

Opinion

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DEEP LEARNING

President of India, Ram Nath Kovind

We have abundance of knowledge and then we have good values but in the era of globalisation and competition, we need to have a coordination between AI and human compassion

Sectoral solutions are the key to reviving GDP growth

The government has to focus on troubled sectors if the economy is to turnaround anytime soon

FINANCE MINISTER NIRMALA Sitharaman has done well to talk of the government responding to sectoral problems as and when they are brought to the government's attention; indeed, in her first press conference to announce changes in tax rates on FPIs etc, she had indicated that the next set of measures would be in real estate. There are, of course, macro solutions that need to be taken, such as ensuring India's tax rates are on a par with those in competing countries like China and Vietnam, getting labour policy right, giving environment clearances quickly, and so on. Beyond that, however, everything is sectoral and the impact of policy changes will be both quicker and, possibly, even sharper.

Now that the government has allowed 100% FDI in commercial coal mining, for instance, it must focus on ensuring Indian levies are brought down to reasonable rates; as compared to 7-15% in Australia and 0.5-4% in China, India's royalty rates are 30-35%. A Niti Aayog strategy paper had pointed out that while India's prospective geology is very similar to that of Western Australia, only 10% of it has been explored, as compared to 95% for Australia, and an even smaller 1.5% is being mined right now; according to Niti, even doubling the area being explored could create an additional 5 million jobs by 2022-23. Similarly, if environment clearances are not streamlined, there will be no big mining investment. In the telecom sector, similarly, it is not lower corporate taxes that will drive investment, it is the reduction in statutory levies that is required; from 12% in 2011, the pre-tax government share of telecom revenues rose to a crippling 25% in 2018. And, thanks to the government never settling the issue of what 'revenue' is, telcos face the possibility of a ₹92,000cr bill once the Supreme Court rules on this; a ruling is expected soon. In the case of the oil and gas sector, thanks to unfriendly government policy, while prime minister Narendra Modi planned to cut import dependence by 10 percentage points by 2022, a series of major policy missteps (bit.ly/2lVXdN4) ensured that import-dependence rose, from 83% in FY13 to 86% in FY18 in the case of oil, and from 30% to 45% in the case of gas. Indeed, going by the BP Energy Outlook, for 2019, this is going to continue to rise further, to around 95% for oil by 2040 and around 60% in the case of gas.

In the case of the real estate sector, similarly, as this newspaper has consistently argued, the government has to be more pro-active in taking over stuck projects, and giving these to builders who have a reputation for delivering—the Centre telling the Supreme Court that it would consider tax concessions to the public sector NBCC if it was willing to take over Jaypee's projects and complete them, is a step in the right direction. Given the large multipliers the sector has—both for employment as well as for consumption—this can really spur growth demand and GDP growth. In the case of the power sector, similarly, while the issue of ₹ 77,000 crore of SEB dues and stressed assets is a very real one, the power ministry has made some concrete progress and has interesting plans for the future. It is really about sectoral reforms, and the sooner these start, the better.

RBI gets it quite wrong

Forcing banks to cut lending rates is a really bad idea

HAVING GONE THROUGH a massive NPA crisis, which has cost taxpayers close to ₹15 lakh crore, banks today are a lot more cautious about how they use precious capital. If the flow of credit has slowed sharply over the past few months, it is because there aren't too many credit-worthy borrowers; the sharp slowdown in the economy has left companies, especially smaller ones, in trouble. At a time like this, it is surprising the Reserve Bank of India (RBI) should be forcing banks to price retail loans—home and auto—and loans to MSMEs over an external benchmark. This could be the repo, the three-month or six-month treasury bill, or any other market benchmark interest rate published by Financial Benchmarks India Pvt Limited.

The move is ill-timed, and not just because interest rates—both the risk-free yield and the repo—are at relatively low levels, but also because the rate of growth of deposits is slow. Borrowers find it hard to cope when rates go up, and when the economy starts looking up, interest rates are bound to rise. Also, banks have been reducing the interest rates on deposits, but most of the cuts have already taken place, with not too much room for more. Indeed, from here on, the fall in deposit rates would be just slightly more than the fall in the repo. But, more than 90% of banks' resources are sourced from term and demand deposits, and a very small portion, of less than 5%, is raised from the repo market. Ideally, therefore, banks should price their loans over the weighted-average cost of funds. Also, the central bank should allow banks to offer floating rates on deposits, given the interest rate swap market is shallow. Given that the MCLR is higher than those on repo-linked instruments, if banks price their loans over an external benchmark, their margins are likely to suffer. In the current environment, where there are not too many good borrowers, banks will be unable to garner enough volumes to offset the lower pricing.

Although the spread can be raised only if there is a substantial change in the borrower's credit assessment, banks might come up with ways to bill the borrower to compensate for the loss on the rate. It will not be easy, but they will try. Analysts point out that the base rate and the MCLR ultimately impacted net interest margins to a lesser extent than anticipated, and the transmission in the case of MCLR took almost two years. Banks may also opt for shorter-term deposits to be able to manage the interest rate cycle better. That will hurt savers. RBI may be frustrated that transmission isn't faster, but forcing banks to lose out on their margins is simply not fair. This is a free market and banks must be allowed flexibility to price their loans.

Censoring OTT

Censoring OTT content a bad idea, govt should adopt certification-based regulation for both OTT content and cinema

THE GOVERNMENT IS mulling over a censorship regime for the likes of Netflix, Amazon Prime Video, Voot, HotStar and other over-the-top (OTT) platforms. A report in *The Economic Times* suggests that talks of regulating online content were triggered by Hindutva groups' opposition to shows like *Leila* (Netflix) and *The Patriot Act* on grounds that they hurt the majority community's religious sentiment, and further a "Hindu-phobic" propaganda. How much of this, objectively, is a genuine grievance is debatable. But, OTT content has long been a bone of contention in India, with many petitions filed against content variously labeled "vulgar," "violent" or otherwise inappropriate. The Supreme Court, indeed, had asked of the Centre if there was a need to regulate content on OTT platforms.

While some would argue that OTT platforms have been spared the proverbial censor's scissors—such platforms being beyond the purview of the Indian Cinematography Act 1952 and the Central Board of Film Certification (CBFC)—most OTT platforms are already signatory to a self-regulatory Code of Best Practices, drafted under the aegis of the Internet and Mobile Association of India; it is not very different from the Indian Broadcasting Foundation's Broadcasting Content Complaints Council that regulates cable TV content. Under this, various platforms stream pre-censored content, even though they are not required to by law. Besides, these platforms come with built-in parental controls and detailed labels for age-appropriateness, thereby allowing users to make informed choices about their viewing preferences. At a time when the viewer is keen on accessing content that is not limited by "majority community's sentiments" or other such concerns, trying to police content is an insult to the viewer's intelligence and undermines the creative freedom of the producers who, in any case, are adhering to a set of broadly accepted standards as defined by the self-regulation code. Some would argue that if cinema is censored, then why not OTT content? Even if one is to ignore the fact that access to OTT content is nowhere in the same territory as access to cinema, the better route would be to move away from censorship for cinema, as the Shyam Benegal committee had suggested, and instead stick to just certification.

● THROUGH THE LOOKING GLASS

LARGE DIGITAL DATABASES LIKE THE GST NETWORK CAN GIVE GRANULAR INSIGHT, CREATE PREDICTIVE MODELS; THIS CAN LEAD TO MORE GROUNDED INTERVENTIONS

Leveraging open data for policymaking

ALOT HAS BEEN said about the current economic slowdown. Econometricians have opined on whether the fall in growth rate is structural or cyclical; economists have wondered whether the response has to be from the supply side or whether demand needs a boost; politicians have traded barbs on whether the issue is the mismanagement of the local economy or the impact of the global trade wars and suchlike; industry and stock market participants have loudly called for succour, fiscal prudence be damned, as their profits and positions suffer even as bureaucrats and government think-tanks continue to talk of India becoming a \$5 trillion economy.

Since the macro-economy affects all participants, it is natural for all of them to have an opinion and voice it out clearly. As they perceive the current slowdown from their own vantage points and perspective, the diagnosis, prognosis and solutions depend either on the tools of trade available to them, or on their own reasonable self-interest. Any macro-economic change creates a unique Tower of Babel—too many people talking about too many things and, in many cases, talking past each other, or with deep contradictions.

In the current case, the epicentre seems to be the automotive sector, though, now, many other sectors are beginning to report slower growth numbers. As is usual in a large and complex economy, not all sectors behave in unison—there are some sectors (say, aviation, paints, etc) where growth continues to remain high. Depending on which side of the

table one is on, data points can be brandished at will. The challenge for policymakers is to absorb all this cross-talk and to convince most, if not all, of them that their interests will eventually be taken care of.

If one looks at the commentary, a significant amount of time and effort is invested in trying to identify the causes of slowdown. Most economy watchers have created their own Le Keqiang index of their favourite high-frequency data points: a former CEA used some indicators to come up with a measure of India's economic growth while a data reporting company uses its chosen eight indicators monthly. The creation of collections of such sub-indicators only adds to the cacophony of the commentary; these indicators may neither be completely representative nor adequately comprehensive to capture the complexity of the economy.

What is the way out?

One way in which the Tower of Babel can be made less confused is if everyone agrees on some fundamental axioms. This can happen when what is being commented upon is based on facts that are universally acknowledged and agreed upon, rather than on data points that are selectively available. Generation and



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dissemination of data is a trust-based public good that is entrusted to a monopoly: the government. India has recently gone through a rough phase, where its macro-economic data has been questioned. Questions and suspicions can quickly corrode trust—reinstating and rebuilding trust requires a long-term, patient approach.

The formal sector of the economy, which is currently suffering from a slowdown, is now largely digitally connected with the government. With the roll-out of the GST network and the digital interface of the direct taxes, there is a large data exhaust that is now available to the government. With the expected collection of ₹14 trillion of GST at an average rate of, say, 14%, the GST network now gets an insight into ₹100 trillion of value-addition. This represents around half of the ₹200 trillion Indian economy.

The GST network has valuable data, the analysis of which can shed light on a wide variety of questions: which sectors are hurting, how are the upstream and downstream ecosystems coping, are there stress signs in adjacent or dif-

Generation and dissemination of data is a trust-based public good that is entrusted to a monopoly: the government

ferent sectors, which states seem to be facing bigger issues and which are holding up, etc. There can be deep analysis of size, scale, networks, complexity, etc. The need for privacy of an individual entity is well-recognised and, indeed, is upheld in law as a fundamental right. However, meta-analysis of consolidated, anonymised data can throw up meaningful, actionable insights.

The GST system has stabilised over the last couple of years. India should use this 'crisis', as every commentator who loves to paraphrase Rahm Emanuel would attest, to create a framework for data sharing. Once a constant and consistent stream of data is available, a large self-interested community of analysts, both in the private and public sector, will begin to dig deeper and build sophisticated tools to help not only identify where the current slowdown is hurting but also what and where to look to identify the next downturn or exuberance.

Given (1) how important data is as a public good, (2) the importance of developing evidence-based policies, and (3) the public funding of various digital networks of the government, opening of anonymised, consolidated data to the public should not pose any legal or technical challenge. A five-star framework of Open Data policies, developed by Tim Berners-Lee, the inventor of the world wide web, sets out a framework for authorities globally.

India should harness its available data to come to more grounded conclusions, solutions and interventions.

NBFC reforms to enhance credit-access

NBFCs are now a dominant supplier of credit to several segments. Given the current liquidity crisis, a structural reforms agenda that would enable sustainable growth of the NBFC sector is crucial

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IT IS EVIDENT, and acknowledged that the importance of NBFCs in the Indian financial system is rising. To the extent that India has to enhance access of credit to a diverse set of borrowers with unique requirements, NBFC's centrality is likely to increase. NBFCs have graduated from being a significant class of lender to being a dominant supplier of credit to several segments. In FY19, NBFCs contributed 40% of new loan accounts in retail, consumer, housing, and small business segments. This contribution is broad-based across geographies—49% in tier one and two centres, and 32% in tier five and six centres. This is much more than that of other lenders, such as public sector banks, private sector banks or others, including MNC banks, all of whom play in these segments. In terms of providing credit to first time borrowers, or "new-to-credit (NTC) customers", NBFCs have done an outstanding job—57% of NTC borrowers in tier one and two, and 55% in tier five and six get their first loan from an NBFC.

It is reassuring to note that both, the government and RBI have worked in concert to support the NBFC industry during the liquidity crisis. The government's budget announcement to provide first loss guarantee for portfolio purchases from NBFCs, and a slew of measures from RBI to ease flow of credit to NBFCs are strong signals that the state is backing this pillar of Indian lending. Further, changes in the RBI Act, giving it more powers to better supervise and regulate NBFCs, clearly signal the intent for a more hands-on role of the regulator towards developing the NBFC sector.

The system should promote more NBFCs with unique capabilities in data, analytics, and technology to set shop. Given the increasing complexity of assessing credit quality in small business, SMEs and NTC customers, there is a need for constant entry of innovative, quick-footed lenders, with the mandate to experiment. Depending on the existing banking set-up, to take up the entire mantle of financial innovation and experimentation, given the stringent regulatory asks, is a tad opti-

mistic. However, there is a need to re-look the entire framework of regulatory consideration to ensure that NBFCs achieve their full potential in terms of enabling financial inclusion.

The crisis provides an opportunity to reflect on structural reforms agenda, to enable sustainable growth of the NBFC sector. Such measures fall under five categories relating to regulation, innovation in funding instruments, bank finance reforms, strengthening market discipline, and reinforcing systemic support for NBFCs.

■ **Regulatory cognition of heterogeneity:** NBFCs are a heterogeneous space, given their focus on specific assets class and borrower segment. The risk-return profiles, and overall financial profiles of these players in terms of return on equity, risk-adjusted return on capital, application lifestyle management, and liquidity gaps are quite diverse. The regulatory requirement for liquidity and capital should, ideally, be cognisant of this structural diversity, and avoid one-size-fits-all regulations, particularly with respect to liquidity and capital requirement. Else, it may potentially distort market structure, affecting credit availability in certain segments.

■ **Diversifying source and instrument of funding:** Apart from banks and mutual funds, we need to enhance funding from insurance and pension funds. Such long-term investors are risk-averse by design. Since many NBFCs are unlikely to be rated at, or above AA levels, such investors will not be able to invest in NCD of NBFCs. To address this, it is critical to encourage financial market innovations like covered bonds. Covered bonds are safer than both, stand-alone corporate bonds, as well as secu-

ritised papers, and would be favoured by conservative investors.

■ **Banks need to treat NBFC as partner, not borrower.** Banks' lending model of treating NBFCs as any other institution borrower needs to change. Co-lending may be the preferred model of the future. The co-lending scheme, introduced by RBI, allows NBFCs to lend to customers jointly with banks. NBFCs acquire the customer, lend a part of the loan to them, and provide first loss guarantee to the banks to lend the remaining part. Banks lend to the same customer at a lower rate, in line with their lower cost of funds and lower consequent risk costs. Banks and NBFCs can operate more closely. Technology integration of their systems will ensure much faster decision-making, and seamless customer experience while controlling the risk.

■ **Enhance market disclosure:** NBFCs may be subject to enhanced market disclosures. Specifically, granular and in-depth disclosures on asset portfolio quality, funding sources, and liquidity profile may be required. As such, increasing liquidity or capital requirement may not solve for ill-considered lending strategy for some NBFCs. However, disclosures, and consequent market scrutiny will force a certain discipline in maintenance of prudential limits on both, the asset and the liability side of the business.

■ **Backstopping NBFCs:** Create a refinancing and liquidity support institution for NBFCs engaged in SME finance. As the present crisis has shown, liquidity, more often than insolvency, takes an NBFC down. NBFCs require a lender of last resort. We need one institution that has the capability to undertake repo of securities, backed by NBFC loan portfolio, that can be resorted to at a time of need, to raise funds for short periods.

LETTERS TO THE EDITOR

Politicians' arrest

By now, it has become quite clear that the Modi government is not quite averse to using, or, more precisely, misusing the central agencies to take revenge on 'political enemies'. It is ingenious to suppose that agencies like Enforcement Directorate and CBI are 'politically neutral', or even-handed, and act independent of government control. The perception that they are made tools in the hands of the government to go after political adversaries is not without substance. The cases of Congress leaders P Chidambaram and DK Shivakumar spring to mind. Chidambaram is a vocal critic of Modi government's policies. Shivakumar is the go-to man for the Congress; specifically, he secured Ahmed Patel's win to the Rajya Sabha, much to the dismay and wrath of Amit Shah. It is observed that no leader of BJP, or of other parties who joined it to escape possible cases, is booked for economic offences. In case any case exists against members or supporters of the ruling party, it is not pursued with the same vigour as the cases of Opposition leaders. The selectivity shown by the Modi government in 'money laundering cases' is glaringly obvious. The law must take its own course, and not the one paved by political machetes. The law should not be bent to suit the political convenience or interest of the ruling party, lest democracy becomes diminished and less valued. — G David Milton, Maruthancode

Teacher's day

In an era where technology has emerged as a domineering force, teachers remain a force to be reckoned with. Few could dispute the fact that technology can only supplement the learning process, but could hardly become a substitute for teachers. With education now becoming a commodity, teachers are now being perceived more as service providers than educationists, which is a cause for great concern. — M Jeyaram, Sholavandan

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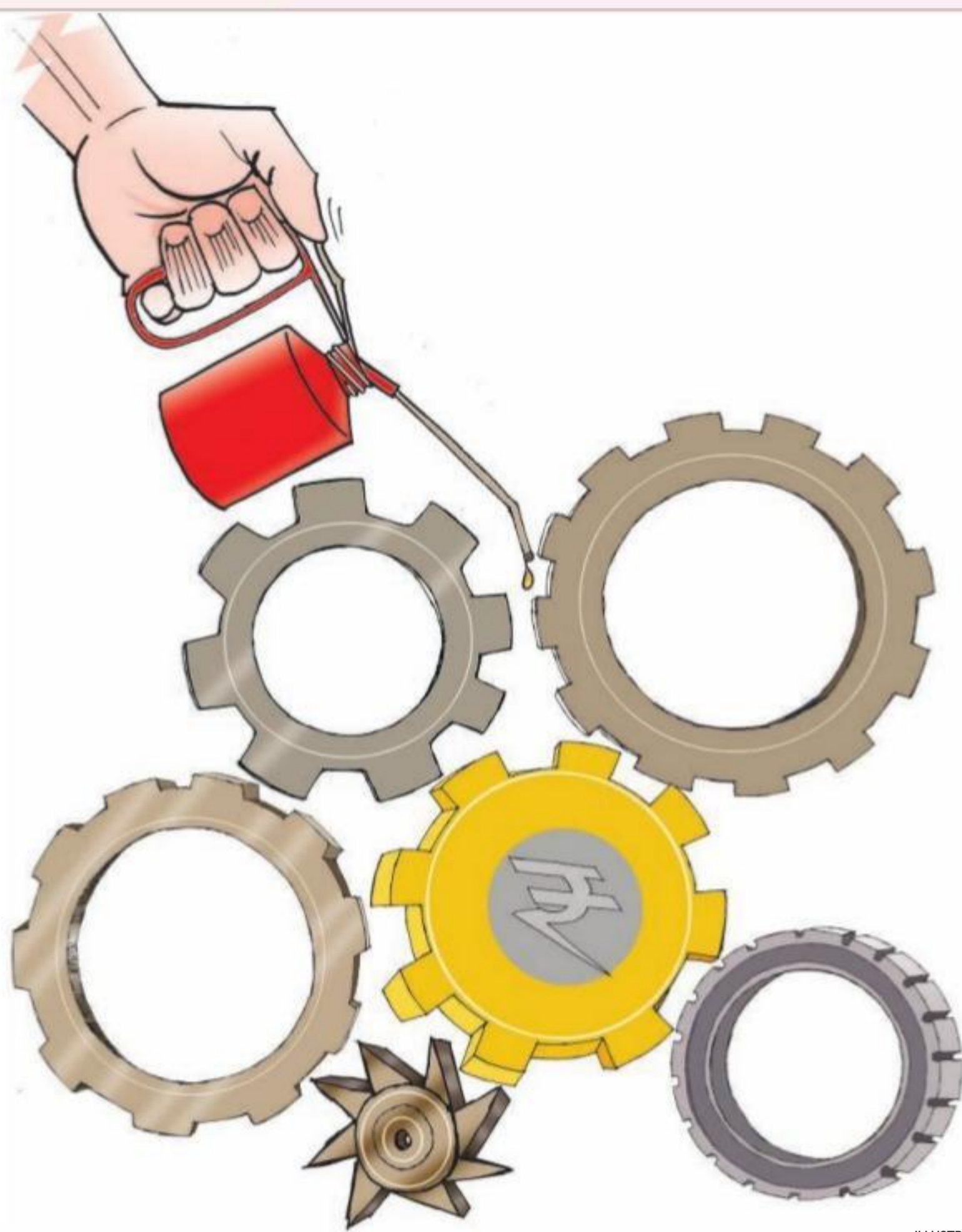


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To revive the ailing Indian economy...

The slowing economy needs a holistic approach and not ad hoc measures. Policymakers must systematically remove hurdles in each and every sector of the economy

THE INDIAN ECONOMY is going through one of the most difficult phases in the post-Liberalisation era. Economic growth in the first quarter of this financial year (2019-20) has slipped to a six-year low of 5%. The manufacturing sector expanded by just 0.6%, while agriculture grew 2% and construction 5%. The inflation-adjusted GDP growth has slipped to 6.8% in 2018-19 from 7.2% in the previous year. Corporate results in each of the quarters reflect a slowdown in profit growth across all sectors, limiting the industry's capacity to modernise or expand.

The slowdown is reflecting on job creation, too. Unemployment hit a four-decade high of 6.1% in 2017-18. The data showed that 7.8% of all employable urban youth were jobless, while the figure for rural India was 5.3%. Meanwhile, the working-age population—those above the age of 15—is expanding by 13

million a month. India needs to create 18.6 million jobs a year to ensure that the demographic dividend is not frittered away. Just to stay at the current unemployment levels, the economy will have to generate 8.1 million jobs a year, but the numbers are not very encouraging.

The RBI intervention and decisions by FM Nirmala Sitharaman may help. But only if, 1,123 BCM is estimated as average annual utilisable water. Of this utilisable water, 60% is surface water. According to the Central Ground Water Board (CGWB), total water utilisation in India is projected to be 1,447 BCM in 2050, against the estimable quantum of 1,123 BCM. Thus, the demand will outstrip availability between 2030 and 2040. India is the largest extractor of groundwater; it extracts nearly 25% of the world's groundwater, according to UNESCO. The NITI Aayog has declared that 21 cities, including Delhi, Chennai and Bengaluru, are expected to run out of groundwater by 2020. Currently, India is extracting, on average, 62% of groundwater from its active recharge zone, of which almost 90% is for irrigation purposes. However, this average figure is highly deceptive. We have regions where water exploitation is more than 200%, making the situation critical. Intensive exploitation of groundwater has severe consequences. If continuous extraction of groundwater exceeds the total replenishable rate, it leads to land subsidence, salt water intrusion, and becomes technically and financially non-feasible for stable water supply. Moreover, India suffers from geogenic pollution (elements naturally present in the geology) of arsenic, fluoride, iron and nitrate. Over-utilisation of groundwater has a cascading effect on the water quality, creating a higher concentration of these elements in

ment. The slowdown is broad-based; it has affected manufacturing, trade, hotels, transport, communication, broadcasting, construction, agriculture—covering the entire economy. All analysts point to the need for long-term policies based on principles, and not just short-term measures to address the symptoms and not the malice itself. The Prime Minister is seized of the situation, evident from the concerns he raised in his Independence Day speech. The right approach is to have a long-term vision with short-term goals helpful in achieving the vision. So, what are the structural changes needed to make India an economic superpower? The first step is the realisation that the economy is in dire straits.

The course correction must come in systematic steps. It is important to move away from discussions whether unemployment is frictional (between jobs), cyclical/seasonal or structural. In India, the approach has to be structural as our requirement for job creation is 18.6 million every year and ensure that the young population doesn't become a liability; it cannot be left to market corrections. The global slowdown cannot be a fig leaf as India is still a work in progress for social security, unemployment allowance and public healthcare. If India gets into the whirl of slowdown, the path to recovery will be much more difficult.

The stated objective of making India a \$5-trillion economy by 2024 and \$10-trillion by 2032 is a benchmark set by the government. Of the country's total population, 65% is below the age of 35 who seek avenues for quality employment or enhancement. If the unemployment rate is the highest in 45 years and the growth rate is not up to the required level, we need to go back to the drawing board and set non-negotiable principles. Our approach to the cost of raw materials, power tariffs, credit availability, interest rates, labour laws and taxation needs clarity and long-term understanding. We need to converge the agreed principles and goals to enhance growth and create quality jobs.

As the PM rightly pointed out, the focus of the government should be on solving issues of labour layoffs and salary cuts in major sectors, and not on uncertainties in the share market or fluctua-

tions in gold prices. The laid-off staff gets added to the ranks of job seekers, putting pressure to find quick fixes in the manufacturing sector, especially MSMEs, or vibrant services sectors such as tourism. Ad hoc solutions will not resolve the issue and we need decisive steps to gain the confidence of local and foreign investors that our policies are predictable.

The structural changes required are specific to each sector. For instance, mining—the only sector showing positive growth trends amidst the downturn. We need to take a look at the mining material cap on the cost-plus principle to ensure there is no profiteering by mining companies that will push input costs for manufacturing. The sector also needs to rationalise five types of royalties into a single levy to facilitate simplification.

Similarly, the guiding principle for imposing import/customs/safeguard duty should be to have lower or nil levies on what we do not have in India like coking coal, scrap and ferro nickel so as to bring down the input cost for the manufacturing sector. While mining shows positive growth trend, one needs to look at whether it adds to the input cost? The key is to differentiate between having normal profits and profiteering. There is a need to cap profits in input sectors such as mining and establish a 'cost-plus' approach. The same principle needs to be applied to other natural resources such as spectrum and minor minerals as these belong to the entire population.

Another area of focus is GST; a few items are still outside the GST purview and then there are multiple cesses. There is a need to collapse GST into two bands—maybe 5% and 12%—and rationalise the filing of returns. Tax payment can be quarterly, but paperwork should be made half-yearly. This will bring confidence in industries and traders, and create the ground for self-declaration of taxes. The idea behind the GST was to widen the base for tax collection and for this reason it is important to come up with stable long-term tax rates and timelines before bringing more items under the GST regime. A related issue is insistence of current or different account for even businesses like consultancies. The efforts were done to collapse the multiple bank accounts, but GST and other requirements are not in sync with the same.

There is a need to revise minimum wages in both rural and urban areas. The convergence of the MGNREGA with Finance Commission grants will trigger infrastructure growth in rural areas. Urban areas should take up works of ward improvement of infrastructure using Finance Commission grants and other revenues. If Indore in Madhya Pradesh is getting the cleanest city tag year after year, it is because of efficient utilisation of available resources. There is no reason why other cities can't replicate the effort.

Stepping up of agriculture production and value addition of farm produce as well as improving storage facilities will trigger rural employment and ensure enhanced income in rural areas. For example, the round bamboo sticks for making incense sticks are imported. In the coming years, the entire activity can be indigenised by local cultivation of the bamboo of a particular variety required by the industry. Making of long-term consistent policies is the only way to success. The import of concentrates to make fruit juice needs to be reconsidered; value addition at the local level is key to long-term success of the sector and creation of well-paid jobs. Make in India has been successful in the steel industry because of the holistic approach adopted by the government and the industry.

The slowing economy needs a holistic approach and not a patchwork. The policymakers need to resist from pushing issues under the carpet and systematically remove the hurdles in each and every sector of the economy. While immediate results are possible in some sectors, others will take time to come up with sustainable outcomes. India needs to cushion its more than 1 billion citizens from global shocks and ensure that the population becomes an asset, not a curse.

Does e-commerce harm competition?

ABIR ROY



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A CCI study seems to suggest online markets must be treated on a par with offline markets

THE COMPETITION COMMISSION of India (CCI), on August 30, released its interim findings on the ongoing study of the e-commerce sector. This study was initiated by the CCI on account of rapid growth of the sector and the rising importance of online trade. The findings are: (a) preferential terms and visibility to certain 'preferential' sellers, higher search rankings, etc, although the same have been vehemently denied by the platforms as they claimed all sellers are independent third-party sellers; (b) platforms playing a dual role raising issues of neutrality; and (c) strict on-board reseller norms to reduce the nuisance of counterfeiting.

While these findings were released by the CCI after a lengthy discussion with all the stakeholders over a period of time and seem to note down the concerns of the offline trade, it is yet to come out with its analysis of the issues presented in these interim findings. It would be interesting to find out the final approach of the CCI considering that, in the past, it has had a chance to review this sector in a combination decision (the Walmart-Flipkart deal) and in an abuse of dominance case (AIOVA case against Flipkart).

Interesting, in the combination case, the CCI noted the concerns outlined above and noted that these may require an analysis under Section 3 (provisions relating to anti-competitive agreements), and as such the CCI had to approve the transaction since the concerns highlighted therein were pre-existing and not a result of the investment of Walmart in Flipkart. However, the CCI has not yet analysed the same under Section 3 and the final study may throw some light on the same. The key point for the CCI is to see herein whether the activities of the major e-commerce players, Amazon and Flipkart, i.e. their agreements with preferential sellers (if they exist), cause an anti-competitive foreclosure to other non-preferential sellers. This would, in turn, depend on whether the online market is separate from the offline market. In 2014, the CCI, in one of the cases, had noted that offline and online markets are not separate; however, with great deference, the case was decided five years ago and may require a *de novo* outlook.

Digressing from the CCI issue slightly, the concerns raised by offline traders that have been put in by the CCI in the interim findings may require to be reviewed from the perspective of FDI norms, too. Earlier this year, FDI norms qua e-commerce were revised substantially and this change came against the backdrop of objections raised on (i) predatory pricing and loss funding; and (ii) web of preferential sellers created by such dominant e-commerce players. The changes to the said policy addressed some of the concerns.

Now, if the final study of the CCI does indicate that this practice exists of preferential sellers, discounts provided by such practices, *dehors* the fact that such practices may or may not require an analysis under the provisions of the Competition Act, may fall foul of the violation of FDI policies. Interestingly, in a case concerning Snapdeal some time ago, the CCI had ruled that Snapdeal does determine prices and is not a pure play marketplace. The same would be applicable to other prominent marketplaces.

On the issue of counterfeiting, the Delhi High Court rounded up major e-commerce platforms like Amazon, Flipkart and 1mg, throwing light on the various practices they were indulging in. This case comes as a relief to companies that are engulfed in consumer complaints and counterfeiting with no relief as these platforms take the defence of 'intermediaries'. The Delhi High Court holds these platforms liable for inducing breach of contract and allowing the sales of unauthorised products on their platforms. Therefore, all the said issues pointed out by the traders are likely to find a mention in the final study that would be released by the CCI and it may have an implication both under the Competition Act and also on other laws like the FDI policy and consumer protection laws *et al.* E-commerce players have long deflected liability claiming themselves as mere intermediaries, but post the above observation by the Delhi High Court coupled with the changes in consumer laws by bringing in definition of product seller and electronic service provider in consumer protection laws may no longer be the case.

(The author represented as an advocate to the Confederation of All India Traders (CAIT) in their challenge to the Walmart-Flipkart deal before the CCI, which is currently in appeal before the National Company Law Appellate Tribunal.)

INDIA RECEIVES AN annual precipitation of 1,100-1,200 mm, which accounts for a total volume of 4,000 billion cubic metres (BCM), including runoff. But only 1,123 BCM is estimated as average annual utilisable water. Of this utilisable water, 60% is surface water. According to the Central Ground Water Board (CGWB), total water utilisation in India is projected to be 1,447 BCM in 2050, against the estimable quantum of 1,123 BCM. Thus, the demand will outstrip availability between 2030 and 2040.

India is the largest extractor of groundwater; it extracts nearly 25% of the world's groundwater, according to UNESCO. The NITI Aayog has declared that 21 cities, including Delhi, Chennai and Bengaluru, are expected to run out of groundwater by 2020. Currently, India is extracting, on average, 62% of groundwater from its active recharge zone, of which almost 90% is for irrigation purposes. However, this average figure is highly deceptive. We have regions where water exploitation is more than 200%, making the situation critical. Intensive exploitation of groundwater has severe consequences. If continuous extraction of groundwater exceeds the total replenishable rate, it leads to land subsidence, salt water intrusion, and becomes technically and financially non-feasible for stable water supply. Moreover, India suffers from geogenic pollution (elements naturally present in the geology) of arsenic, fluoride, iron and nitrate. Over-utilisation of groundwater has a cascading effect on the water quality, creating a higher concentration of these elements in

Using water crisis as an opportunity

India doesn't have a problem of water scarcity, it suffers from overexploitation of groundwater; opportunity lies in supplementing resources by natural and artificial recharge

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the groundwater reservoir.

Most of the Indian riverine system is rain-fed, and due to large-scale removal of the green cover, the retention capacity has decreased tremendously. This has led to the major part of the precipitation into run-off, leading to flash floods in many parts of the country. In addition, due to decreased retention capacity, the natural capacity of groundwater recharge has also reduced. Decreased natural groundwater recharge capacity, coupled with over-exploitation of groundwater, has led to a decrease in the baseflow (part of the groundwater that flows into the river) to the rivers in the non-monsoon period, due

to which many rivers either run with the decreased flow or run dry.

Due to the increasing pressure on the development of groundwater resources, it has become the need of the hour to supplement these depleting resources. The natural recharge to the groundwater reservoir is restricted to a period of only 10 to 100 days, and is not adequate to keep up with the current rate of exploitation. Since a large volume of the precipitation flows out into the sea or gets evaporated, artificial recharge has been encouraged to supplement the natural recharge.

Artificial recharge is the process by which the groundwater reservoir is aug-



struction of wells is restricted, but can still be used for domestic use.

The government must encourage saving in consumption as well as rainwater harvesting through twin measures of pricing water on its economic cost and suitably rewarding bulk users (industry, farmers) through discounted tariff upon achieving measurable groundwater recharge.

India doesn't have a problem of water scarcity; it suffers from variation in the scale of time and location of the precipitation. Rainwater harvesting, coupled with increased green cover (the government has proposed to increase the green cover of the country to 33% of the total area), is the ideal solution for the current water crisis because it can buffer out the spatial and temporal variation in the precipitation. Also, natural filtration by the geology of the Earth leads to better quality of water. Rainwater harvesting not only helps in replenishing the groundwater for future use, but also provides water for local use without transfer costs—this has social and environmental benefits. The study of our scriptures reveals that ancient thinkers such as Sarasvati and Manu, with a scientific bent, were also interested in exploring the means of storing rainwater.

The waters of sky, the waters of rivers, and water in the well, whose source is the ocean, may all these sacred waters protect me.

—Rig Veda.

(Anshul Tyagi contributed to the article.)