

Power to issue directions just grew

This power can be intoxicating. It can give any regulator a serious high



WITHOUT CONTEMPT

SOMASEKHAR SUNDARESAN

The power of the government to "issue directions" has made an entry into company law. The first step has been taken in Section 135 — the provision that seeks to change the regime from encouragement of voluntary expenditure on corporate social responsibility (CSR) into a criminal-sanction-based mandatory obligation to spend.

This column is not about the criminalisation of CSR, on which much ink has been expended. Section 135 has been amended to insert a specific sub-section

that stipulates that the "government may give such general or special directions to a company or class of companies as it considers necessary to ensure compliance". It goes on to stipulate that such recipient of directions "shall comply with such directions". This is a first inroad under company law into how the central government may issue directions specific to a company. Once it comes in and gets used, inexorably, such a provision is bound to take on the role of enabling governmental "directions" to companies in public interest.

The power to "issue directions" is one that has been widely made available across sectoral regulators. The first insertion of this power happened in the form of Section 35A of the Banking Regulation Act, 1949, to enable the Reserve Bank of India (RBI) to issue directions to any bank in particular or to banks in general in "national interest". This came to be replaced with "public interest" under the watch of Prime Minister Nehru, who was still establishing a government that would occupy the commanding heights of economic activity and thereby, indus-

try. In 1968, the phrase "in the interest of banking policy" got added, giving the RBI even more powers to issue directions to banks. A right to make a representation after the issuance of directions, which could lead to a modification or cancellation of a direction was also contained in the section.

The RBI was abstemious in its use of this power. In fact, the RBI used the term "directions" as a means of drafting subordinate law — directions that apply to an industry as a whole — say, non-banking financial companies, or banks — would be issued from time to time. The weapon was never used as a targeted one aimed at a specific person or market intermediary.

Similar language took the form of Section 11B of the SEBI Act, 1992, in the mid-1990s, giving the capital market regulator the power to "issue directions" in public interest and in the interests of investors in the securities market. Interestingly, the provision in the SEBI Act did not specify a post-decisional representation, leaving it to the wisdom of the regulator to provide for it of its own accord. The SEBI started testing the lim-

its of this power. Without superseding the board of a stock exchange, the regulator used this power to remove a specific office-bearer from the governing board of a stock exchange. The power to put the provision to such use got tested in a writ petition. And the rest, to use a cliché, is history.

Not only did this power come to be regarded as a blank cheque, its constitutional validity for its usage without even hearing the party against whom it is used (*ex parte* orders) was upheld. The check and balance of a post-decisional hearing was considered reasonable enough to repel a challenge to provision itself. Of course, individual instances of the usage of the power could be challenged on the touchstone of arbitrariness. Further powers to issue directions, explicitly enabled for use without a hearing, were introduced in Section 11(4) of the SEBI Act. *Ex parte* directions, putting people out of business until further notice, with no timeframe for a final resolution of the matter, abound.

Other regulators of other sectors too have these powers now. The template rolls on. Putting them to use depends on the personality and age of the regulator. More recently, with the forced use

of the mechanism under the Insolvency and Bankruptcy Code, 2016 (IBC), the RBI was given powers to direct banks to adopt proceedings under that law by further sections in the law in similar vein. The usage of that power in a generic manner without regard to the sensitivity attendant with specific industries eventually came in for challenge and the circular of the RBI forcing the adoption of proceedings under the IBC came to be struck down recently by the Supreme Court.

The "power to issue directions" can be intoxicating. It can give any regulator a serious high. Not everyone at the receiving end of a "direction" has the wherewithal or the courage to challenge an arm of the state, either in a writ petition or in proceedings involving a statutory right to appeal. The European Court of Human Rights held a similar power in the laws of Italy to be violative of human rights when it was used to direct an individual not to be a director of any listed company.

Giving such power, now to the central government (as opposed to a specialized regulator) in the basic law governing companies, is a first achieved by the recent amendment. Given the nature of the beast, one must watch this space keenly.

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CHINESE WHISPERS

Advani won't hoist flag today



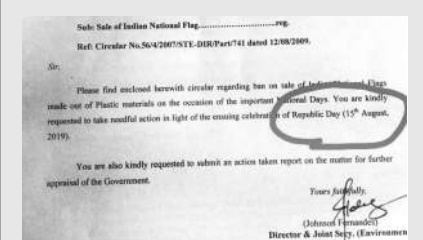
For nearly two decades, senior Bharatiya Janata Party (BJP) leader LK Advani (pictured) has hoisted the national flag at his official residence at 30, Prithviraj Road in the national

capital on Independence Day. However, he will not be hoisting the flag on Thursday. According to communication from his office, Advani "has been running viral fever for the last five days, as such there will be no flag hoisting programme this year on 15th August, 2019 at his residence". The message ended by greeting everyone a happy Independence Day. Advani is 91 years old.

Celebration time

The Congress party is planning a series of events over the next one year to commemorate the 75th birth anniversary of former prime minister Rajiv Gandhi. After a ceremony to mark his birth anniversary at the Congress headquarters on August 20, the official celebrations will kick off on August 22 from a stadium in Delhi, possibly the Talkatora Indoor Stadium. Party leaders Jairam Ramesh, Mukul Wasnik, Pawan Khera and Rajeev Satav are part of the planning committee along with Samruddha Bharat Foundation's Gurdeep Sappal. Congress general secretary for eastern Uttar Pradesh Priyanka Gandhi Vadra is taking keen interest in the planning and is expected to attend the meetings now that she has returned from Sonhadra in Uttar Pradesh, where she had gone to meet family members of the victims of a land dispute in which 10 tribals were killed last month.

Same mistake



A day after the Delhi Police was dragged to court for referring to Independence Day as Republic Day in an advisory issued to its officials, a circular issued by the government of Goa on sales of national flags has surfaced on the social media which seemed to make a similar gaffe. The circular issued by the department of environment asked officials from various departments and regions of Goa to ensure action was taken if national flags made of plastic were sold on the occasion of "important national days". The circular, bearing the signature and seal of the director and joint secretary (environment) of the state, urged officials "to take needful action in light of the ensuing celebrations of Republic Day (15th August, 2019)".

Oiling the wheels of the refinery business

Why the RIL-Aramco deal could be a template for the state-owned sector

SUBHOMOY BHATTACHARJEE

There are still many meetings and miles to go for the proposed investment by Saudi Aramco in Reliance Industries Limited (RIL) to come through. The \$15-billion deal is still "at the very, very early stages", as Khalid al-Dabbagh, Saudi Aramco's senior vice-president for finance, strategy and development, said at the company's first-ever earnings call on Monday. A report by Seeking Alpha also quoted him as saying lower Saudi exports to the US and Europe is the result of slowing demand from these regions and growing demand from Asia. An International Energy Agency (IEA) report of 2019 notes around 70 per cent of the investment in refining units in 2018 were in Asia (where regional product demand is growing).

The big question is how far India has become a favoured destination for the oil refineries to uproot their investments from Europe and elsewhere to plug and play here. What happens with the RIL-Aramco deal will answer many of those questions. The signs are propitious principally because this is a brownfield investment. It is far easier to invest in an existing refinery in India than a greenfield one, principally because policy

conditions, including those on land acquisition, do not favour the latter.

For instance, just as discussions about the RIL-Aramco deal began, the chances of the competing greenfield refinery in Maharashtra appear bleak. This is a proposed deal among state-owned Indian Oil Corporation, Bharat Petroleum Corporation, and Hindustan Petroleum Corporation with Aramco and Abu Dhabi National Oil Company in Ratnagiri Refinery and Petrochemicals (RRPCL). That project has suffered a setback because the site had to be relocated following protests by local residents. The expected cost for the refinery has shot up to \$60 billion from \$44 billion, and will certainly rise further.

Instead, buying a stake in an operational refinery comes far cheaper. Last year a consortium led by Russian giant Rosneft paid \$12.9 billion for the Essar Oil refinery at Vadinar,

Gujarat. Aramco, despite the warning noises, has made the same calculations. There are 20 more state-run refineries up and running in India according to the ministry of petroleum and natural gas with an annual capacity of 249.366 million metric tonne (mmt). Of these 18 are solely run by the state-owned oil companies (two are joint ventures — Bharat Oman Refinery Ltd and HPCL

REFINING THE PICTURE

	Number of refineries	Capacity in MMTPA*
	23	249.37
■ Public sector	18	142.07
■ Joint ventures	2	19.10
■ Private sector	3	88.20
	PSU refineries under expansion	
	Cost (₹ cr)	
IOCL	5	61,133
HPCL	2	25,988

Mittal Energy Ltd).

Selling them outright to foreign bidders should be one of the easiest policy actions to do. The refinery sector was delicensed in 1998, which means any public or private sector entity can set up a refinery, depending on the project's techno commercial viability. These refineries cost a lot but there is no strategic reason for the state oil companies to invest money in setting them up or even to keep them going. The same money must be used to invest in oil and gas exploration, where the government has repeatedly drawn a blank in attracting foreign majors. Yet there is still some degree of hesitation in selling 100 per cent stake in state-run refineries to foreigners. But as the RRPCL and the proposed RIL-Aramco deals show, this is the path to take.

Countries with largest refinery capacities (1,000 barrels per day)

USA	18,762
China	15,655
Russia	6,596
India	4,972
South Korea	3,346

Source: Parliament questions, EIA * Million Metric Tonnes Per Annum

One example of the risks of greenfield proposals is the centre's plans to set up a refinery and petrochemical complex in Andhra Pradesh (AP). It is an absurd commitment written in as part of the Andhra Pradesh Reorganization Act of 2014. The petrochemical complex will produce 1.7 mmt of products a year. This is one of the smallest state-run refineries but an Engineers India feasibility report says it will cost a massive ₹32,901 crore to build. To become feasible it will need to provide at least a 14 per cent rate of return, the petroleum ministry estimates, even though the state government has asked that it be reduced to 10 per cent. The 14 per cent IRR is the same ballpark used for HPCL's Barmer refinery project in Rajasthan. And that project did not look feasible until it was assured of processed crude

supply from Cairn's Rajasthan fields. It is only now that HPCL has indicated that there are no further roadblocks in setting up the 9 mmtpa refinery-cum-petrochemical complex for ₹43,129 crore at Pachpadra in Barmer. The AP project (the second one in the state after Tatipaka) has no such nearby sources. Uttar Pradesh (UP) has made a copycat demand. Incidentally, the states need to provide viability gap funding. In AP's case, the amount in question is ₹5,000 crore but here too it is asking for exemption.

The eight public sector refineries are feeling the heat of international competition. A Parliament reply on the issue notes the need for these refineries to adopt the best-in-class technologies to increase distillate yield and reduce energy consumption. The government is committed to spending ₹87,121 crore to modernise and expand seven of them, money that is clearly well spent elsewhere (and it excludes investment in the AP project). The task at hand for the government is to tell states that want refineries to explore the FDI route. It is possible. After all, the RIL-Aramco MoU will be the Saudi Arabian companies' biggest-ever M&A deal, dwarfing its previous largest \$4.9 billion 28.4 per cent stake in South Korea based S-Oil Corporation in 2016. For the RIL deal, Aramco will need to be absolutely sure of India's political commitment to backstop it. Which is why Riyadh is still calling it a "very, very early" move.

INSIGHT

The scale of India's economic challenge

The government shouldn't worry about the latest quarterly growth figures



DHIRAJ NAYYAR

Everyone is worried about the economic slowdown. In a 24x7 world of media, social media, hyper-connectivity and hyper-commentary, what matters most for observers of the economy is the latest quarterly GDP growth number or the latest monthly IIP release or which way the purchasing managers' index is leaning. For constructive policy making, statistics which are discussed less frequently may present a more accurate picture of what ails the economy and therefore what is the appropriate medicine for recovery.

Two statistics, more than others, tell the story of India's long-term economic challenge. First, manufacturing as a percentage of GDP is only 15 per cent and its share in GDP has been static since the 1990s. Second, the workforce engaged in agriculture is around 40 per cent of the total workforce — and produces only 13 per cent of GDP. Thirty years ago, the percentage contribution to GDP may have been higher but so would have the workforce. The low productivity of agriculture has not changed. These two mostly unchanged facts in 30 years explain why India has failed to grow in double digits and why it has failed to generate enough good jobs. The inability to expand manufacturing has led to an inability to absorb the excess workforce in agriculture into more productive jobs.

It is easy to achieve Make in India. All that is required is a trade policy which increases tariffs and other forms of protection. In fact, in the pre-1991 era, the percentage of manufacturing in GDP was close to 20 per cent. But the economy, particularly consumers, paid a heavy price for an inefficient and uncompetitive Make in India. What is required is Make in India For the World. India has to create a globally competitive manufacturing sector for which it must participate in global and regional value chains. None of our trade and industrial policies are really geared for that goal.

To the extent that they are in the form of open/free trade policies with some countries (Japan, Korea) and some blocs (ASEAN), they have only aided deindustrialisation. The reasons are well known. The fact is that the pace of external liberalisation has not been matched by the pace of internal reforms (in red tape, in labour, land and capital markets, in logistics/infrastructure). Indian manufacturing is engaged in a sprint with its legs tied. The government seems to be aware of the bottlenecks in each of these domains and has made strides in improving the scenario.

There is one dimension that has received insufficient or perhaps the wrong kind of attention. And that is scale. India remains shy about big, large-scale business. It continues to romanticise and indeed incentivise small scale (a majority of which are in fact micro scale) enterprises. Of course, all business begins at a small scale and needs nurturing. What it does not need is an incentive structure that deters it from becoming large.

The most prominent disincentive comes from the tax system. Five years ago, the government had committed to reduce the top corporate tax rate from

30 per cent to 25 per cent. That has happened but first for firms with a turnover of up to ₹250 crore and then for firms with a turnover of up to ₹400 crore (in the latest Budget), but not for larger firms. The problem with this is that only relatively large firms can be OEMs or even suppliers in global and regional value chains. And they are being forced to pay uncompetitive tax rates. Potentially, new and smaller firms that could become part of those value chains opt out by staying below the turnover limit for a higher tax. Some businesspersons run several small scale units instead of one large unit losing out of economies of scale for this reason.

It is not just the tax regime that discriminates against large firms. Labour laws do to. Fewer laws or even no laws apply to micro and small units. As firms become larger, they have to comply with cumbersome laws. Many opt out and remain small. And then there is the political economy stigma of big profits, inevitable in competitive large firms.

Unfortunately, small firms face the brunt of cheap import competition. It is these firms that have difficulty accessing cheap capital. It is these firms that the government takes pride in as the generators of maximum employment. But what is the quality of jobs these small units provide? And what is the competitiveness of these units? At any given point, these firms may be the backbone of the manufacturing sector but if they are never going to grow up, they cannot be the spine for Make in India For the World.

The government should stop worrying about the latest quarterly growth figures. It needs to do the right kind of structural reforms to realise the promise of sustained high growth and well-paid jobs.

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LETTERS

Give them time



The column "How to make the horse drink water" by Tamal Bandyopadhyay (August 12) was thought-provoking. When rates are cut, banks only pass on a small percentage of the cut to borrowers and that too after a time lag. As for deposits, when banks pare down the rate, it is only for fresh deposits. The old deposits attract the earlier rate.

The transmission of rate cut differentials is a complex exercise that each bank will have to undertake according to the strength of the balance sheet. Banks are accused of being greedy or lazy in passing on benefits of rate differentials to customers. In a complex scenario, banks have to walk a tight rope. The prognosis for the banking sector isn't too rosy. While public sector banks are mired in high non-performing assets, the spike in stressed assets in leading private sector banks is a cause for worry too. Making provisions for these stressed assets will eat into the profitability of the banks.

For the past many years, retail loans have boomed as the upwardly mobile class partook of the easily available credit facilities, be it in the form of loans or credit cards, to augment their lifestyles. Now with the slow-down and question marks over the job scene, the cash flow is drying up. The steep fall in the growth of the automobile sector is a case in point. With a lucrative stream of income showing signs of tapering off, banks will become tight-fisted in passing on additional benefits to customers.

Legal remedial measures to sort out the stressed assets issue hasn't really taken off as expected. Banks will need help to recover their money. Till such time, they cannot be expected to be proactive in the transmission of the benefits of rate cuts to customers. If help is given to shore up their bottom lines, banks will likely come out with more customer-friendly measures.

KV Premraj Mumbai

Change your diet

Apropos "Food security to be severely hit because of climate change" (August 9). Year after year, the United Nations has been advising that a sustainable future lay in avoiding industrial meat and consciously switching to vegan diets. Although the average annual per capita meat consumption in India isn't as alarming as in America, switching to vegetarian/vegan diet has become the urgent need of the hour, given the ecological destruction and untold animal suffering that meat industries are causing. Let us not forget the claustrophobic rearing conditions, artificial diets (leading to methane emissions from animal farms), antibiotics abuse and above all, the inhumane slaughtering methods — which make the livestock farming sector worse than the transport sector in contributing to greenhouse gas emissions.

With options like vegan meat (pea/soy-based) that companies are coming up with in India and the soon-to-be-introduced lab-made "cultured meat" (derived from animal

muscle tissue), it should no longer be difficult for meat-eaters to make the enlightened transition.

Krishna Manoj via email

Choose fearlessly



That Sonia Gandhi (pictured) is back as the interim president of the Congress party shows other leaders of the party are fearful. They couldn't have disrespected the Gandhi family by eyeing the top post. Otherwise leaders like Anand Sharma, Manish Tiwari, P Chidambaram and Kapil Sibal, known for their combative politics, could not have sat back and watched helplessly. Well-known for their erudition, elocution and allegiance to the party, they did stand a good chance of handling the top job. In the larger interest of the party, the Congress leadership must encourage its leaders to contest elections fearlessly. The forced consensus for the election of party posts stunts the emergence of quality leadership.

Tarsem Singh Hoshiarpur

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HAMBONE



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States of the union

Centre-state relations need to improve

Prime Minister (PM) Narendra Modi can be expected to devote a good part of this Independence Day speech to Jammu and Kashmir (J&K). One unintended consequence of this government's biggest political initiative to date has been a significant alteration in the dynamics of Centre-state relations. Though the issue is unlikely to find mention at Red Fort, managing his government's relations with the states will be a major challenge for the PM in the days ahead. It would not have escaped the attention of many state administrations that the tectonic changes in J&K's status occurred when the state had been under governor's rule since December 2018. Some states, especially those in the Northeast, are likely to harbour misgivings as well. Most Northeastern states have constitutional guarantees for autonomy broadly similar to those that applied to the state of J&K (including land purchases by non-residents).

Many mainland states — among them Maharashtra, Gujarat, Andhra Pradesh, Karnataka — enjoy some constitutional guarantees of special treatment under Article 371, though some of these have become moot under successive Finance Commission recommendations. The government has already stated that these provisions would not be read down. But statements do not represent watertight pledges. For instance, having abrogated Article 370 on grounds that J&K's political exceptionalism was incompatible with the broader idea of the Indian Union, the government sought a special dispensation from the 15th Finance Commission for the Union Territory to get funding from the divisible pool of central taxes, whereas all other Union territories are financed by central grants. Delhi, for example, is treated as a state by the Goods and Services Tax (GST) Council, but as a Union Territory by the Finance Commission.

The timing for this frisson of insecurity in Centre-state relations is not propitious. Decelerating economic growth and near-stagnant employment urgently demand fundamental reforms in land acquisition and labour laws, two major hurdles to investment by domestic and foreign businesses. Both are on the concurrent list, which means that changes set out in central laws require states to be on board. The co-operative nature of the GST Council, in which the Centre and the states meet to determine the outlines of the GST, has shown that there is considerable scope for such institutions that give substance to the prime minister's promise of "co-operative federalism". It is time therefore to revive institutions such as the now defunct National Development Council, which could serve to arrive at a consensus on contentious issues such as simultaneous elections to the Centre and the states, which has been a pet subject of this government. Some chief ministers have spoken of how centrally sponsored scheme drain state resources unduly without giving state leaders even leeway. This could be another issue that can be taken up by an all-India body that reflects the federal character of the Union.

If Mr Modi were to signal some conciliatory moves, it also behoves the states to modulate their relations with the Centre. There is no logic, for instance, for Andhra Pradesh and Bihar to demand special category status, which entails special grants of the kind that is extended to hilly and backward areas. In any case, many of these demands were met when the 14th Finance Commission significantly raised the states' share in taxes from 32 to 42 per cent. Persisting with extractive demands achieves little beyond vitiating a fraught relationship with a Centre that finds itself with fewer and fewer resources at its command.

Fighting climate change

Well-judged alterations in land use are imperative

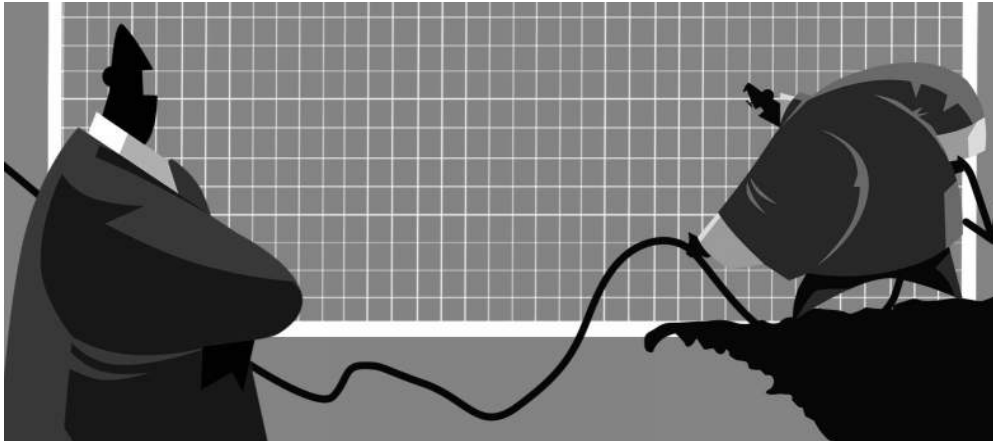
The special report on "climate change and land", brought out by the United Nation's Intergovernmental Panel on Climate Change (IPCC), has added a new dimension to the fight against global warming. It has included judicious utilisation of land amongst the prerequisites to save off the climate crisis. The report contends that slashing of greenhouse gas (GHG) emissions from fossil fuels alone cannot limit the temperature rise to 2 degrees Celsius above pre-industrial levels as agreed under the Paris climate accord. Well-judged alterations in land use are imperative to tame the forces that are triggering changes in weather patterns. The report points out that climate change, marked by more frequent weather extremes like droughts, intense downpours and floods, deteriorates land due to erosion and other factors. The degraded lands, in turn, abet climate change because of their reduced capacity to absorb carbon dioxide.

According to the report, nearly 23 per cent of the total human-generated GHGs emanate from deforestation, agriculture, animal rearing and other land-based activities. If pre- and post-food production activities such as transportation of inputs and output, energy consumption and food-processing are also taken into account, the land sector's share in GHGs mounts to 37 per cent. This can be curtailed only by reversing deforestation, expanding area under perennial vegetation and stopping further damage to available land. Normally, land and oceans are believed to imbibe 50 per cent of the GHGs generated through the natural carbon cycle. This level needs to be maintained or, in fact, enhanced by ensuring that afforestation and reforestation together exceed deforestation.

India's elaborate action plan on climate change, which envisages simultaneous action on several fronts, has an important component on using forests to suck out GHGs from the atmosphere. The target is to create an additional carbon sink of about 2.5 to 3 billion tonnes by 2032 through expansion of forest cover. However, going by the track record so far, this seems a tall order. In fact, the emphasis laid earlier on reclamation of degraded lands as part of the soil and water conservation programmes has also waned with time. The estimates made by a local agency indicate that nearly 30 per cent of the country's geographic area is undergoing land degradation. Non-agricultural lands, pastures and village common lands are suffering from neglect. Arable lands are deteriorating because of over-irrigation, imprudent input application and flawed agronomic practices. All this needs to be curbed. The land use needs to be based strictly on its carrying capacity.

Significantly, the IPCC's land report has been timed appropriately in view of the forthcoming two important UN ministerial summits. The first one is the Conference of Parties to the UN Convention on Combating Desertification (COP 14) to be held in New Delhi early next month. The other is the Conference of the Framework Convention on Climate Change (COP 25) scheduled for December in Santiago, Chile. This report is set to be one of the key inputs for both these meets. The report's alarmist finding that soil is eroding up to 100 times faster than it is formed through natural processes should, hopefully, spur the countries to revisit their climate action plans. The new aim should be to achieve the twin objectives of arresting land degradation and diminishing GHG discharges. Any laxity on this count may prove costly.

ILLUSTRATION BY BINAY SINHA



Reviving animal spirits

Reviving the moribund economy must be our national priority. There's much to learn from 1991.

John Maynard Keynes, writing in 1936, said that "most, probably, of our decisions to do something positive... can only be taken as the result of animal spirits — a spontaneous urge to action rather than inaction, and not as the outcome of a weighted average of quantitative benefits multiplied by quantitative probabilities." But do we really have a problem with animal spirits? Why? And what can be done about it?

We have a problem

Consider two August 15s, 28 years apart: 1991 and 2019. In 1991, the Indian economy was a shadow of what it is today.

We were, then, the 19th poorest country in the world, and the 16th largest. Our foreign reserves were down to two weeks of imports. India's foreign trade had fallen to 0.5 per cent of global trade, down from 2 per cent at independence. Indian companies were pygmies by international standards — the entire market cap of the BSE 100 was \$45 billion. The contrast with August 2019 couldn't be greater. We are today the world's seventh-largest economy, and consistently for the last 28 years have been among the world's 10 fastest-growing economies. Our foreign reserves are \$425 billion, nine months' imports. A government has just been re-elected with a larger absolute majority of seats than many governments before. On every rational count, today's India is in dramatically better shape than 28 years ago. And yet, animal spirits today reflect doom and gloom as almost never before.

Almost never before. In 1991, Rajiv Gandhi had just been assassinated and the minority Congress government formed in June was widely expected not to last a full term. The same month, *The Economist* published a survey of the Indian economy, titled "Caged Tiger", which began with a damning statement: "Nowhere in the world, not even in the Soviet Union, is the gap between what

might have been achieved and what has been achieved as great as it is in India." If ever there was a time for depression, this was it. And yet, within 100 days, everything had changed in animal spirits. There was a sense in industry that private enterprise would chart India's future, that our time had finally come. Within a year, a prolonged investment boom was underway, a new confidence pervaded every board room, and Indian industry — and with it India — was set on a great new future. The rest, as they say, is history — indeed a history that turned the dire numbers of 1991 into the health of 2019.

The government of 1991 must take much of the credit for the sea change in sentiment. Three things turned the tide: A new rhetoric in policy talked reform and India's global aspiration; this new discourse was backed by profound policy change and structural reform; and a crack team of reformers put international best practice to service.

A brilliant Budget speech on July 24 by Manmohan Singh, then finance minister, heralded a new India:

"The thrust of the reform process would be to increase the efficiency and international competitiveness of industrial production.... It is essential to increase the degree of competition between firms in the domestic market...."

The time has come to expose Indian industry to competition from abroad in a phased manner.... We should welcome, rather than fear, foreign investment....

...we must restore to the creation of wealth its proper place in the development system. For, without it, we cannot remove the stigma of abject poverty, ignorance and disease.... We have also to remove the stumbling blocks from the path of those who are creating wealth.... At the same time, we have to develop a new attitude towards wealth... the philosophy of trusteeship."

Dr Singh's Budget speech must rank amongst the



NAUSHAD FORBES

A challenge, an opportunity

Because of their geographical and cultural differences, the Kashmiris have maintained separate identities despite their incorporation into the Indian state long ago. The competing political tendencies of democratic liberalism and regressive traditionalism have advocated the retention of differences in administration, customs and the thought process. Special constitutional provisions ensured that a sense of Kashmiri identity is more important to people than their relationship to India. Different interpretations of the Islamic faith have come to contribute significantly to the persistence of Kashmiri resistance to psychological integration with the Indian republic, and then to the inability of their representatives to agree among themselves on how to bring Kashmiris closer to the Indians. Though the traditional "mainstream" Kashmiri politicians have kept the separatist elements at an arm's length, they have failed to normalise Kashmir's complex relationship with the rest of India. To add to New Delhi's woes, the state of Jammu and Kashmir has also suffered from friction between the constituent units and the tension between regionalism and centralism.

Hence, India had to respond to adapting its strategic thinking on the Kashmir issue, if it was serious in resolving the conflict. In the new political and security environment following the sudden abrogation of some sections of Article 370, New Delhi should be prepared not simply to react, but to act. It would be risky to cede the strategic initiative to Pakistan and its non-state violent proxies, who have been using unconventional means to undermine India's territorial and security interests in Kashmir and elsewhere as well as target democratic values of secularism and the rule of law. To retain the strategic initiative, India must systematically reassess its counterinsurgency doctrine and its applicability to Kashmir's prevailing

threat environment. As a matter of fact, conventional doctrines of counterterrorism and counterinsurgency face challenges in a situation where a large number of people internalise a sense of victimhood and tend to provide retrospective justification for the violence they indulge in. This is what has been happening in Kashmir for quite some time.

Communities caught up in intractable conflicts tend to develop psychological conditions enabling them to cope with the conflict. The beliefs that sustain these psychological conditions include a strong belief on the fairness of one's cause, an extremely positive self-perception and deep-rooted feelings of victimhood and humiliation. These beliefs, in turn, form an ethos that lead to continuation of the conflict. As part of the ideological conflict with the Indian state, the Kashmiri society has been engaged in a process of creating historical, social, cultural and, of course, existential reasons to justify its aims.

That is why the actions undertaken by a section of Kashmiri people get attributed to altruistic motives, but almost similar actions taken by the Indian security forces are perceived as diabolical. The Kashmir Valley has always been a place where conspiracy theories thrive. Every event, which does not conform to their ethos, is attributed to the machination of a powerful group of individuals in New Delhi. Conspiracy theories diminish discordant perceptions and complexities to over-simplistic patterns. Besides bringing a welcome order to unpleasant events, they relieve individuals in stress situations from the pressure of reality, since they provide a simple explanation for their suffering. Conspiracy theories enjoy great appeal in times of crisis that characterise contemporary Kashmiri society. Not surprising, the media coverage, academic research and public discourse have adopted a set of terms, ideas and arguments which feed and rein-

HOW THINGS HAVE CHANGED

Indicators	1991	2019
GDP (\$billion)	275	2,970
Country rank by GDP	16	7
GDP per capita, \$	320	2,200
Exports (\$billion)	18	330
Imports (\$billion)	24	514
Market cap of BSE 100 (\$billion)	45	1,500
Foreign exchange reserves (\$ billion)	1	425
FX reserves in weeks of imports	2	43
Gross national savings (previous year)	23%	29%
Total investment (previous year)	26%	32%
Population below poverty line	45%	22%

greatest speeches in world history, but it didn't stop there. The rhetoric was combined with major structural policy changes. Industrial licensing, MRTP (Monopolies and Restrictive Trade Practices), and Directorate General of Technical Development (DGTD) were all scrapped, freeing large industry to perform. The rupee was devalued by over 30 per cent, making imports more expensive and triggering an export boom. Import duty was slashed, with a promise of more to come until we reached global levels. And in subsequent years, personal income tax rates were brought down — from a marginal rate of 50 per cent in 1991 to 30 per cent by 1997.

Dr Singh had ended his speech by quoting Victor Hugo: "No power on earth can stop an idea whose time has come." He went on "the emergence of India as a major economic power in the world happens to be one such idea. Let the whole world hear it loud and clear. India is now wide awake." History — and the animal spirits of India's entrepreneurs — has proved him right.

Now consider Animal Spirits in 2019: "...the pall of despair I detect in Mumbai is real. Since the Budget, I have had conversations with a whole range of people, from small shopkeepers to big businessmen, and have not met a single person who said confidently that the future looks bright and hopeful. Most said that what worried them was the Budget that the finance minister brought to Parliament (on July 5) in that bright red bag, old-fashioned, Indian-style, indicated to them a return to old-fashioned, Indian-style socialist policies." This quote is not from some left-over Congress politician; this is Tavleen Singh, a strong supporter of Prime Minister Narendra Modi.

So, in brief, we have a problem. Why? It is all a matter of how the reality of today combines with perceptions of the future. In 1991, a sodden reality was matched, within 100 days of the government being formed, by perceptions of a bright future. Today, a bright present is blighted by our perception of the future — Ms Singh's worry of "a return to old-fashioned, Indian-style socialist policies". Our animal spirits will revive only when our perceptions of the future revive. What change we need is Part 2 of this article.

This is the first in a two-part series

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Defusing the idea of Us vs Them



BOOK REVIEW

JENNIFER SZALAI

During the 1930s, the New York-based anthropologist Franz Boas grew increasingly worried about events in his native Germany. He was in his 70s, and close to retiring from Columbia University, where he taught his students to reject the junk science underpinning the country's restrictive immigration laws, colonial expansion and Jim Crow. Born into a Jewish-burgher family, Boas was horrified to see

by the Nazis took inspiration from Americans' path-breaking work in eugenics and state-sanctioned bigotry. He started to put the word "race" in scare quotes, calling it a "dangerous fiction."

Boas is at the centre of Charles King's *Gods of the Upper Air*, a group portrait of the anthropologist and his circle, who collectively attempted to chip away at entrenched notions of "us" and "them." "This book is about women and men who found themselves on the front lines of the greatest moral battle of our time," Mr King writes, "the struggle to prove that — despite differences of skin colour, gender, ability or custom — humanity is one undivided thing." Boas and his disciples argued for pluralism and tolerance at a time when cross-cultural empathy was deemed not just threatening but almost unfathomable.

Mr King's elegant and kaleidoscopic book takes its title from Zora Neale Hurston, a student of Boas's who contrasted the capacious perspective offered

by the "gods of the upper air" with the cramped corner guarded by the "gods of the pigeonholes." Hurston, Ruth Benedict, Margaret Mead and Ella Cara Deloria are the other central figures in Mr King's book; like Boas, all of them came to see anthropology "not just as a science but also as a state of mind."

Boas became a pivotal figure in the discipline — though at first he was marginal, an itinerant scholar who had a hard time landing a secure position in the United States. For a while he held a curatorship at the relatively young American Museum of Natural History, but the museum was a creature of the establishment, hosting grand conferences on eugenics and showcasing displays on the "ill effects of racial interbreeding." The then-dominant school of anthropology propped up a narrative tracing "the stages of human culture," from "savagery" through to "barbarism" and finally to "civilisation." Mainstream scholars insisted that white supremacy was justified by

head measurements and heel length.

Overtaking this terrible science required more than fervent criticism. Mr King, a professor at Georgetown and the author of several books about Eastern Europe and the former Soviet Union, describes how Boas tried to use the methods of physical anthropologists against them, deploying calipers and eye-colour meters to show that the children of immigrants, born in the United States, had more in common with other American-born children than with the national groups represented by their parents. But Boas's work in the field only accounted for part of his influence. It was mainly through his teaching at Columbia and his nurturing of a new generation of anthropologists that he changed how many Americans saw the world and, consequently, themselves.

Mr King weaves in the stories of Hurston and Deloria, who used what they learned from Boas to study their own communities. Hurston's *Mules and Men*, a book about African-American folklore, included an immersive account of her return to the Florida she left during the Great Migration, and her experi-

ence as not just an observer of the community but a participant in it. Deloria, who was born on the Yankton Indian Reservation in South Dakota, was a co-writer with Boas of *Dakota Grammar*; she worked on it for a decade, explaining to Boas the delicate process of deciding on the right gifts to coax candid talk from her informants. "To go to it like a white man, for me, an Indian," she said, "is to throw up an immediate barrier between myself and my people."

Mead and Benedict found a measure of freedom in their work. The thrice-married Mead had little patience for the monogamy that was expected of her; what a puritan culture wanted to call "deviancy" was, Mr King writes, "a simple mismatch between her own temperament and the society into which she had been born." Benedict, for her part, had been a depressed housewife before she became an anthropologist (and, for a time, Mead's lover); she articulated the Boasian approach in her book *Patterns of Culture*, and gave its core idea a memorable name: "cultural relativity."

This looks to be the perfect moment for Mr King's resolutely humane book,

even if the United States of the early 20th century isn't quite the perfect mirror. Boas and his circle confronted a bigotry that was scientifically endorsed at the time, and they dismantled it by showing it wasn't scientific at all; today's nativists and racists generally don't even pretend to a scientific respectability, resorting instead to a warped version of cultural relativism for fuel in their culture war.

But what Boas advised wasn't so much a programme as a disposition — an openness toward others and a scrutiny of oneself. As Mr King writes, "The most enduring prejudices are the comfortable ones, those hidden up close."

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GODS OF THE UPPER AIR: How a Circle of Renegade Anthropologists Reinvented Race, Sex, and Gender in the Twentieth Century

Charles King
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