# Time to review whistleblower policy

The greater the ambiguity in the law on how one would be treated, the lesser is the ease of doing business

**WITHOUT CONTEMPT**

SOMASEKHAR SUNDARESAN

Yet another whistleblower complaint has been reported against yet another listed company. Yet another flurry of activity around handling the fallout will follow. Something or nothing may come of it. However, there is one abiding requirement that policy-makers must attend to: A legal framework to deal with whistleblower policy that deals with all facets of the phenomenon.

The law and practice around handling complaints from whistleblowers has evolved organically, and not by a push from a law. Company law and securities regulations simply require the need for a whistleblower policy within the corporation. Yet, whistleblowing and handling whistleblowers is a tricky area. Handled poorly, it could either lead to a witch-hunt in organisations that is fertile soil for yes-men; or lead to even bona fide decisions and entire organisational systems being held to ransom.

There was a time when the government of India had a stated policy on ignoring anonymous and pseudonymous complaints. Unless a complaint was backed by a real name, vigilance probes would not be initiated. In public office, every hour of the working day can involve taking decisions that would disappoint someone or cause heartburn. Therefore, unless one affords protection from the exercise of judgement being judged, and the wisdom of a decision being substituted by another's wisdom, an organisation would be incapable of being governed. Yet, in reality, there is no dearth of serious action being triggered by letters and complaints that are anonymous, and what is now par for the course, pseudonymous complaints. The more grave the contents of the complaints, the more difficult it is to ignore it on the ground of the complaint being anonymous or pseudonymous.

With corporate boards, complaints of this nature are even more rampant. One must not forget that light from any source can be illuminating. Therefore, when a complaint is anonymous or pseudonymous, the board of directors should consider the personality of the CEO and the work environment in the organisation. The "stronger" (read, more autocratic and overbearing) a CEO, the greater the need for a complainant to mask her identity. The more inclusive and accommodative a CEO is of the diverse views within the work space, the more circumspect and stringent the board of directors should be towards anonymous and pseudonymous complaints. This is easier said than done.

Invariably, embedded into the probe into a complaint is a deep desire to know who the complainant is. The more ironfisted the leadership, the greater the risk to the whistleblower's safety and security. Whistleblower protection, and an organisation's attitude towards it, can tell a story about how autocratic and "statist" the organisation is. One man's patriot reformist is another man's traitor.

The United States, whose policies for the corporate world led the thinking around the world on how to make use of whistleblowers' concerns to reform corruption in corporate America, is the most authoritarian when it comes to handling whistleblowing of the government's own wrongdoing. See the plight of Edward Snowden (physically in danger and marooned outside his country) and numerous others who are like-minded and are languishing in jail. The current US President likens probes into credible complaints by whistleblowers in his office to "lynching" (indeed an American term in this context).

Today, companies that have nothing to do with the government too need to handle whistleblower complaints and in fact enable a framework where complainants can come in without fear of being identified. From a phase of not taking a non-transparent complaint seriously, market reality has moved to treating as illegal the very demand to know the identity of the whistleblower. A disgruntled owner of an opinion that is in conflict with the ultimate collective decision in an organisation can wreak havoc if his views are overridden.

It is time for a comprehensive empirical review of how whistleblower policies have been used, abused, and organisationally handled in corporate India. Some indication of an ideal approach to handling whistleblower complaints, and how organisations would be treated by the law in relation to handling of these complaints, would be an important nudge to the development of the law. Today, boards of directors too are exposed to being accused of mishandling of such complaints – either of taking frivolous complaints too seriously or of taking important complaints lightly. The greater the ambiguity in the law on how one would be treated, the lesser is the ease of doing business (the much tired phrase) in India.

*The author is an advocate and independent counsel. Tweets @SomasekharS*

## CHINESE WHISPERS

### Congress constitutes think tank

With the Congress finding itself at an ideological crossroads on issues such as Article 370, the role of V D Savarkar in the national movement, and the Regional Comprehensive Economic Partnership, party president Sonia Gandhi *(pictured)* has constituted a "think tank" to discuss these issues internally. This 17-member think tank will have its first meeting on Friday, a day after the Haryana and Maharashtra Assembly poll results are announced, and will take stock of the results. Apart from Sonia and her son, Rahul Gandhi, other members of this think tank include Manmohan Singh, A K Antony, Ghulam Nabi Azad, Ahmed Patel, Jairam Ramesh, Kapil Sibal, Anand Sharma, Rajeev Gowda, Randeep Surjewala, KC Venugopal, Adhir Ranjan Chowdhury, Rajeev Satav and Sushmita Dev. Congress General Secretary Priyanka Gandhi Vadra is not part of the think tank.

### Singh vs Singh

A day after Congress MLA Lakshman Singh protested outside his elder brother and party veteran Digvijaya Singh's *(pictured)* house, the legislator met former Madhya Pradesh chief minister Shivraj Singh Chouhan in Bhopal, fuelling speculation in political circles. Chouhan and the MLA termed the meeting a "courtesy call". The legislator's demand was that the senior Congress leader set a date for a function to announce the creation of Chachoda district. After the meeting, Chouhan also told reporters that "it was a courtesy meeting. We meet occasionally... We also support the demand that Chachoda be made a district". Chachoda is Lakshman Singh's constituency and the MLA said Chief Minister Kamal Nath had announced in July this year that it would be given the status of district.

### Taking a filmy route

Encouraged by the growing tourist traffic in Chanderi (a small town more famous for its saris), the Madhya Pradesh government is planning to bring in a film policy to promote tourism in the region. The idea was born when government officials noticed that after the movie *Stree* was shot in the town, tourist footfalls crossed 50,000 this year, a big jump over last year. The government is planning to appoint a coordinator who will take care of film units' needs and suggest to them locations for their shoot.

# Losing the golden touch

As the industry protests deep discounts, the test of Zomato's Gold membership plan will be in renewals next year

KARAN CHOUDHURY

It was on a WhatsApp chat group in early August that the murmurs of dissent against Zomato Gold, the food discovery and delivery aggregator's premium membership plan, first began. This group that hundreds of restaurants as well founders of food aggregator firms are part of, was incidentally set up in 2017 when sale of liquor along highways was banned.

A handful of restaurants, all part of the WhatsApp group, had a common concerns— that their eateries had become hunting grounds for deal-seekers, instead of valued repeat customers. What followed next was a widespread protest against Zomato Gold, a paid membership programme for restaurants that encouraged deep discounts.

"We were all discussing the fallout of joining Gold. None of us were getting the returns that were promised. Instead we were just dishing out free food and drinks to deal hunters. Finally, during the discussions one of the restaurants said they were logging out of Gold. That is how it became known as #Logout," said Vishal Anand, founder of Saints and Sinners, a pub in Gurgaon, and partner Farzi Café Aerocity.

Anand has not only logged out of Gold, he is not listing his restaurants on the portal anymore.

Things just snowballed from there on. As the number of restaurants logging out of Zomato Gold piled up, National Restaurants Association of India (NRAI) and the Federation of Hotel & Restaurant Associations of India (FHRAI) decided to hold talks with not only Zomato but all the other players in the ecosystem, including Swiggy, Dineout, UberEats, Foodpanda, among others, to tell them to rethink their business practice and move away from discounting.

**TAKE TWO**
ANALYSIS BEHIND THE HEADLINES

But the matter appears far from settled. The NRAI and FHRAI claim that close to 3,000 premium restaurants throughout the country are out of Gold, but Zomato claims post #Logout, the restaurant count on its platform has, in fact, increased to 6,500.

Over the past few weeks, many restaurants and premium joints at five-star hotels have logged out of Zomato Gold. An NRAI source says among them are Social, Farzi Café, SodaBottleOpenerWala, Monkey Bar and Kylin Experience.

The restaurant associations have joined hands and sent an advisory to all members to log out of Gold. "Everything we are reading of late about Gold seems to be addressed to its investors. Close to 3,000 members are still logged out. We have only communicated to our members about the ills of Gold, no one has been forced to stop using Gold," said Anurag Katriar, president, NRAI.

**ON THE MENU**

**ZOMATO'S REACH**

| 1.4 mn | 24 | 65 mn |
|---|---|---|
| **No of restaurants** | **cities covered** | **users every month** |

150,000
**food delivery partners**

**SERVICES PROVIDED**

Food delivery | Table reservations

B2B food ingredient supply for restaurants. Zomato Piggybank technology to connect restaurant businesses and customers

This doesn't bode well for Zomato. Industry insiders say that if a chunk of premium restaurants stay logged out, then getting customers to renew Gold might become difficult for Zomato next year. "Gold membership has been marketed as a means to dine out at premium restaurants. If high-end restaurants stop being part of the plan, people would lose interest in the membership programme. Convincing people to renew it would become that much more difficult," said a source close to company.

At Zomato there has been some rethink since the #Logout campaign, but it continues to defend Gold. "At the start of the #Logout campaign, we had 6,100 restaurants in India on Zomato Gold for dining out. As of today, we have 6,300 restaurants in India on Gold. In addition, we have 10,000 restaurants participating in the recently launched Zomato Gold for delivery. The number of restaurants participating in Gold outside of India stands at 6,500," Zomato said in a report earlier this month.

Things have certainly not been easy for Zomato in recent years. Swiggy, its nearest competitor, has not only raised over a billion dollars in the last one year and rapidly expanding in the food delivery space, it is also treading further into grocery delivery, concierge service as well as into the mobility space.

Amazon India, too, has decided to get into the food delivery space, and given its huge user base in e-commerce, its entry could be potentially disruptive for everyone in food tech. Then, tech giant Google too is planning to enter the restaurant listing space. These are two of the main verticals that Zomato plays in and earns its revenues from.

To avert the threat from new entrants, Zomato is looking at niche areas to expand, where there are still only a few players. It recently marked its foray into the entertainment space. It will be launching video content on its platform with as many as 18 original shows. These short format videos that would be launched over a period of three months will have shows based around food, and celebrity chef Sanjeev Kapoor would be part of some of the programmes.

This ties well with Zomato's advertisement content business for restaurants. It has been trying hard to sell its video advertisements to restaurants, cloud kitchens and other clients on the platform and now along with entertainment content, many believe, it would be easier to do so.

"The plan is to weave in content with the advertisements. Something what YouTube does on its platform. A video advertisement of a restaurant might play before or in-between the starting of the show," said a source close to the company. Having content would encourage restaurants to place video ads as the probability of them getting watched by people would be higher.

It is still too early to say whether all this will help Zomato spice up its offering and stand out in a crowded market. The proof of the pudding perhaps will be in a fresh round of funding that Zomato is currently trying to raise.

**INSIGHT**

# As safe as the banks?

DHIRAJ NAYYAR

Eleven Octobers ago, the global economy suffered its most calamitous financial crisis since the Great Crash of 1929 which triggered the Great Depression. The epicentre of the two crises was the United States, which has, in both intellectual and practical terms, been the home of free markets for most of the last 100 years.

Therefore, it is easy to arrive at a definitive conclusion about the excesses of markets, particularly in the financial sector, and to bat for an alternative, highly regulated vision not just for the financial sector but for economies at large. It is distant memory now, but in the months after October 15, 2008, there was much self-congratulation in the policymaking and regulatory communities in India on how their abundant caution had saved India from the worst in the aftermath of the collapse of Lehman Brothers. How ironic it is that a decade on, it is India's supposedly well-regulated and tightly-controlled banking sector that is in a complete mess, paralysed even as the once excess-ridden banks of the West have got their mojo back.

The truth is the fitness of the Indian banking system was never tested. After all, the mettle of a ship cannot be tested while it is in harbor. Now, it is fairly well-accepted that the worst excesses of India's banking happened in the boom period between 2005 and 2012. In fact, if India's regulators and policymakers had begun a process of deregulation and privatisation circa 2008, some of the malpractices might have been arrested at an early stage. But, at the time, the winning argument was in favour of the conservative approach where the banking system was dominated by government-owned entities, where competition from private sector banks was limited, and product innovation unheard of. The Indian economy is paying a long-term price.

It cannot be denied that left to themselves free markets can overextend and lead to crisis outcomes. It has happened countless times in the economic history of the last century and a half. Karl Marx and his followers believed capitalism would be a failed system because of this. What is often under-emphasised is the ability of markets to correct themselves. Of course, on occasion this requires the intervention of the state like it did in 2008 to enable the correction to happen faster while limiting the negative fallout. It is important to note that in the end, the long-term fallout of the 2008 crisis was limited to a handful of countries, mostly in Southern Europe which lacked the structural flexibility to bounce back quickly, largely because of excessive state intervention and egregious state spending across sectors.

In contrast, how does a closed system dominated by the state -- like India's banking sector -- correct its crisis-like problems? The best way would be to give it a dose of the markets. If the excesses of the market need state intervention, the excesses of the state need market intervention. But the market cannot intervene without the state willing it on. And the state often does not back away. In extreme cases, like in the case of the Soviet Union and Eastern Europe in 1989-1991, the complete inability to correct economic problems led to a collapse of the political system. It was only after that that the market entered the scenario to deliver shock therapy which had its own adverse side effects.

The government of Prime Minister Narendra Modi is well-positioned to administer just the right dose of medicine to the ailing banking sector. Continuously recapitalising public sector banks is a placebo. It may make the government feel better but it won't cure the causes of the disease. Similarly, consolidating public sector banks may make the problem seem more manageable but the underlying cause, those related to state control over banking, will not go away. The government must go one step further by bringing its stake below 50 per cent, preferably down to 26 per cent, in at least two of the consolidated banks. The shares need not be sold to any rival bank, Indian or foreign. They need not be sold to established industrialists. They should be offloaded to the public at large. The banks will get an independent board and professional management. It is only then that they will begin a genuine recovery. The government need only to look back at the ICICI experience in the 1990s.

Equally significantly, the government should bite the bullet on regulatory overhaul. The Reserve Bank of India, in its capacity as regulator of banks and NBFCs, has failed in its task of maintaining a stable and healthy financial system. It is possible to separate the task of regulation from the central bank. Some countries have done it. If it is to remain with the RBI, a complete mindset change — from control and regulation to competition and transparency — is required.

India cannot aspire to be a double-digit growth economy with a dysfunctional financial system. State failure needs to be taken as seriously as market failure.

*The author is chief economist, Vedanta*

## LETTERS

### Accounting jugglery

This refers to your editorial "The pension deficit" (October 23). The observation — "the government tends to postpone expenditure to the extent possible and this is not restricted to one particular area. This practice must end because it doesn't help achieve anything" — is a revealing statement that needs immediate attention of everyone who has anything to do with financial accounting in India. The introduction of the National Pension System or NPS (originally New Pension Scheme, December 2003) itself has an accounting jugglery background. When the government pension schemes were following a "pay as you go" accounting practice and unfunded liability of such schemes rose to crores of rupees, which attracted criticism, the government of India (GOI) discontinued defined benefit pension scheme for its employees (except defence personnel) prospectively and introduced NPS.

For decades now, the Centre and state governments have been manipulating fiscal deficit figures with immunity by postponing payment of dues and receiving advance payments from organisations like the Reserve Bank of India. Diverting funds under direction from institutions like Life Insurance Corporation of India and delaying payments to statutory bodies and public sector undertakings have become the order of the day. The GOI and the state governments need to think of a one-time cleansing of the national balance sheet by obtaining legislative approval for a higher fiscal deficit. Transparency in accounting will boost institutional morale leading to a rise in public trust in the government and the financial system. A welcome byproduct will be the rise in domestic/household savings and their mainstreaming. The negative impact of a higher fiscal deficit can be got over by preparing and publishing a national balance sheet accounting for the total amount of domestic assets and liabilities held with the government, corporates, individuals and all organisations.

**M G Warrier** Mumbai

### Follow the lead

This refers to "Competition Act to have clause on settlement" (October 21). The government's move to introduce a commitment and settlement clause in the Competition Act shows its intent to provide an opportunity to companies found on the wrong side of the competition law to resolve the dispute without going in for a legal battle. This would hopefully save time and resources on both sides. Also, the government is right in its assertion that the insertion of a settlement clause in the Competition Act would further improve the ease of doing business. Given the opportunity, companies would like to settle disputes to escape action by the regulator and avoid legal recourse. Another issue that would inspire a company to go for a settlement is the uncertain outcome of judicial proceedings. Business entities would prefer to amicably settle the issue raised by the regulator.

To my mind, the incorporation of a commitment and settlement clause is worth emulating in the regulation of other sectors as well. The telecom sector is currently witnessing a plethora of legal battles. Parties aggrieved by the decisions of the Telecom Regulatory Authority of India (Trai), the sector regulator, invariably approach the appellate tribunal, the Telecom Disputes Settlement and Appellate Tribunal. These cases often land up at the doors of the Supreme Court, after the appellate authority pronounces its judgement. Quite a few cases can be resolved early, if a clause similar to what is being incorporated in the Competition Act finds its way in the regulation by Trai. This would act as an enabler for the telecom sector to grow and expand, keeping the legal wrangles to the minimum.

**Sanjeev Kumar Singh** Jabalpur

### A caged parrot

After 61 days in jail, the Supreme Court's (SC) bench said the findings of the Delhi High Court that had denied former finance minister P Chidambaram bail on the ground that the likelihood of him influencing witnesses cannot be ruled out, is not substantiated by any material evidence and is only a generalised apprehension.

The UN International Covenant on Civil and Political Rights clearly states one is innocent until proven guilty. India is not exceptional to this. One wonders why the Central Bureau of Investigation (CBI) is unable to produce a charge-sheet even after three years. How can one forget the way in which Chidambaram was arrested by the CBI? Why then is the investigating authority unable to produce a proper charge-sheet in the case even after two months?

There is nothing wrong if the aam aadmi sees the CBI as a caged parrot. Why can it not maintain its authority? Why does it have to bow down to the political bosses?

**Bidyut Chatterjee** Faridabad

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**HAMBONE**

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# Another 'revival plan'

## BSNL and MTNL should be privatised

Union Telecommunications Minister Ravi Shankar Prasad told reporters on Tuesday that the Union Cabinet had come to a decision on what would be done to the two state-owned telecom firms, Bharat Sanchar Nigam Limited (BSNL) and Mahanagar Telephone Nigam Limited (MTNL). The two companies would be merged, he said, with MTNL, which operates in Delhi and Mumbai, serving as a subsidiary of BSNL till then. The two companies were, according to the Union Budget for 2019-20, supposed to raise over ₹15,000 crore through internal and extra budgetary resources. This money will be raised through the issue of bonds that will be serviced by the state-owned firms but, of course, guaranteed by the Union government. This is a drop in the ocean of what BSNL alone has lost up to this moment. The unlisted PSU lost almost ₹14,000 crore in financial year 2018-19, which took its accumulated losses to over ₹90,000 crore at that point. MTNL has about ₹20,000 crore of debt on its balance sheet.

The question is if the government genuinely believes that these entities can be turned around into useful contributors to the sector. On the "pro" side of the ledger, the assets, especially land, on which the PSUs are sitting could perhaps be worth ₹70,000 crore or more. Set against that is a slew of negatives, beginning with the companies' inflated salary bill. The almost 200,000 employees in MTNL and BSNL together take up the lion's share of the outgo — in BSNL's case, 77 per cent of what it spends is on salaries. The revival plan agreed upon by the Cabinet hopes that an attractive voluntary retirement package will tempt a good number of these workers to retire in the next five to seven years. BSNL has also asked for an equity infusion from the government equivalent to the administered price of 4G spectrum — since it is of the opinion that a lack of 4G spectrum has rendered it uncompetitive against private sector 4G players.

The telecom sector is notoriously nimble — even incumbent private sector players have struggled to deal with the most recent entrant, Reliance Jio. Much depends upon pricing and the quality of service. The sector is less a large-scale network infrastructure business and more a service provision game now — and in this contest, the public sector will always lose to private sector players that are inherently more responsive to consumers. It is also deeply unfair to legacy players who took on enormous amounts of debt to buy spectrum and retain competitiveness in the sector to have to face a public sector major with access to spectrum at administered prices, and that faces a soft budget constraint since it can borrow against the word of the sovereign. Constant backing to Air India led to a distorted aviation market that has now killed not one but two full-price airlines. Is this what the government wishes to do to the telecom sector? It must face facts: BSNL and MTNL cannot be turned around without taxpayers shelling out a substantial amount. And even if they could, the effort would distort the market and drive private players out, causing overall social losses. These firms need to be privatised, not revived.

# The Infosys test

## Credibility of the Indian IT sector is at stake

On Tuesday, Infosys shares fell over 16 per cent over the day of trade, marking the sharpest such drop in six years. Clearly, investors are spooked by news of fresh trouble at the top of India's iconic software company. Whistleblowers, in a letter dated last month and now made public following publication in the *Deccan Herald*, complained that Infosys Chief Executive Officer (CEO) Salil Parekh, with the knowledge of Chief Financial Officer (CFO) Nilanjan Roy, was concealing crucial facts from the board committees, under-reporting costs to artificially inflate reported profits, and ordering employees to misrepresent the returns on certain business deals. Mr Parekh was even accused of misusing his travel privileges. While the whistleblowers claimed to have emails and voice recordings to back up their allegations, Infosys chairman — and one of the company's founders — Nandan Nilekani said in a letter that none of this evidence had so far been made available to the company's board.

While the charges are just that, as they have not been proved as yet, the problem is that given the whistleblower letter was dated September 20, the company seemed to have taken too long to take action and this counts as a bad sign. There are disquieting parallels being drawn to the bruising battle two years ago, when former CEO Vishal Sikka was removed following a whistleblower complaint about a $200-million acquisition in Israel and the controversial intervention by another founder, N R Narayana Murthy. Mr Nilekani, in the letter, which he is obliged to write to the public exchanges in India and the United States, said the complaints have been laid before the audit committee and non-executive members of the board, and the CEO and the CFO have been recused from the discussion. Auditors EY, as well as the legal firm of Shardul Amarchand Mangaldas, are to conduct an independent investigation. In today's fraught and politicised atmosphere, the whistleblowers' allegation that Mr Parekh made derogatory remarks about some board members' ethnicities may further raise concerns, and certainly spark even wider public interest in the investigation. Unfortunately, Infosys hasn't given any timeline for completion of the investigation. It is vital that Infosys' board recognises the importance of timely action, and that it must make an extra effort to restore market confidence.

The plain fact is that Infosys, which faces an increasingly challenging environment in its core business, cannot afford to waste time dealing with problems caused by corporate governance. It is already trading at a discount to its larger rival TCS, and is nowhere near the 2020 revenue targets set under Mr Sikka. It must also recognise that allegations of impropriety of this sort are particularly dangerous at a time when the United States administration is actively looking for reasons to demonise Indian IT services companies like Infosys. It would not be an exaggeration to say that the entire IT story depends now upon how Infosys demonstrates responsiveness and transparency to this complaint. Given the company's visibility on NASDAQ as well as the Indian stock exchanges, it is fair to say that the effectiveness and reliability of Indian markets themselves are also on trial. Only speedy action that takes the public and investors into confidence will ensure that the company, sector, and markets pass the test.

ILLUSTRATION: BINAY SINHA

# A reputational crisis for the RBI

## Unable to change with the times, the regulator today no longer inspires absolute confidence

For most Indians, including this writer, the Reserve Bank of India (RBI) until a few years ago stood for prudence, success, and responsibility. It was an institution that Indians were proud of. Its policies and strong regulation insulated India from the 2008 financial crisis. The way it managed balance of payments and currency rates was certainly fit to be used as case studies in leading management institutes. However, of late, unfortunately, RBI does not instil the same confidence.

The sheen from RBI's unquestionable reputation has worn off. A series of events in the last couple of years tell a story of colossal failure of the institution — unable to change with the times and living off its 84-year legacy. For the first time, the RBI's name was dragged into a chargesheet filed by the Serious Frauds Investigation Office in cases related to IL&FS. The Supreme Court of India struck down its circular and also threatened it with contempt. Not only that, questions are being raised all around on various regulatory and supervisory failures of the RBI. The case of the Punjab and Maharashtra Co-operative Bank has added to its woes.

J N GUPTA

Clearly, these are testing times for an institution, which has 84 years of nearly unblemished track record. While diehard supporters of the institution would brush aside present criticism, the fact is that such overconfidence that the RBI can do no wrong or fail in its duties is the cause behind its recent failures. When an institution believes that its knowledge and capability is superior to everyone, that it is omniscient, it behaves like a frog in the well. And this is precisely the cause for the mess. Unlike other regulators, it doesn't believe in consultation with stakeholders, disclosures and transparency. It doesn't like to be questioned.

Regulated entities have no option but to say "yes sir". The RBI's success in managing monetary policy as well as the exchange rates is in contrast to its failure in regulating and supervising banks and other financial institutions, including NBFCs and co-operative banks, where it has failed miserably.

The RBI may pin the blame on a host of reasons for all the mess, but can't give itself a clean chit. It seems that the RBI can't see any wrong within itself and, therefore, it fails to see wrong elsewhere as well. Failures results in irreparable damage. Post-mortem is good only to fix responsibility and avoid future problems.

**The NPA mess:** The monster of NPA, threatened the entire banking sector, derailed the economy and caused widespread losses to investors. Thankfully, depositors did not suffer, courtesy government's support to public sector banks, as no government can ever survive sitting over a bank failure. The question is: Did the monster grew overnight? If not, why the RBI did not stem the problem in the initial stage itself? The reason is simple: Although the RBI has many laws and procedures and tons and tons of reporting requirement, unfortunately, data without adequate processing is of no use. The banks may have had commercial reasons or motivation to hide the NPA problem or carry out imprudent lending, but what stopped the RBI in nipping the problem in the bud? How companies were supported by banks with unmanageable debt-equity ratios and weak financials? The conclusion is that there was weak supervision and lack of effective tools to supervise.

**Assets liability mismatch:** While the present crisis in the NBFC sector can be partly attributed to management issues, the bigger villain is asset liability maturity (ALM) profile mismatch. One needs to travel back three decades, when most of the projects financed by banks and NBFCs had payback period of 7-10 years at the most. Banks and lending institutions were mostly allowed to lend for a maximum seven years, with initial grace period and some leeway. Correspondingly, banks could raise deposits for up to 10 years. Thus, there was scope as well as discipline to manage ALM. However, no economy can be standing still. Over a period of time, profile of projects and players changed. It was no longer a monopoly of the government to own and operate infrastructure projects and project life cycle leapfrogged from 7-10 years to 15-50 years. With no corresponding major change in supply side maturity profile, with no scope to manage ALM, discipline was confined to dictionary and banking prudence was no more in fashion. When the RBI did not raise red flags on ALM profile, the maturity profile of liability side became shorter and shorter. Lenders managed liquidity by frequent roll-overs. Loan arrangers were a new class of intermediaries, who managed ALM by mastering the art of roll-over, so much so that long-term infra projects were financed by even three- to six-month commercial paper. The NBFC industry was in great motion and believed in the first part of Newton's First Law of Motion, which states, "An object continues to be under the state of uniform motion...." This was a potential time bomb and any trigger in the form of a credit event, would have forced rollover opportunities to shrink. The IL&FS case had a contagion effect across the NBFC sector, bringing in play the second part of Newton's first law, " ... unless an external force acts on it". The problem became acute as most of the lenders were mutual funds and insurance companies, which had to follow numerous prudential investment norms to protect the interest of investors.

**Cash credit:** India has been following a cash credit-based system of lending. The beauty (or the ugly part) of cash credit system is that, although technically payable on demand, the loan never gets paid back and it keeps increasing. It is a golden pot which keeps on flowing and continues to meet both personal and business needs of borrowers. It is an ideal system to hide and prolong detection of any problem, unless the supervision is very strong. Given the compulsions and culture, banks had no incentive to change — in this competitive world who wants to lose business? While the world moved away from cash credit-based financing to cash flow-based financing, Indian banks continued with archaic system. Cash credit system was acceptable when the economy was mainly brick-and-mortar. With businesses becoming global, things really became difficult. The RBI failed to transform the system in time.

*The writer is the founder and managing director of Stakeholders Empowerment Services. This is the first of a two-part series*

# Climate change will cost more than we think

For some time now it has been clear that the effects of climate change are appearing faster than scientists anticipated. Now it turns out that there is another form of underestimation as bad or worse than the scientific one: The underestimating by economists of the costs.

The result of this failure by economists is that world leaders understand neither the magnitude of the risks to lives and livelihoods, nor the urgency of action. How and why this has occurred is explained in a recent report by scientists and economists at the London School of Economics and Political Science, the Potsdam Institute for Climate Impact Research and the Earth Institute at Columbia University.

One reason is obvious: Since climate scientists have been underestimating the rate of climate change and the severity of its effects, then economists will necessarily underestimate their costs.

But it's worse than that. A set of assumptions and practices in economics has led economists both to underestimate the economic impact of many climate risks and to miss some of them entirely. That is a problem because, as the report notes, these "missing risks" could have "drastic and potentially catastrophic impacts on citizens, communities and companies."

NAOMI ORESKES & NICHOLAS STERN

One problem involves the nature of risk in a climate-altered world. Right now, carbon dioxide is at its highest concentration in the atmosphere in three million years (and still climbing). The last time levels were this high, the world was about five degrees Fahrenheit warmer and sea level 32 to 65 feet higher. Humans have no experience weathering sustained conditions of this type.

Typically, our estimates of the value or cost of something, whether it is a pair of shoes, a loaf of bread or the impact of a hurricane, are based on experience. Statisticians call this "stationarity." But when conditions change so much that experience is no longer a reliable guide to the future — when stationarity no longer applies — then estimates become more and more uncertain.

Hydrologists have recognised for some time that climate change has undermined stationarity in water management — indeed, they have declared that stationarity is dead. But economists have by and large not recognised that this applies to climate effects across the board. They approach climate damages as minor perturbations around an underlying path of economic growth, and take little account of the fundamental destruction that we might be facing because it is so outside humanity's experience.

A second difficulty involves parameters that scientists do not feel they can adequately quantify, like the value of biodiversity or the costs of ocean acidification. Research shows that when scientists lack good data for a variable, even if they know it to be salient, they are loath to assign a value out of a fear that they would be "making it up."

Therefore, in many cases, they simply omit it from the model, assessment or discussion. In economic assessments of climate change, some of the largest factors, like thresholds in the climate system, when a tiny change could tip the system catastrophically, and possible limits to the human capacity to adapt, are omitted for this reason. In effect, economists have assigned them a value of zero, when the risks are decidedly not. One example from the report: The melting of Himalayan glaciers and snow will both flood and profoundly affect the water supply of communities in which hundreds of millions of people live, yet this is absent from most economic assessments.

A third and terrifying problem involves cascading effects. One reason the harms of climate change are hard to fathom is that they will not occur in isolation, but will reinforce one another in damaging ways. In some cases, they may produce a sequence of serious, and perhaps irreversible, damage.

For example, a sudden rapid loss of Greenland or West Antarctic land ice could lead to much higher sea levels and storm surges, which would contaminate water supplies, destroy coastal cities, force out their residents, and cause turmoil and conflict.

Another example: Increased heat decreases food production, which leads to widespread malnutrition, which diminishes the capacity of people to withstand heat and disease and makes it effectively impossible for them to adapt to climate change. Sustained extreme heat may also decrease industrial productivity, bringing about economic depressions.

In a worst-case scenario, climate impacts could set off a feedback loop in which climate change leads to economic losses, which lead to social and political disruption, which undermines both democracy and our capacity to prevent further climate damage. These sorts of cascading effects are rarely captured in economic models of climate impacts. And this set of known omissions does not, of course, include additional risks that we may have failed to have identified.

The urgency and potential irreversibility of climate effects mean we cannot wait for the results of research to deepen our understanding and reduce the uncertainty about these risks. This is particularly so because the study suggests that if we are missing something in our assessments, it is likely something that makes the problem worse.

This is yet another reason it's urgent to pursue a new, greener economic path for growth and development. If we do that, a happy ending is still possible. But if we wait to be more certain, the only certainty is that we will regret it.

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# Questions without answers

BOOK REVIEW

SUBHOMOY BHATTACHARJEE

Sourav Ganguly's controversy-ridden ascension as BCCI President and the appointment of dynasts and politically connected people to other key positions in the sports body means Indian cricket administration is back to where it was in 2013, when the Supreme Court had stepped in and appointed a Committee of Administrators headed by Vinod Rai. It is possible to ask: What did the interregnum under Mr Rai achieve?

A disclaimer first: Mr Rai wrote the Foreword to my book *India's Coal Story*. It is an incisive piece, he had carried forward those arguments in his own book *Not Just an Accountant*. He argued that the auditor had the right to question how policy should be implemented. Mr Rai's *Rethinking Good Governance* expands that theme to other regulatory institutions including cricket and, more broadly, sports administration. "Nation building through good governance has to (include) the building of institutions empowered to question and monitor every action of the government organisations and persons in authority".

Mr Rai is right, but he doesn't offer any alternatives. For instance, while he set up a CEO and a professional management structure in BCCI, the connection between political dynasties and cricket has been comprehensively re-established. How would such an institution, even if professionally managed, be able to criticise "persons in authority". Democracy doesn't always offer much space for a separation of politics and administration, much as courts and often the public may bay for it.

It is a theme that often assails one reading his book since he stops short of exploring this issue. He does make some candid observations, however. About the role of the Election Commission of India (ECI), he makes clear that the recent controversy among the Election Commissioners on "complaints of violation of the Model Code of Conduct against the PM and the BJP President" in the 2019 general elections has not helped. "Admittedly while the ECI aspires for unanimous decisions, it rules provide for majority ruling...these conventions need to be respected. Notings (sic) exchanged within the ECI, and among the commissioners, are well documented. Having such a record maintains the credibility of the institution".

Mr Rai is obviously well placed to conduct this survey of the regulatory bodies including the Reserve Bank of India, the Comptroller and Auditor General (CAG), Central Bureau of Investigation and the Central Vigilance Commission, besides Parliament and the Supreme Court. He has worked with many of these institutions as secretary, department of financial services in the union finance ministry, capping it with a term as the most famous Comptroller and Auditor General of India. He has seen them all from extremely close quarters and this gives him a unique advantage.

For instance, Mr Rai was the secretary, department of financial services when Y V Reddy was the Governor of RBI and had ringside view of the relations between Dr Reddy and finance minister P Chidambaram. He says the government planned to allow foreign direct investment in private banks in 2004. Mr Chidambaram told Dr Reddy "decisions could not be altered based on the personal convictions of successive governors...Not being in agreement [about FDI in banks] Reddy called up the then secretary, Department of Economic Affairs, Dr Rakesh Mohan, and offered to get himself admitted to a hospital under the pretext of ill health and subsequently quit the post to facilitate the appointment of a new governor by the government". The former CAG notes that the compromise came after the Budget 2005 announced the measure, and "the road map was planned by Reddy in such a way that by the time it would be implemented, he would have retired from the post of governor".

He also notes that the rapid exit of Governors Raghuram Rajan and Urjit Patel in recent years "are not beneficial to the economy as the consistency of policy formulation takes on a short-term approach". He suggests a five-year term for the governor would be an evidence of a balanced approach but stops short of criticising the government for not ensuring it. "We have seen that governors have expressed their concern.. and yet have remained effective in their posts...the top (political) leadership has been found to be receptive to such concerns, except on a few occasions when political considerations might have overridden such advice".

But there are few examples of these in other regulatory bodies. Rai has recounted in detail each flashpoint between the different bodies and the political executive but has often stopped short of taking a clear position on who is to blame, as in the case of BCCI drama. In the analysis of the Supreme Court, he examines the complaints about corruption in the judiciary; but does not prescribe solutions beyond the truism "Trust cannot be commanded. It has to be earned."

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