Governance failures

Ratul Puri, CG Power, Manpasand are just the latest in a series of corporate frauds

HUMAN FACTOR

SHYAMAL MAJUMDAR

The chairman's message on the website of Hindustan Powerprojects (earlier Moser Baer Projects) reads as follows: "Our strategy of risk-mitigated approach along with the pursuit to comply with all applicable corporate governance regulations has allowed us to ramp up our operations." This may however, sound like a joke now, as the chairman, 42-year-old Ratul Puri, has been arrested by the enforcement directorate because of a ₹354 crore bank fraud case filed by one of his lenders.

Though the charges are yet to be proved, they are serious enough. While declaring the Moser Baer account as fraud after a forensic audit, Central Bank of India claimed that the company and its directors forged and fabricated documents to induce the bank to release funds. More problems seem to be in store for Puri who is also being probed in the AgustaWestland chopper scam. Though the bank fraud case has been going on for a few years now, those who know Puri well say, they are surprised that a man who is polite to a fault and keeps chanting the corporate governance mantra has so many skeletons in his cupboard.

In fact, corporate governance has been a big casualty this week. A financial fraud worth thousands of crores was detected at the Gautam Thapar-promoted CG Power and Industrial Solutions on Tuesday. The company disclosed that the total liabilities were potentially understated and that certain assets of the company were purportedly provided as collateral without due authority. While the probe report did not specifically say, money was diverted through shell companies, several companies set up by former employees were under the scanner. This has been going on for quite some time, raising questions about the role played by the board, especially its independent directors who were silent when these questionable deals were going on.

These two cases are the latest in a growing list of frauds in India Inc. In May this year, Vadodara-based Manpasand Beverages, which was already at the centre of a controversy after Deloitte resigned as its auditor last year, found itself in the spotlight for all the wrong reasons. The company's MD, his brother and the chief financial officer were arrested for ₹40 crore goods and services tax (GST) fraud. The other directors of the company predictably resigned claiming they had no knowledge about the fake transactions.

Governance has been a serious concern in Indian companies (mostly family-owned) because of their practice of appointing the same individuals as "independent" directors on multiple boards within the same family conglomerate, many for an extended period of time. An MSCI report said, "this raises concerns as to their ability to adequately represent the interests of minority shareholders. A concern is that the lack of diversity of experience and background represents a major area of weakness for these boards." Many of these companies have also adopted complex ownership structures such as stock pyramids and cross shareholdings as they seek to maintain family control. Naturally, governance becomes the least priority.

Part of the problem of appointing independent directors close to the promoters will, hopefully, be resolved by the market regulator's recent diktat that they will need to fulfil more criteria to be eligible to sit on boards, while audit, nomination, risk management and remuneration committees will play a bigger role. The Securities and Exchange Board of India has also ruled out a minimum compensation for independent directors but said that the expertise of directors must be spelt out.

While independent directors are not supposed to know everything that the promoters are doing, the fact is most of them perform the role of nodding whenever the chairman says anything. A vast majority are people conditioned by culture — the culture of not expressing dissent very forcefully — and are therefore, intimidated or unsure how their criticism will be taken. Directors close to promoters want to be viewed by the controlling shareholders as flexible and cooperative rather than rigorous or principled.

Independent surveys have found that only one out of five companies appraises the board's performance in India. The move towards board reviews has been relatively slow and there continues to be some resistance by older or more senior directors, in particular, to the idea of individual director appraisals.

Some of the performance indicators on which the independent directors must be evaluated are their ability to contribute to and monitor the company's corporate governance practices, active participation in long-term strategic planning, and commitment to the fulfilment of a director's obligations and fiduciary responsibilities.

CHINESE WHISPERS

Past & future

The Congress kicked off its year-long celebrations to mark the 75th birth anniversary of former prime minister Rajiv Gandhi at New Delhi's K D Jadhav Stadium, located inside the Indira Gandhi Indoor Stadium. Event organisers, led by party General Secretary Priyanka Gandhi Vadra *(pictured)*, picked the party's youth faces to speak at the event. While Congress President Sonia Gandhi delivered the concluding address, others who spoke on the occasion were youth leaders Meenakshi Natarajan, Gaurav Gogoi, and Amarinder Singh Raja Brar. In his speech, Brar, a former Indian Youth Congress chief, appealed to Congress leaders and workers to unitedly support Congress leader Rahul Gandhi and give up their "greed for power", to which Sonia Gandhi was seen clapping vigorously. Several in the audience also raised slogans in support of Rahul. Brar's appeal was intriguing because several leaders now believe that the party should place its trust in Priyanka in the years to come.

Widening chasm

The expansion of the Yogi Adityanath *(pictured)* cabinet on August 21 has, according to the grapevine, widened the chasm between the chief minister and Deputy Chief Minister Keshav Prasad Maurya so much so that Maurya refused to be present for the oath-taking ceremony of the new ministers at the Raj Bhawan. At one point, the other deputy chief minister, Dinesh Sharma, and a senior BJP leader went over to coax Maurya to attend the ceremony. The chasm between the two top leaders is unlikely to close any time soon with rumours swirling that Maurya could be divested of some of his portfolios.

Police bear the brunt

The Delhi Police personnel who escorted former finance minister P Chidambaram from the CBI headquarters to the special CBI court in the Rouse Avenue complex had to face heat from advocates and journalists. The security personnel had formed a human chain right outside the courtroom to prevent anyone from entering the premises. This infuriated some advocates and journalists who started shouting, loud enough for the presiding judge to take note. The commotion was just about settling down when a former Uttarakhand chief minister came up to the entrance of the courtroom and was allowed entry without the slightest murmur. The advocates and journalists started protesting again, but without success.

Flood policy needs complete overhaul

India must learn from the ecological pioneers and carefully adapt the learnings to our own conditions

WATER: REFORM OR PERISH

MIHIR SHAH

As the frequency and intensity of floods have increased in India, the immediate reflex is to place the blame squarely on climate change. But the alteration in the distribution and intensity of rainfall over the past three decades places an even greater burden on policy-makers to initiate long overdue reforms, through which we can avoid and mitigate the worst impacts of extreme rainfall events.

The central focus of flood policy in India has been engineering solutions. Apart from large dams, India has constructed 35,000 km of embankments parallel to rivers in their floodplains. But the problem has only got worse over time. In 2008, a breach in an upstream embankment of the Kosi river led to a thousand deaths and displacement of 3.35 million people. In north Bihar, despite continued construction of embankments, flood-prone area has increased 200 per cent since Independence, partly because embankments end up obstructing natural drainages and impede natural building up of river deltas and floodplains. In the Kosi, embankments have dramatically increased the accumulated sediments in this river with already exceptionally high sediment load, whose roots lie in massive erosion of its upper catchments. The consequent super-elevated riverbed leads to breaches in embankments, worsening the flood situation, especially because settlements have been encouraged on floodplains and drainage lines.

The origins of our approach to flood management can be traced to the colonial period. A study of experiments with flood control in the delta regions of eastern India from 1803 to 1956 shows how this region was transformed from a flood-dependent agrarian regime to a flood-vulnerable landscape. The colonial administration developed the idea of flood control to secure its property regime and revenue collection strategies. Embankments designed to insulate lands from inundation were the first flood control works deployed by the British in the Odisha delta. When the iconic engineer Sir Arthur Cotton (in whose memory stands a museum in Rajahmundry) was called upon to survey the delta in 1858, he came up with one of those classic pronouncements, which (even though deeply flawed) have guided water policy in India till today: "All deltas require essentially the same treatment", which meant that their rivers needed to be controlled and regulated into an invariable and constant supply.

So, how do we overthrow this colonial legacy to forge new solutions? First, by going back to the fundamentals of science and acknowledging the interconnectedness of different elements in the water cycle. Let's understand this with the example of the Kerala floods this month, which have occurred for the third year in succession. Like the 2013 floods in Uttarakhand, the Kerala floods clearly illustrate the importance of the health of catchment areas, which deliver our water to us. Reckless (and largely illegal) construction activity and quarrying in the eco-fragile Himalayas and Western Ghats have exponentially increased the probability of landslides. The Madhav Gadgil and Kasturirangan committees have already argued for recognising the invaluable ecosystem services provided by the Western Ghats and to design a development paradigm that recognises, values and protects them. Our insistent ignoring of this advice continues to imperil people living in these regions.

What is worse, most of Kerala's dams are concentrated in the Western Ghats. And there is a constant conflict between the demands of power generation, which requires reservoirs to be full and the imperatives of flood control, which can only happen if the dams are relatively empty before the deluge. In any case, most of our dams are meant for either irrigation or power, with flood control being a secondary objective. Instead, as secretary, earth sciences, government of India himself recently suggested, poor reservoir management has made dams an aggravating factor in floods, as happened in Surat in 2006, Chennai in 2015 and Bihar in 2016. Even within these constraints, alternative strategies for reservoir management can actually be worked out. A great example is the 144 km river Chalakudy in Kerala, where the construction of as many as six large dams has completely altered the natural hydrological regime of the river. But a group of engineers and social scientists have designed an alternative sustainable reservoir operations management strategy, which was endorsed by all six riparian MLAs, after an intense period of social mobilisation. Such plans need to be carefully studied and replicated across the country.

We have neglected and encroached upon water bodies that act as sponges for excess water and whose natural drainages provided a safe exit for flood waters

What has further aggravated the problem of floods, especially in urban areas, is the destruction of natural pathways of water through the city towards the river or the sea. Once we block these, where will flood water go, but into our homes and workplaces? Hyderabad in 2000, Ahmedabad in 2001, Delhi in 2003, 2009 and 2010, Chennai in 2004, 2015 and 2017, Mumbai in 2005 and 2017, Kolkata in 2007, Jamshedpur in 2008, Guwahati, Kochi and Srinagar in 2014, Thiruvananthapuram in 2017... it is a recurrent, endless saga of urban floods. But even as we recount them, we forget that Chennai had more than 600 water bodies in the 1980s. Today not even a third survive. Hyderabad has lost 3,245 hectares of wetlands in the last 15 years. Bengaluru had 262 lakes in the 1960s. Today hardly 10 have any water. The Bellandur lake even caught fire in 2015, 2017 and 2018 due to the chemically active sludge dumped into it. Alleppey, the "Venice of the East" is struggling to clean and desilt its beautiful lake system, which protected it from floods in the past. We have criminally neglected and encroached upon these water bodies that act as sponges for excess water and whose natural drainages provided a safe exit for flood waters.

Copenhagen, London, New Orleans, Chicago, Rotterdam, Melbourne and New York are all acknowledging that the increasingly frequent cloudbursts of the 21st century demand a recognition that the economy is but a small element within the larger ecosystem. Their planning reflects exciting "building with nature" and "room-for-the-river" perspectives, with much greater emphasis on low-cost blue-green infrastructure that connects urban hydrological functions (blue) with vegetation systems (green). India can do well to learn from these ecological pioneers by carefully adapting learnings to our own conditions.

The writer is distinguished professor, Shiv Nadar University and former member, Planning Commission, government of India

INSIGHT

Missing the bus... again and again

ASHVIN PAREKH

There is a sombre feeling for our economy generally and particularly for our banking industry. As we understand, the intent to make the industry healthy again seems to be there. Industry experts, leaders, policy makers and the regulator have, for the last one decade, been assuring us that the core issues are being addressed and recovery is on its way. So where exactly is the shoe pinching?

There are several challenges that need to be addressed. The core ones include the productivity of the banking sector with the public sector banking companies facing a larger challenge. On quantitative and qualitative parameters, the sector is witnessing a gradual decline. The banking sector is losing its market share in the mobilisation of household savings. Unfortunately, the market share has been wrested largely by the mutual fund industry. The household savers carry market risk in their portfolios sans the ability to understand. The substantial loss of market value of retail investors arising out of market volatility, particularly in the past one month, suggests structural issues that are deep rooted. Perhaps policy makers will one day realise the impact of the disintermediation of the banking industry vis-a-vis household wealth. The past five years have seen a deep decline.

The second factor is governance. Its order has grown weaker, both in public sector and private sector banking. The slowing of the economy has contributed vastly to the non-performing assets (NPAs) of the banking industry and there is a mixed feeling about recovery. The woes of the aviation sector and the challenges of the energy and telecom sectors do not provide much comfort to the bankers. Then there are issues of transmission of rate cuts, where the monetary policy expectations of the regulator and the policy makers from the banking sector seem unrealistic. A nearly-dead horse is being pushed to rise and push the economy, perhaps without adequate fiscal measures or support.

In the midst of all this, one thing stands out clearly: There is a sincere intent on the part of the policy makers, regulator and the industry to revive the sector. There are plans as well. The plans, however, seem to be addressing some aspects and missing in comprehensiveness

Where are we going wrong? Is there a dearth of reforms? The answer is obvious: There have been many reforms in the past 10 years. Consolidation of banking was discussed in 2004-05. It happened only in 2018, when the benefits of consolidation were vastly diluted. The regulations and measures to address NPA challenges, ranging from announcing borrowers as defaulters and withdrawing further support, S4A, SDR did not draw much success during the 2012-17 period. The statutory intervention through the NCLT process and the IBC Code seemed promising, but the desired outcome is still eluding us. The record of actual recovery has been fairly poor, despite the empowerment rendered to the bankers. The regulator and the banking industry were expecting to recover almost ₹2 trillion by 2018, and another ₹2 trillion in 2019. The average haircuts picked up by the financial lenders were expected to be around 50 per cent. Most resolutions so far have had a much larger order of haircuts.

Then there were so many other programmes designed by the policy makers — the Gyan Sangam, the Indradhanush, and now Utkarsh 2020 — in consultation with the regulators and the industry. These programmes appeared so impressive, giving us a hope that the banking system has analysed the issues confronting it and that recovery is around the corner. This has not materialised.

In the midst of all this, one thing stands out clearly. There is a sincere intent on the part of the policy makers, regulator and the industry to revive the sector. There are plans as well. The plans, however, seem to be addressing some aspects and missing in comprehensiveness. Each of the reforms mentioned above has faced many challenges in execution -- whether it is the insolvency code or the formation of a Bank Board Bureau. When the reforms are executed, we realise that we had, perhaps not examined all the factors at play. The core issues including reorientation of human resource, motivating bankers to take decisions and providing a fear-free environment of working for the bankers is essential. Acceptance of the hard reality of the adverse economic conditions and its implications to the borrowers is essential.

In conclusion, there is a serious need to strengthen the governance of the banking sector and align the fiscal, regulatory and legal measures to revive the banking system. The government should seriously contemplate a gradual reduction of the ownership and management of public sector banks.

The author is managing partner, Ashvin Parekh Advisory Services LLP. Views are personal

LETTERS

Wait for the final verdict

This refers to "Chidambaram arrested" (August 22). The country witnessed a political drama amidst the chase and ultimately the arrest of former union minister P Chidambaram *(pictured)*. With the live telecast of the Chidambaram saga across media channels, the nation was oblivious to everything else happening all around. The charges of irregularities in the Foreign Investment Promotion Board clearance given to the INX Group amounting to corruption and money laundering as alleged by the government agencies are grave and if proven in the impending Supreme Court hearing will amount to a major setback for the Congress party.

Why did Chidambaram have to play hide and seek with the nodal agencies? Mysterious surfacing at the Congress headquarters after 24 hours of "disappearance", addressing a press conference and later the tussle to arrest the minister — was that even required? Rather than adding spice to the story, all this could have been handled more maturely. If Chidambaram believes that the charges framed against him are not true, then there is no need to be worried. Later, if this belief is upheld by the Supreme Court, he can victoriously claim to have been the target of a political vendetta. For now, patience is the only option.

Ankita Kalia Chandigarh

Take a rigid stand

Your editorial "The plastic problem" (August 22) sums up the problem very succinctly. Indeed, we have a plethora of legislation, in most states, to restrict the production and use of single-use plastics (SUPs) for years now. The Prime Minister's recent call to the nation to "make India free of SUPs" is timely and shows the importance he gives to the crucial subject that threatens many facets of life — problem that embraces many facets of life like polluting the environment and ground water, clogging drains leading to flooding, minute quantities of plastic getting into packaged food consumed by us all.

The daily generation of 26,000 tonnes of plastic waste — and 90 per cent of the same adding to the landfills all over the country — is a matter of concern. The menace is adding 8.5 million tonnes annually to the huge landfills; ironically, most of them in the big metros of the country. And, we are all aware of the problems these landfill mountains cause. Foul stench is the least of them; there are occasional fires leading to huge toxic emissions, leaching into groundwater pollutes the groundwater aquifers, mosquitoes breed there causing diseases, pigs and other animals feed on the rotting food that eventually reaches our stomachs. The tragic effects are endless.

The key to tackling the problem lies in states taking a rigid stand against pressures from the industry and enforcing the laws strictly. The problem is not beyond efficient handling if they have the will to do it.

Krishan Kalra Gurugram

Grin and bear it

This refers to "CG Power fraud stumps mutual funds" (August 22). Post demonetisation, with the real estate business in the doldrums and investment in commodities unattractive, most investors have shifted to financial assets. But for the past two years, every day there is news of companies/banks failing or in serious problem — public sector banks, IL&FS, the Anil Ambani group of companies, DHFL etc to take some examples. Investors have put in their hard earned money in mutual funds, NBFCs, corporate FDs etc but there is bad news every day from financial institutions. Audit reports don't reflect the true state of the financials and the credit ratings are unreliable. Retail investors are getting singed by these unending problems. What is a retail investor supposed to do? Keeping grinning and bearing it?

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