be implemented—held that extensive deliberation was needed since this could "end up ignoring diverse sensibilities across the country". So, the government sought wider consultation to decide how the nuances of issues such as depiction of women, representation of social realities, etc, were to be built into the regulation of cinematic content. The inter-ministerial meetings ended in 2017; ever since, the Benegal recommendations and re-imagining of film regulation have been in a limbo. The government and the CBFC fail to appreciate that theatre-releases are not the only way the public now watches films—from streaming websites to OTT platforms, there is a whole new digital world where cinema, censored and uncensored, is available to viewers. Given how delivery on the internet has no regard for borders, much less regulatory regimes, the government and CBFC shouldn't think of censorship as effective.

LimitingGROWTH

A new report states that, by 2022, one in three children in India will exhibit stunting

THE FOOD AND *Nutrition Security Analysis of India, 2019*, a report by the Government of India and UN World Food Programme, says that, by 2022, 31.4% of Indian children—or nearly one in three—will exhibit stunting. Findings of the report, a base line analysis in assessing India's progress in meeting the second Sustainable Development Goal (tackling hunger), mean that the efforts under the National Nutrition Mission (NNM) that aims to contain prevalence of stunting in children to 25% must be significantly stepped up. Malnutrition fell at the rate of 1% per year over the past decade, the slowest decline amongst emerging economies. For the government to meet the SDG target, it must fall by 2 ppts per year.

Many researchers make particular note of the poverty trap in India's malnutrition story—a malnourished mother gives birth to a weak and a stunted child, and thus malnutrition is passed on from one generation to another. Given how under-nutrition affects a child's cognitive growth, resulting in the child getting left behind, the poverty cycle is also continued. The poorest 30% of the population have an average per capita consumption of 1811 kCal/day vs the advised normal of 2,155 kCal/day. There is also disparate effect of stunting across Indian states—Bihar and UP have one in two children stunted, whereas, Kerala and Goa have one in five children stunted. Communities such as SCs and STs (42.5% and 43.6%, respectively) are also at a bigger disadvantage compared to other communities. As an article in *The Hindu* notes, only 16% of the total funds allocated to the Poshan Abhiyan (NNM) have been used so far. The government must double its efforts and, most importantly, improve accessibility for all communities.

TAX BURDEN

THE RISE IN TAX ON INDIAN CAT III AIFS ANNOUNCED IN THE BUDGET DISCOURAGES GREATER DOMESTIC CAPITAL PARTICIPATION

India's investment trust deficit

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Views are personal

THOSE WHO TRACKED the markets during the Budget speech can attest to the inordinate sway every word can have on the market. The finance minister's statement that the government does not "look down upon legitimate profit earning" and the proposal of "a number of initiatives as part of a framework for kick-starting the virtuous cycle of domestic and foreign investments" during the early parts of the speech rallied the market, which was anticipating several much-needed measures to galvanise investments in the country. The proposed measures, such as easier KYC norms for FPIs, increased FDI limits, opening up new investment vehicles for foreign participation, etc, hold a lot of promise for the future. But, the rudest shock came when the finance minister discussed revenue mobilisation measures and the increased surcharge on incomes above ₹2 crore.

A tax on the super-rich was expected, with rumours about such measures doing the rounds before the Budget. But, what was especially shocking was that this was extended not only to individuals but also to all association of persons and trusts—whether domestic or foreign. And therein, as the bard would tell us, lies the rub.

Many foreign portfolio investors consist of pension funds, insurance funds, etc, that are incorporated as trusts. This highlights the fiduciary responsibility they have towards their thousands of beneficiaries and the governance norms that they must adhere to. Their structure also allows them to pass-through the gains to their beneficiaries—people who rely on this income to sustain themselves in their retirement. But, as per the latest proposals, they're going to suffer a surcharge that is much higher than that attributed to foreign companies and which turns a blind eye to their pass-through status. The very structure adopted by these FPIs renders them liable to tax at much higher effective rates than foreign corporations. These measures run the risk of countering efforts to facilitate greater foreign participation in structures such as REITS, InvITs, etc.

This also adversely affects Indian Category III AIFs, who are already reeling from an 18% GST on fees which cannot be claimed as well as the lack of any pass-through status for any income. Most of them are also structured as trusts as it offers the greatest flexibility and is the most tax-effective structure. Indian tax laws tax any business income of a trust at the maximum marginal rate and treat gains from hedging instruments such as futures and options as business income. This renders all income from any CAT III AIF to be taxed at 42.7%! Hedge funds across the world have pass-through status, thus allowing any gains to be taxed in the hands of the investors as though they invested directly into the underlying portfolio, something Indian hedge funds were denied since 2014. CAT III AIFs in India have long suffered under an unfair tax regime wherein ambiguity abounds. Though the government has taken great pains in addressing the needs of FPIs, even amending the definition of the term "capital asset" to include any securities held by an FPI, no such generosity has been extended to Indian investors. While India seeks greater domestic capital participation in the country, its own tax laws cripple investor appetite due to such draconian measures.

> **Indian tax laws tax any business income of a trust at the maximum marginal rate and treat gains from hedging instruments such as futures and options as business income. This renders all income from any CAT III AIF to be taxed at 42.7%**

A pass-through status for pooling vehicles such as CAT III AIFs and trusts is a just form of taxation as it follows the principle of ascribing tax rates as per the individual investor's income. A common investment pooling vehicle cannot imply the highest tax rate to its investors. To put things in perspective, this is akin to taxing the savings bank interest of a person with a net income of ₹10 lakhs and a person with a net income of ₹10 crore at the same rate just because they both use the same bank! The law cannot turn a blind eye to the end beneficiary and assume that all investors belong to the highest tax slab regardless of their actual income. To each his own rate.

The impact of this proposal on investor sentiment is visible to all. The markets shed over 1000 points over the past 3 days, lead primarily by FPIs who're looking to rethink their India strategy. Many domestic fund managers have reached out to the government to plead their case.

The budget speech did not intend for this distortion. The honourable finance minister stated, and I quote, "I, therefore, propose to **enhance surcharge on individuals** having taxable income from 2 crore to 5 crore and 5 crore and above". Thus, it is the unintended, inadvertent consequence to tax FPIs and CAT III AIFs with these surcharges that deserves to be rectified immediately.

The government cannot roll out the red carpet to investors, then bolt the door and shake them down for all they are worth.

India requires investments of at least $300 billion a year as per the 2019 Budget speech. With a savings rate of 10% of our GDP of $2.7 trillion, India needs capital from all sources to meet its investment needs. Our ratio of foreign investment to GDP is already low compared to other large economies worldwide. In order to become a $5 trillion economy by 2025, India needs a growth rate of 12% and access to low-cost capital. But, the proposed measures of lop-sided surcharges and the mistreatment of Indian investment vehicles will make these proposals the architect of India's misery.

GSTR-3B—blowing hot and cold

The Gujarat High Court held that GSTR-3B is not a return in lieu of that required to be filed in Form GSTR-3 but only a stopgap arrangement

TUSHAR AGGARWAL & SURBHI PREMI

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THE LANDMARK GOODS and Services Tax ('GST') has completed two years. The one-nation, one-tax revolution is witnessing many legal issues, but it's settling down gradually. Recently, the Hon'ble Gujarat High Court has pronounced its judgement on the convoluted saga of the last date of availing ITC relating to invoices issued during the period from July 2017 to March 2018.

In the benevolent decision, the High Court has held that GSTR-3B is not a return in lieu of that required to be filed in Form GSTR-3. The return in Form GSTR-3B is only a stopgap arrangement till due date of filing the return in Form GSTR-3 is notified. Meaning, that businesses can still avail ITC of missed invoices issued during the mentioned period till the date of filing of Annual Return in form GSTR-9. Many taxpayers will be relieved by this decision of the High Court. Section 16(4) of the CGST Act provides that the registered person shall not be entitled to avail ITC in respect of any invoice after the due date of furnishing of the return under Section 39 for the month of September following the end of financial year to which such invoice pertains or furnishing of the relevant annual return, whichever is earlier.

Since the return GSTR-3 continued to be deferred due to technical glitches right from its introduction, the question that arose was what could be said to be the return under Section 39. Consequently, what would be the last date for availing ITC relating to invoices issued during the period from July 2017 to March 2018. A press release dated October 18, 2018 clarified that with taxpayers self-assessing and availing ITC through return in Form GSTR-3B, the last date for availing ITC in relation to the invoices issued during the period from July 2017 to March 2018 is the last date for the filing of such return for the month of September 2018, i.e., October 20, 2018.

The High Court held the above clarification to be illegal and contrary to Section 16(4) of the CGST Act read with Section 39(1) of the CGST Act and Rule 61 of the CGST Rules.

The Court further held that GSTR-3B is not a return under Section 39. The due date of filing return under Section 39 for the months of July 2017 to March 2019 shall be subsequently notified in the official Gazette.

The recent decision of the High Court has tried to settle the controversy regarding the last date of availing ITC, but it has given birth to many more controversies. Without going into the legality of the decision, let us quickly have a look at the areas where the decision would have grave implications.

> **The decision has opened a Pandora's Box, and one will have to wait to see whether the government brings any amendment to resolve the controversy**

Section 39(7) of the CGST Act provides that registered person who is required to furnish return under Section 39 shall pay to the government tax due as per return not later than the last date on which he is required to furnish such return. If GSTR-3B is not a return under Section 39, whether it is open for a taxpayer to contend that there is no last date for payment of tax dues till GSTR-3 is notified and therefore, not liable for interest for any delay in payment so far.

Further, the first proviso to Section 37(3) of the CGST Act provides that no rectification of error or omission in respect of the details furnished under Section 37(1), i.e., GSTR-1 shall be allowed after furnishing of the return under Section 39 for the month of September following the end of the financial year to which such details pertain, or furnishing of the relevant annual return, whichever is earlier. If GSTR-3B is not a return under Section 39, the natural consequence will be that GSTR-1 can be rectified for any mismatch till the date of filing annual return.

So far, all these consequences go in favour of the taxpayer and he would be the happiest ever! Now, let us see how this interpretation turns the cards upside-down. Section 16(2)(d) of CGST Act provides that no registered person shall be entitled to ITC in respect of any supply of goods or services or both to him unless he has furnished the return under Section 39. Such an interpretation would put the taxpayers into huge problems as businesses have already claimed ITC based on GSTR-3B, without waiting for GSTR-3 to be notified. This interpretation would endanger all the ITC claims of the taxpayers and may even trigger the interest liability.

In the authors' view, the decision has much wider implications than the limited question of last date for ITC availment. The decision has opened a Pandora's Box, and one will have to wait to see whether the government brings any amendment to resolve the controversy or what other High Courts decide.

LETTERS TO THE EDITOR

India's WC loss

It just like a "wedding cake left out in the rain", when India after its 18 runs of a heart breaking semi-final, exit at the hands of New Zealand in the Cricket World Cup (WC). After the shocking defeat press meet captain Virat Kohli lamented not only '45 minutes of bad cricket' against New Zealand (NZ) that led to India crashing out but also the World Cup format. People wonder why Kolhi does not realise that India played the Kiwis twice in this tournament and couldn't beat them once. Moreover, Kiwis is a country of 4 Million playing as a team, were able to defeat India of 1.3 billon where they played as 11 cricket demi-god. Starting with the 'Man of Century' Rohit Sharma, Virat Kohli and KL Rahul's dismissal brought up the first ever instance of a side's top three batsmen departing for one each in an international match. Win and loss is part of any game, and here, too, though India was the best team in the tournament, at least by their standing in the points table, whereas, NZ was coming off of 3 defeats. Naturally, India's victory over NZ's manageable 240 runs was almost certain. But, cricket is famed for its glorious uncertainty, and its glaring example was that after India's poor start, Rishabh Pant and Hardik Pandya, set about trying to rebuild the innings, and later Jadeja and Dhoni took it so close. But, after Jaddu's life's best 77 run innings, world's no. 1 chaser, Dhoni, was there and he nearly did it too, but when India smell its victory, just at that moment, no wider than the single -inch between the tip of MS Dhoni's bat and the crease when he was run-out by a direct hit from Martin Guptill, to prove that even this WC's non performer's fielding had won NZ through to the World Cup final. Kudos to NZ as deserving winners and good luck to for Grand Finale!

— BK Chatterjee, Faridabad

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India ditches data dialogue again

Several developing countries would want digital trade to happen seamlessly. That's precisely why engage in global e-commerce talks and support the Osaka Track. By staying away from both, India might convey the signal that its justification for disengaging with global efforts is more for pure self-interests, and not with a greater welfare objective for developing countries

INDIA ABSTAINED FROM signing the Osaka Declaration on Digital Economy at the G20 Summit last week. South Africa and Indonesia were the two other G20 members rallying with India. Some analysts might feel that the abstaining reflected a broader developing country reservation on participating in efforts to shape global digital trade rules. It is certainly not so.

One of the most profound truths to emerge over the last couple of decades is the sharp heterogeneity amongst the developing world. The latter can no longer be visualised as homogeneous. Multiple developing countries now have interests in global trade that are similar to those of their developed counterparts. Nowhere is this more visible than in regulations on e-commerce and cross-border data flows. Positions taken at Osaka are testimony to the aligning of interests between the developed and developing, as well as differences among developing countries.

Large developing countries and emerging markets—Argentina, China, Brazil, India, South Africa, Indonesia—are walking on different paths on digital trade. The first three have joined the Osaka Track, while the other three have not. The former, along with Russia, are also participating in the informal talks on global e-commerce rules that were launched by almost 80 World Trade Organisation (WTO) members earlier this year on the sidelines of the World Economic Forum meeting at Davos in Switzerland. The difference among these large developing countries, some of which are among the world's top-10 economies (i.e. China, India, Brazil, followed closely by Indonesia), on digital trade governance is striking.

Both China and Brazil endorsed the Osaka Declaration for working with other G20 members to achieve a high-standard global agreement on digital trade and e-commerce. This might convey the impression that they have identical domestic data governance policies reflecting a tendency towards liberal cross-border data flows. China's data policies are primarily restrictive, certainly when compared with Brazil. China, much like Russia, is a unique example of large economies displaying a tendency to 'accommodate' their commitment to working on global rules for e-commerce with a pronounced hesitation to agree on free flow of cross-border data. In spite of aiming to work with other WTO members on developing rules on trade-related aspects of e-commerce, in its latest submission to the WTO on the subject, China insists on more discussions before including data flows, storage and management as part of e-commerce talks. This is in line with China's cybersecurity regulations that insist on a large amount of personal data to be stored within China with very restricted scope of cross-border flow. Russia's data localisation laws, which have come into force a few years ago, impose strict conditions on agencies to store personal data within Russia.

India's Personal Data Protection Bill, once introduced in the upcoming session of Parliament, would reflect the degree by which Indian authorities insist on localisation. The scope of the latter is primarily defined by what national agencies construe as personal data. Whether the Indian localisation rules would be comparable to those in Russia or in some other emerging markets like Indonesia is a different discussion.

The bigger point, though, is the dichotomy between developing countries in their willingness to engage in global digital trade rule talks. India and Indonesia are unwilling to do so. China, Russia, and even Nigeria, which has fairly strict data laws and mandates all government data to be located within the country, are participating in talks and are committed to the Osaka Track. Vietnam is another example of a developing country participant in both global e-commerce talks and a signatory to the Osaka Track despite bringing in hard data rules.

The sensitivity about protection of data, therefore, is clearly not the main reason behind some developing countries staying away from global digital trade work programmes. Many developing countries are committing to such initiatives notwithstanding tough domestic data protection laws.

The sensitivity about protection of data is clearly not the main reason behind some developing countries staying away from global digital trade work programmes

India is a notable exception. While it is yet to introduce a domestic data protection framework, it is conspicuously disengaging itself from all ongoing digital trade rule-making efforts. There's clearly more than the urge to protect data that is driving India's position.

Perhaps the explanation behind India's posture can be gleaned from its latest submission on June 3, 2019, jointly with South Africa, on the WTO's ongoing work programme on e-commerce. The submission argues for discontinuation of the moratorium on imposition of customs duties on e-commerce transactions enabling 'willing' WTO members to impose customs duties on electronic transmissions, such as software and digital products. India and South Africa alluded to Indonesia's policies for doing so in support of their argument leaving no surprise behind their common posture at Osaka.

None would mind India, and others, acting in their own national economic interests. The problem would arise if the former would expect others to support major proposals that might serve only interests of a few. Several developing countries are keen on participating in global digital trade and are not interested in discontinuing the moratorium on e-commerce. They would want digital trade to happen seamlessly and without restrictions as far as possible. That's precisely why engage in global e-commerce talks and support the Osaka Track. By staying away from both, India might convey the signal that its justification for disengaging with global efforts is more for pure self-interests, and not with a greater welfare objective for developing countries.

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The future of digital identity

MUNIR MOHAMMED & V SRIDHAR

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Need a closer look at digital inclusion, identity, trust and agency

IDENTIFICATION IS A method for reliably connecting information to individuals. In the US, the Social Security Card and the associated number have long been used to identify an individual for tax, social security and other purposes. Identification enables one to verify identity, i.e. the person accessing her records is indeed the owner of the account or the subject of the records. If the identification method allows one to relate it to a human being with "flesh and blood" using biometric information, then it can have serious privacy implications. Digital ID projects, conceptualised back in the 1980s in the UK and the US, never took off due to their privacy ramifications. However, in India, with Aadhaar, digitally unique IDs (UIDs) of individuals get tagged to their biometric information. This led to a debate on identification and associated privacy issues, culminating in a Supreme Court judgment (*Puttaswamy vs Union of India, 2018*) and the drafting of the data protection Bill.

Governments proclaim the advantages of digital ID projects as a way to improve the efficiency of distribution of government financial subsidies under various schemes, inclusion of the needy, and eliminating fraud through de-duplication. But there have been studies on how such national ID projects have their own shortcomings, namely exclusion of those in need due to (1) technical failure of digital systems, (2) administrative failure at field-level implementation, (3) governance failure due to political ideologies, (4) privacy intrusions at various levels, and (5) lack of law and regulation enforcement. Privacy advocates argue that identification is demeaning to individuals as it reduces people to a number, as in the case of Social Security Number or Aadhaar number, or to bodily characteristics if biometric information is used.

Apart from national IDs, one's identification in some form is used in the digital economy for providing goods and services. The Internet, telecom and digital platform firms have been collecting user data, processing, disseminating and monetising them, most often with users implicitly, (un)informedly accepting cryptic consent. Identification of the individual's usage patterns leads to first-degree price discrimination, in which each one is treated as a "market." E-commerce firms collect browsing behaviour to provide personalised recommendations, ads and coupons. This data is also used for purposes other than intended, such as selling to third parties without explicit consent from users. This leads to breach of trust, as in the case of the Facebook-Cambridge Analytica scandal.

Further, AI and ML algorithms keep learning from big data, as a raw material, for decision-making, now that it is abundantly available, thanks to digitisation. There has been a debate around ethical harvesting of personal data; building secure and safe systems that protect human dignity; data quality; design of privacy preserving and ethically aligned digital systems. Globally, regulators have been lenient on tech companies to nurture innovation and entrepreneurship. Noticing abuse of market power of some digital firms in the use of personal data, armed with evidence, regulators have started enacting policies that curb inappropriate use of personal data.

The Institute of Electrical and Electronics Engineers (IEEE) has a global initiative to look at ethical aspects of intelligent and autonomous systems. It has resulted in a document called "Ethically Aligned Design" with perspectives from over a hundred experts. The IEEE Standards Association has identified key areas to work on standardisation and development of the resultant IEEE P7000 series of standards and certification process of such systems.

As digital technologies pervade our lives, effective dialogue is needed amongst academia, researchers, industry, government and civil societies to promote global initiatives and concurrence on some of the complex issues discussed in this article.

COOPERATIVE FEDERALISM

Towards reforms in agriculture

Intense cooperation between the Centre and states is a sine qua non for implementation of reforms in the agriculture sector

HARSH KUMAR BHANWALA & SK DORA

Bhanwala is chairman, Dora is senior officer, NABARD. Views are personal

THREE ESSENTIAL PILLARS of economic reforms are liberalisation, privatisation and globalisation. Liberalisation means removal of state restrictions on private individual activities; privatisation encompasses transfer of business, industry or service from public to private ownership and control; and globalisation is the transborder spread of products, technology and information through international trade and transfer. It is believed that though a large number of reforms have been introduced in the agriculture sector in the last few years, they have met with limited success in liberalisation, privatisation and globalisation of agriculture. Importantly, policy reforms in the sector have not yielded the anticipated benefits to farmers and consumers.

This is because, since 1919, when the Montagu-Chelmsford Reforms introduced diarchy and declared agriculture as a 'provincial' subject, agriculture has enjoyed the distinction of being a state subject. And when the Constitution was drafted, it continued as a 'state' subject. Thus, while the Centre formulates policy guidelines, advises and allocates funds, implementation of farm and market reforms lies at the behest of states.

For instance, reforms for liberalisation and privatisation of agriculture marketing system. In many parts of India, farmers do not have the right to make the first sale of their produce outside regulated market yards. There is no freedom for a farmer or an entrepreneur to establish private market yard/private market managed by a person other than a market committee. Both corporates and farmers show reluctance for entering into contract for production and marketing of a farm product or products as per pre-agreed conditions of the contract. The result is a marketing system that is inefficient and leads to exploitation of farmers by a chain of intermediaries, who siphon off a large part of the consumer's pie that is highly disproportionate to their value addition. Consequently, price realisation by farmers is low and non-remunerative. Also, farmers in many states are exploited through a non-transparent and multipoint levy of market fee across the state due to the absence of a unified single trading licence valid across the state/UT.

The government, to deregulate and privatise agriculture marketing system, has ushered in a series of structural market reforms over the years. For enhanced transparency in trading, better price discovery and to provide multiple choices to farmers to sell their commodities to buyers online and in the markets of their choice, the government launched e-NAM in April 2016. The agriculture ministry also introduced the Agricultural Produce and Livestock Marketing Act in April 2017, which provides for alternative marketing channels, direct marketing, and setting up of private markets, farmer-consumer markets, commodity markets, and allows declaring warehouses/silos/cold storages as market sub-yards to promote agriculture marketing. In May 2018, the ministry released Agricultural Produce and Livestock Contract Farming and Services (Promotion & Facilitation) Act, 2018, which, in addition to contract farming, provides for service contracts all along the value chain, including pre-production, production and post-production. These are long-pending policy reforms that have the potential to deregulate agriculture marketing system, ushering in large-scale efficiency gains. Similarly, in the Budget 2018-19, the government announced for developing and upgrading existing 22,000 rural haats into Gramin Agriculture Markets (GrAMs). In these GrAMs, physical infrastructure will be strengthened. Also, GrAMs are electronically linked to e-NAM and exempted from regulations of APMCs, and will provide farmers a facility to make direct sale to consumers and bulk purchasers. But the progress in adoption of many of these market reforms at the state level has been painfully slow. Each state has its own set of priorities, socio-economic and political realities, cultural and historical legacy, budgetary compulsions and agro-climatic nuances, which come in the way of aligning the state policy with national policy.

An area that is crying out loudly for reform is land leasing. Most states have either legally prohibitive land leasing laws or adopt restrictive practices in different forms. These pugnacious laws manifest as period of lease, landowners' right of resumption, conditions for termination of lease, tenants' right to pre-emptive purchase of leased-in land, conferment of ownership right on tenants, recording of lease, heritability of lease, regulation on rent, etc. The effect is, almost one out of five farmers known by various names like tenant farmers, oral lessee, share croppers, benami farmers, etc, have difficulty in accessing credit, crop insurance and also are deprived of the relief benefits provided by the government for loss and damage due to natural calamities. An expert committee on land leasing constituted by the NITI Aayog, under the chairmanship of T Haque, came out with the Model Agricultural Land Leasing Act, 2016. Land leasing reforms, if carried out by state governments, will contribute immensely towards inclusive growth. However, the Model Agricultural Land Leasing Act, 2016, has been fully adopted in very few states.

Let us consider the third pillar, i.e. globalisation, and see how cooperative federalism is essential for integrating Indian farmers with the global agricultural value chain. 'Trade and commerce' are in the Union list and states often see no formal role for themselves in the nation's agricultural exports. The new Agriculture Export Policy by the ministry of commerce and industry exhorts greater involvement of state governments for creating agri-logistics and infrastructure, development of product-specific clusters, promoting good agricultural practices (GAP), working on quality assurance systems, while pushing for marketing reforms for doubling our agricultural exports from the current \$30-plus billion to over \$60 billion by 2022, and reach \$100 billion in next few years.

There is no doubt that intense cooperation between the Centre and states is a sine qua non for expeditious implementation of reforms in the agriculture sector. Probably a structured mechanism based on the philosophy of cooperative federalism is the need of the hour. There are a large number of examples of successful cooperative federal institutions in India. Prominent among them include the Inter-State Council (ISC), five Zonal Councils, NITI Aayog, the Finance Commission and the recent GST Council. However, we require a dedicated federal and cooperative body for the agriculture sector, on the lines of the National Association of State Departments of Agriculture (NASDA) in the US—which is a non-partisan, non-profit association that represents the elected and appointed commissioners, secretaries, and directors of the departments of agriculture in 50 states and four US territories. NASDA grows agriculture by forging partnerships and creating consensus to achieve sound policy outcomes between state departments of agriculture, the federal government and stakeholders. One of its objectives is to develop a spirit of mutual teamwork between federal, state and territorial agencies with respect to programmes and activities related to agriculture. It is time we work towards creating a truly cooperative and federal entity like NASDA for expeditious implementation of reforms in the agriculture sector.