Mismatch of perceptions leads to abuse

A recent Supreme Court ruling can lead to serious tribunal justice reform

WITHOUT CONTEMPT

SOMASEKHAR SUNDARESAN

The future landscape of justice delivery by tribunals in economic matters in India has the potential to be transformed by the recent decisions by five judges of the Supreme Court. Or perhaps not — until some future litigation presents itself against (yet) another violation of this very ruling.

The bench was considering the constitutional validity of provisions of the Finance Act, 2017, which materially and substantially altered the composition and terms of appointment of tribunals under various special legislation, passing the legislation off as a "money bill". Essentially, various other legislation that became law upon being passed by both Houses of Parliament had been sought to be materially amended by tucking the amendments in the Finance Act, 2017, which, as legislation primarily dealing with fiscal matters, could be passed by the directly-elected Lok Sabha alone.

At the heart of the challenge was Section 184, which essentially entailed the executive being totally empowered to determine what the qualifications, appointment, and terms and conditions of service of members of various tribunals should be. Tribunals are a form of providing easier access to justice, removing the informal trappings of formal courts, but that cannot erode the need for independence from the executive. That the executive got Parliament to pass legislation to empower the executive to be in charge of these facets, led to the independence of such a justice-delivery system being called into question.

Trickily, the issue of whether such legislation can be passed as a money bill has been referred to a larger bench, even while upholding the constitutional validity of delegation of such power to the executive. A dissenting judgement, both on the validity of such delegation and the usage of the device of money bills by Justice D Y Chandrachud, makes for compelling reading. His, coupled with a partly-dissenting judgement by Justice Deepak Gupta holding that the delegation of powers to the executive is indeed excessive and unconstitutional, should hopefully be the much-quoted "appeal to the brooding spirit of the law" when a future bench takes a look at another abusive legislation.

The net effect is that the rules made by the executive pursuant to the delegation (held to be constitutional by the majority) have been unanimously struck down.

The case now disposed of in 2019, involved enforcement of past rulings of the Supreme Court — made in 1997 and 2010 — in the context of legislation passed in 2017 violating the directions and the law laid down in those earlier cases. Whichever party is in political power, the executive gets the political system to table and pass in Parliament legislation that directly violate the Supreme Court's past directions and rulings. Although the system has been found to have returned a legislative product that clearly disregards the Supreme Court, the ruling does not nudge the system into a space of accountability and a disincentive for preventing future abuse.

The inability to enforce and hold to account violations of the apex court's rulings on constitutional matters and important facets of governance, and the resultant incentive to the executive to indulge in continued violation, is a key theme in Arun Shourie's book *Anita Gets Bail*. Each of the three rulings (the majority judgement and the two others) makes a compelling reading of yet another iteration of this theme. With such a resounding finding of violation of the law already declared by the apex court, the absence of any intervention for accountability, beyond a finding of unconstitutional conduct, is underwhelming.

Not too long ago, a two-judge bench of the Supreme Court imposed costs on the government for agitating a dispute on a question that had clearly been closed by past rulings, by engaging senior law officers to give a sense of importance and re-agitate a closed issue. It had turned out that in the past too, costs had been imposed for one round of vexatious re-agitation of a closed issue. Among the three pillars of the state, in constitutional matters (as opposed to bilateral disputes), constitutional restraint leads to courts tending to appeal to the good sense of those in positions of governance. Those in the executive see this as a perpetual availability of a long rope. This mismatch of perceptions incentivises abusive conduct.

One clear direction this time has the potential for long-term positive impact on the higher judiciary and its experience and quality of work content. The government has been asked to correct the position of direct appeals to the Supreme Court from the tribunals, by instead, providing for appeals to the High Court, to division benches, if necessary. Such action is directed to be taken "preferably within a period of six months". This measure is a crying need — today, regulatory disputes over most economic legislation completely bypass the high courts. When high court judges go to the Supreme Court, without having handled such cases either as lawyers or as judges, the absence of domain experience, impacts justice delivery. This is a direction that must be complied with.

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

CHINESE WHISPERS

Congress postpones protest

The Congress has postponed its proposed protest on economic slowdown, earlier planned to be held at Delhi's Ramlila Ground on November 30. It will now be held after the winter session of Parliament concludes on December 13. The new date is December 14. Congress sources said the real reason for postponing the event was that they discovered the venue was booked, and by a Congressman at that. Former Lok Sabha member and Dalit rights activist Udit Raj, along with other outfits, has announced a protest there to oppose disinvestment in public-sector undertakings on December 1, and has booked it for November 30 also. When the party asked him if he could postpone his event, Raj declined.

Hopeful event

After postponing several such events that had been planned earlier, both in Srinagar as well as New Delhi, a day-long event has been organised on November 27 to showcase business opportunities in Jammu, Kashmir and Ladakh. The event, titled "Kashmironomics", will be held at a hotel in New Delhi. It will be addressed by Piyush Goyal, Union minister for railways and commerce and industry, and Smriti Irani, Union minister for textiles and women and child development. It has been billed as an event for "ushering in hope, reform and prosperity to Jammu, Kashmir and Ladakh".

Priyanka's faux pas moment

Congress general secretary in charge of Uttar Pradesh Priyanka Gandhi Vadra *(pictured)* recently faced her own Gautam Gambhir moment on social media. On her Twitter handle, she shared a video showing a farmer purportedly lying unconscious following a brutal cane charge by the police in UP's Unnao district. The cops had taken action against a group of local farmers protesting inadequate compensation for land that had been acquired for the Trans Ganga City project. The state government soon released the full video, which showed the man first pretending to be unconscious and then running away quickly. Last heard, the video had been removed from Vadra's Twitter handle.

BRI: 'China's social governance of the world'

For the Chinese, the landmark project is more than just a giant infrastructure project

SUBHOMOY BHATTACHARJEE

China's Belt and Road Initiative (BRI), articulated by President Xi Jinping in 2013, is recognised as the largest infrastructure and investment project in global history. Spanning 68 countries, including 65 per cent of the world's population and 40 per cent of global GDP, it is popularly considered an ambitious blueprint for Chinese global hegemony. The BRI's lumpy progress, however, has also provoked predictions of its imminent demise. Talk to senior members of the Chinese establishment and they're equivocal about the first point and flatly contradict the second.

TAKE TWO

ANALYSIS BEHIND THE HEADLINES

As of November 2019, Hu Biliang, dean of the Belt and Road Institute at Beijing Normal University, estimates that China will pour in $10 trillion of funds into the projects in the next decade. By comparison, the 11 multilateral institutions have a combined purse of less than $2 trillion ($1,723 billion) for the same period. Hu says the Chinese government has already spent $40 billion for BRI-related projects.

Yet BRI is much more than rushing through a bunch of infrastructure projects, says Zhang Weiwei, professor of international relations at Fudan University, Beijing. It is more about "setting a sense of priorities. You set the compass first and then build a road". Zhang has been by turns a visiting professor at the Graduate Institute of International and Development Studies, and at the Geneva School of Diplomacy and International Relations. His CV includes assignments as speech writer for Deng Xiaoping and now Xi, which means unparalleled access to the minds of the men who have shaped China's policy. He surprised Francis Fukuyama during a debate on the Arab Spring a decade ago, saying it would soon turn into an Arab Winter. He now says Great Britain post-Brexit is on its way to becoming a Little Britain.

According to him, the Chinese concept is to build new points of growth that would "shape up as an irresistible force". The West has understood BRI as a game of chess among competing nations for economic supremacy. It is not so, he insists. It is like Weiqi, a Chinese strategy board game — which, incidentally, aims to surround more territory than opponents but where the loser also shares the spoils.

Six years after it was articulated, BRI is a way of life for the Chinese government, the party and all Chinese companies such as China Civil Engineering and Construction Company, which claims a presence in 89 countries. Every one of its project is now potentially a BRI project, it notes, which "provides new models of international cooperation". The company also has a presence in India. The country has begun to hold international symposiums with titles such as "Significance of China's Social Governance to the World". The ambitions are transparent.

That ambition, according to Qi Zhenhong, President of the premier think tank China Institute of International Studies, is to "construct a common human destiny of the world, that of shared prosperity". This is unexceptionable when set against the shared poverty fostered by colonialism in the 19th and 20th centuries. Then, he adds that the goal of shared prosperity can be best achieved through the adoption of BRI. And BRI is not roads and power stations but a common governance model, both political and digital.

All senior officials are dismissive of the controversies over migration in Europe and the USA, which, they say, make multilateralism a casualty. "World affairs should not be faced by single nations," Qi argues. He does not answer whether the BRI concept was vetted through any international forum, except those called for by China. "We shall not expand territory (but) espouse a common sense of strategic stability," he intones. He describes BRI as a public commons provided for the world by China, which includes other than infra elements of energy, climate, anti-poverty, food and health security besides cyber security.

It is on cyber-security that Chinese experts make clear where they want the rest of the world to head. Zhang says the internet revolution is unstoppable. But "it cannot be used for freedom of expression. It is meant to help people to use it to earn their livelihood". When it is used without this caveat, unpleasant things such as the Arab Springs happen. In Beijing and elsewhere in China, most global social media platforms are absent and even Indian government sites take time to load.

Of course, there is some good stuff in BRI. Beijing wants to export its Two Mountain theory — a line of thought from Xi that equates clear waters and lush mountains as assets of today comparable to those from gold and silver of yesteryear, a strong pro-environment position. Gu Xueming, dean of the Chinese Academy of International Trade and Economic Cooperation uses this as an example to establish that BRI is an economic imperative not a geopolitical clique.

And what about the obvious sovereign concerns for India because of the China Pakistan Economic Corridor that runs through parts of Jammu & Kashmir. As Qi adds colourfully: "Bad intentioned people in international community are hoping something bad happens between India and China. BRI may not be the only path but one of the paths."

The author was in China recently at the invitation of the Communication University of China

A BRIdge too far?

- As of 2019 China plans to spend $10 trillion on projects in 71 countries
- These economies received 35% of global FDI and accounted for 40% of global merchandise exports.
- For the 70 BRI "corridor economies" (excluding China), projects in all sectors (executed\ under construction and planned) are worth about $575 billion.
- Projects mainly related to infrastructure development in transport, energy, mining, IT and communications sector

In India's neighbourhood

PAKISTAN:	BANGLADESH:	SRI LANKA:
46 projects including China–Pakistan Road link	3 including two port projects	3 including development of International Financial Centre

INSIGHT

Modernising the commercial vehicles fleet

The development of a sustainable replacement demand requires a comprehensive end of life policy for CVs

R SRIDHAR

It has been a long-standing demand of the commercial vehicles industry that the government should incentivise the scrapping of old trucks, which would encourage the sale of new commercial vehicles. The sale of commercial vehicles is cyclical in nature — it moves in tandem with the general economic growth, albeit with a small lag. The commercial vehicles industry has been very myopic in its world view; it has not grown beyond seeking to boost sales by demanding some fiscal support from the government to see through the lean times with replacement demand. Their proposal of the government incentive to scrap old trucks and buy new ones is too narrow. It lacks a deeper understanding of the marketplace of used trucks, application-user changeover — from primary through tertiary applications — the role of used truck finance and financiers. The development of a sustainable replacement demand requires a comprehensive end of life policy for commercial vehicles that understands changes in application of a truck through its life cycle, the economics of each application-user segment and the role of used truck finance.

Putting in place an end of life policy for trucks is never an easy political decision. The government has been talking about commercial vehicle scrapping schemes for over a decade now but without mustering the required political courage to act. Hence, the popular support for urgent anti-pollution measures provides the government with a rare opportunity to put in place a sustainable end of life policy for commercial vehicles.

There are approximately one million commercial vehicles in India, which are more than 15 years old. Scrapping them and creating a replacement demand has the potential to add approximately $15 billion to the sales of new commercial vehicles. This replacement demand is nearly 1.5 times the average annual sales of new commercial vehicles. The biggest beneficiaries of the huge replacement market will be vehicle manufacturers, ancillaries and vehicle financiers. This huge business opportunity should be used by the government to get the beneficiaries to put in place a sustainable and fully-funded voluntary retirement scheme to encourage and incentivise the modernisation of the nation's fleet. The government should also participate through some fiscal support.

It augurs well that the popular demand for clean air has enthused the government to take some remedial action that shows the desire of the government to reduce urban pollution even as it gives a push to sales of new commercial vehicles.

While the government's effort to solve two problems with one solution is indeed laudable and must receive our wholehearted support, merely incentivising scrapping will not immediately increase the sales of new commercial vehicles and hence it is not sustainable. There is an inevitable time lag between the scrapping of an old truck and the replacement demand for a new truck.

The average age of commercial vehicles plying in our country is over 10 years; a successful modernisation effort has the potential to bring down the average age to around five-six years over the next five years which will be in keeping with the economically advanced countries.

The proposal to give some cash incentive to the truck owner who scraps the truck is not sufficient in itself to modernise the nation's fleet. A 15-year-old truck is commonly used for short distance transportation of sand or garbage within towns and in rural areas. An operator scrapping these trucks will not buy a new truck, even if he gets a sizeable cash incentive to scrap his old truck. He will only buy a relatively newer truck and continue to transport sand or garbage. He will not and cannot buy a new truck. Therefore, such piecemeal efforts are bound to have a limited impact.

The commercial vehicles industry has been very myopic in its world view; it has not grown beyond seeking to boost sales by demanding some fiscal support from the government to see through the lean times

A sustainable end of life policy for commercial vehicles should have appropriate incentives for scrapping, the development of agencies to handle the scrapping which can also issue discount warrants in lieu of voluntary scrapping and the creation of a commercial vehicle modernisation fund.

Without doubt, the principal beneficiary of any fleet modernisation project will be the commercial vehicle manufacturers; but these manufacturers are neither central nor critical to the success of the project. The project is critically dependent for its success on the involvement and active participation of the used truck financiers. The manufacturers play virtually no role in the creation, development and management of the after-market. The role, effectiveness and the flexibility of the used-truck financier is critical to the development of replacement demand. It is the used truck financier who stays with the truck during its application-user and ownership change through its life cycle.

Way back in 2003, when I was the CEO of Shriram Transport Finance Company Ltd, we facilitated a Deloitte study initiated by All India Commercial Vehicle Owners' Association to put in place a complete policy framework for the modernisation of the nation's fleet. The policy paper was presented to then Ministry of Surface Transport. The central idea of this policy paper was the creation of a commercial vehicle modernisation fund (CVMF) with the involvement of all the stakeholders – the government, vehicle manufacturers and truck finance companies. The government and the private players would contribute to the fund which could be given suitable fiscal incentives under section 35 of the Income Tax Act, to encourage contributions to the modernisation of the nation's fleet.

The policy paper envisaged a voluntary end of life option to the truck owner, who would in response to suitable economic incentives, voluntarily give up his truck for scrapping. The government would certify scrapping agencies. The agencies would buy the 15-plus year-old trucks from the owners; pay them the salvage value and in addition, issue a discount warrant of ₹50,000 on behalf of the CVMF. The scrapping agency would receive a fee for each truck scrapped from CVMF for its efforts.

The owner of the 15-plus year-old truck will use the scrap value together with the discount warrant as his equity to take a loan to buy and upgrade to a eight-year old truck. The seller of the eight-year old truck then will use the cash consideration and discount warrant to buy and upgrade to a four-year old truck. It must be understood here that in both these transactions, the role of the used truck financier is crucial, without whose valuation skills and flexible financing schemes the operator's ability to pay will be missing and the demand for newer truck will remain latent. The owner of the four-year old truck then approaches the vehicle manufacturer with the cash consideration and discount warrant as part of his equity to purchase a new truck. The vehicle manufacturer will eventually go to the CVMF and redeem the discount warrant.

The above model creates an excellent ecosystem for handling replacement demand for commercial vehicles in a transparent manner. It is sustainable as it is accountable and fair to all the stakeholders. The social impact study of the proposal will win accolades for the government from environment lobbies within and outside the country.

I suggest the government constitute a committee of experts immediately — to look at the proposal already submitted by the All India Commercial Vehicle Owners' Association to develop a robust, comprehensive and sustainable commercial vehicle end of life policy.

The author is executive vice-chairman & CEO, IndoStar Capital Finance Ltd. rsridhar@indostarcapital.com

LETTERS

Historical mistrust

I write with reference to Ajai Shukla's review of Anit Mukerjee's book *The Absent Dialogue* — "India's civil-military friction" (November 20). The mistrust goes back to the 1857 mutiny. No one has answered why Indians of that time joined the army of a colonial power. Even the Congress party that was formed in 1885 did not ever try to dissuade Indians from joining the British Indian Army. In the most powerful democracy, generals fought for independence and created a democracy.

T R Ramaswami Mumbai

Create a niche

The recent war of words between Rajinikanth *(pictured)* and the ruling party leaders of Tamil Nadu and the unexpected turn of events with Kamal Haasan clearly points at the heavy dose of "masala" in store for the people of the state. Rajinikanth is known to be a highly disciplined man, straight forward, honest, spiritual and committed and definitely not one who would bow before corruption. From his earlier statements and his hesitation to begin a party unlike Haasan reveals that the actor has no interest in politics.

Haasan has his own ideology and if Rajinikanth joins him won't there be a clash between ideology and principles? They both cannot come together to rule the state. It would be better if Rajinikanth came out with his own plan to mitigate the sufferings of the poor and the downtrodden and then step into the political arena alone like actors-turned-mass leaders MGR and Jayalalitha who worked with the help of grassroots supporters and created a niche for themselves.

M Pradyu Kannur

Letters can be mailed, faxed or e-mailed to:
The Editor, Business Standard
Nehru House, 4 Bahadur Shah Zafar Marg
New Delhi 110 002
Fax: (011) 23720201 • E-mail: letters@bsmail.in
All letters must have a postal address and telephone number

Business Standard
Volume XXIV Number 70
MUMBAI | THURSDAY, 21 NOVEMBER 2019

Strengthening regulation

Sebi should have taken up the issue of auditors' resignations

The Securities and Exchange Board of India (Sebi) has shortened the period for processing rights issues from the earlier 58 days to 31 days, and has also set a new time limit of 31 days on the disclosure of defaults by listed companies. In addition, it has enhanced the investment threshold in schemes offered by portfolio management services (PMS) and raised the net worth requirements for PMS providers. Sebi has also mandated the top 1,000 listed firms to release a Business Responsibility Report (BRR) — this requirement earlier applied only to the top 500 companies.

These measures should have an overall positive impact. The shortening of the time period for processing rights issues comes as a relief for companies raising cash. This reduces the risk of price volatility, and the rights issue pricing is less likely to vary substantially from the market price of listed shares. This also eases the anxiety of companies raising money; an issue made at a substantial discount, or a premium, to the market price can run into problems.

In addition, the ASBA (applications supported by blocked amount) requirements result in a simpler and more trustworthy allotment system. The investor needs to do less paperwork and she is dealing with a trusted intermediary — her own bank — and earning interest on the money during the allotment period. The increase in net worth norms for PMS providers from ₹2 crore to ₹5 crore provides a cushion against possible defaults in this segment of the financial services market. It should help weed out fly-by-night operators. For existing operators, ample time (36 months) has been given to comply with the new norms. But the rationale for doubling the minimum investment threshold from ₹25 lakh to ₹50 lakh is not clear.

Investors might be a bit disappointed with Wednesday's announcements. Market watchers had expected that the regulator would tighten the default disclosure norms much more stringently. In effect, a listed company has to disclose a default only on the 31st day after the payment becomes due. Investors were hoping that the reporting period would be reduced to 24 hours (within a day of a payment becoming due) and indeed, Sebi was said to be considering a 24-hour deadline. Given the porous nature of India's information ecosystem, defaults tend to be flagged long before 31 days anyhow. So this move may make little material difference in terms of information dissemination.

It was also hoped that the regulator would address the issue arising from abrupt resignations of auditors. There have been many such instances in the recent past, and auditors should be asked to give a comprehensive explanation of their rationale for dropping clients. A case may also be made for insisting the same auditor completes a full fiscal's audit due to the practical difficulties of appointing new auditors in the middle of a fiscal year. Extending the requirement for BRR to the top 1,000 companies in terms of market capitalisation is a good move in theory. A BRR can give investors a better handle on corporate governance if taken seriously. This move will encourage companies with ambitions of entering the big league to develop an internal culture of BRR.

Fixing crop insurance

There are many shortcomings in the design of the PMFBY

The decision by four private insurance companies to opt out of the government's flagship crop insurance programme — the Pradhan Mantri Fasal Bima Yojana (PMFBY) — is least surprising. The scheme, though better than most farm insurance instruments tried out with little success since the early 1970s, suffers from several inherent flaws which undermine its appeal to both insurers and farmers. While the insurance companies find it a loss-making business despite the hefty 90 per cent subsidy by the government, the farmers complain that the compensation is too meagre and comes with an inordinate time lag. The common impression that the subsidy is being cornered unfairly by insurance firms seems true but only partly. In the initial years after the launch of the scheme in 2016, salubrious weather had kept the crop damages and, hence, the reimbursement claims, low, thus, allowing the insurers to make good profits. But the situation has since changed with the aberrant monsoon rainfall — 9 per cent deficient in 2018 and 10 per cent excess in 2019 — inflicting heavy crop losses in several states. As a result, the compensation claims have exceeded the collected premium, thereby, eroding the insurance companies' profits and making crop insurance an unattractive proposition for them.

The shortcomings in the design of the PMFBY are, indeed, many and varied in nature. These include the involvement of banks in the mandatory insurance of the crops grown by borrower farmers and the assessment of damages on the basis of average crop loss in a given contiguous area rather than in the farmer's field. The banks usually adjust the compensation amount against the loans without the consent or knowledge of the farmers. This is stoking up trust deficit between farmers, banks and insurance companies. Besides, the involvement of the state governments in sharing the financial burden equally with the Centre, as also in estimating the losses through crop-cutting experiments and other means, is creating problems. The use of technology in damage evaluation is not happening to the desired extent. This is marring the credibility of the crop loss data and is also needlessly delaying the finalisation of reimbursement amounts. Moreover, states often release their share of the funds late and in installments, affecting the liquidity and paying capacity of the insuring firms. Many states have capped the sum assured at unrealistically low levels, which do not adequately cover costs. This apart, while this scheme covers most of the conceivable production hazards, right from prevented-sowing to post-harvest damage to the produce, it leaves out the all-important price risk, which matters the most to farmers.

These issues need to be suitably addressed to prevent the PMFBY from meeting the same fate as its predecessors. The Indian farmers, being typically heavily indebted small land holders, need crop insurance to hedge their risks which are steadily mounting due to growing menace of pests and diseases and, more importantly, rapidly changing climate. The frequency of erratic and extreme weather events has already aggravated. Devastating cyclones, which used to be rare, have become a common feature in coastal areas. These developments have added to the woes of the cash-stressed farmers. Unless they are provided reliable risk management avenues like conveniently accessible farm insurance, their distress is unlikely to abate.

ILLUSTRATION: BINAY SINHA

RCEP: Two futures for India and its industry

Our poor trade performance reflects poor industrial competitiveness. The sooner industry addresses this, the better for India

INDIA'S WORLD?

NAUSHAD FORBES

The Regional Comprehensive Economic Partnership (RCEP) aims to bring together the 10 countries of Asean in Southeast Asia, Japan, South Korea, Australia, New Zealand, China and — until this month — India. These 16 countries account for almost half the world's population, a third of world GDP and trade, and are collectively growing at a rate that is double the rest of the world. After protracted negotiations that began in 2012, the 15 RCEP members (minus India) have committed to signing an agreement next year.

RCEP is good for India

Our negotiators had obtained a good deal for us in the RCEP. Agricultural products, including milk, were largely excluded from the agreement providing protection to the Indian farmer. For industrial products, less access was provided for China than the other 14 countries together with a longer adjustment period. For example, the RCEP covered 90 per cent of all traded items (tariff lines, in trade negotiator jargon) for Asean, but only 74 per cent of all traded items for China. For Asean, most items had zero duty from now, but for China there was a long adjustment period of 5, 10, 15, 20 and even 25 years. Finally, India asked for an automatic safeguard against a sudden surge in imports for any item from China, a unique provision. China had agreed for some 60 of our most sensitive items — we wanted more, but surely this can also be negotiated to an acceptable conclusion.

Certainly, there are things to negotiate, interests to protect and advance, and domestic political concerns to satisfy. But if a decisive prime minister who has emerged as a world leader, heading a government with a strong majority, can't address these issues, then who can?

I wish to focus in this article on industrial competitiveness — and two futures for Indian firms. The voices we hear on trade issues are the ones moaning in all the coverage of RCEP in our media — for example, food processing firms worried about competing with the import of cheese from New Zealand, and steel and chemical firms concerned about China. They have argued for, and obtained, either exclusion of their items from the free trade agreement, or highly extended adjustment periods. If we cannot be confident of competing effectively with China in even 10, 15 or 25 years, do we deserve to be in business?

What it will take to compete

Let us start with costs. Material costs are largely similar around the world — unless one has to buy the item at a higher price from a protected domestic firm. If we protect our steel producers, we spread costs and inefficiency throughout our engineering sector. Low or no tariffs are the best way to ensure our firms get competitive inputs — and our consumers get products at world-competitive prices. This ball is squarely in the government's court — and they have fumbled badly with nine rounds of tariff increases in the last three years.

Labour costs are a big variable between countries. As China has grown into a mid-income country, its wages have risen dramatically. Higher wages must be matched by higher productivity, or one will be uncompetitive. We may look to the government for a better educated and skilled workforce, but the primary responsibility for training and productivity lies within each firm.

The rupee is also overvalued — its real effective exchange rate has appreciated by 20 per cent over the last five years. A rupee at 80 to the dollar would set things right. Other things add to our cost of doing business in the country. We can be justifiably proud of our jump in the World Bank's Ease of Doing Business rank, but if you ask the average Indian firm whether it is easier for them to do business today than five years ago, the answer would be no.

The buck stops with industry

Ultimately, it is the choice we make in industry that will determine our future. One alternative is to accept that after 72 years of independence, 28 years since reforms began, and another 10 to 25 year adjustment period, we still will not be able to compete with the best in the world. We can then lobby against free-trade agreements, demand protection from the government, and build a moat to keep the world out of India. This policy, which we followed for decades, protected incumbents and kept us poor. The second alternative is to continue what we began 28 years ago — to open up to the world, let the best in, and encourage our best to go out and build businesses that lead the world. Many Indian companies have been doing just this — but are still not typical. Competition from imports is the best way of ensuring that it is this type of firm that predominates.

A 10-year project

Let us set ourselves a project. In 10 years, every Indian company must either be able to compete with the best in the world, or fold up. There are three types of Indian firms. There are those, mainly in commodity businesses with thin margins and little product differentiation, which are most affected by the cost of doing business in India. They need to turn from growling at free-trade agreements to growling at anything that adds to our costs — exchange rates, power tariffs, export paperwork, port congestion, fickle policies, and a new regulation from company affairs every other week. Then, there are the Indian firms which are today happily doing business around the world — software companies, of course, but also motorcycle companies like Bajaj Auto exporting 40 per cent of their output, specialty chemical companies like Aarti Industries exporting over 50 per cent of theirs, and infrastructure companies like TVS Logistics acquiring companies around the world. They need to articulate their interests in free-trade agreements — such as the RCEP — so our government is encouraged to pursue them. And lastly are those firms which have built world-beating businesses that are today domestically focused — our private banks and non-banking financial companies. They need to state their interests in access to world markets. In 10 years, the Indian market will be too small for them, and they will need the RCEP Asian market that is eight times larger than we are.

In other words, it is a question of confidence for Indian industry. Do we seek to hide from the world, secure and protected in our own fortress? Or do we have the confidence to let the world in and ourselves go out and compete with the world on its terms? The RCEP provides us with the stepping stones to integrate with the best in the world — a long adjustment period, graduated tariff reduction, hundreds of excluded items, friends like Japan and Singapore that support our negotiating position. The prosperity of future generations depends on India joining the RCEP before the deal is concluded early next year.

The writer is co-chairman Forbes Marshall, past president CII, chairman of Centre for Technology Innovation and Economic Research and Ananta Aspen Centre. ndforbes@forbesmarshall.com.

Is Sri Lanka the next Argentina?

ARVIND SUBRAMANIAN

As Sri Lanka makes another crucial political transition, it faces a major risk of macroeconomic instability. Minimising that risk will depend, above all, on whether the country's newly elected president, Gotabaya Rajapaksa, can defy his reputation and embrace inclusive politics.

This idyllic island in the Indian Ocean was once a star performer. In the years following independence in 1948, progress on leading social indicators such as poverty, infant mortality, and primary education put Sri Lanka well ahead of its neighbours — India, Pakistan, and Bangladesh — and was the envy of much of the developing world. But, for several decades now, divisiveness and conflict have been the serpent in this paradise.

As a result, Sri Lanka has been strikingly prone to macroeconomic instability. According to data compiled by Carmen Reinhart and Christoph Trebesch, the country has spent nearly 70 per cent of the last four decades in macroeconomic stabilisation programmes with the International Monetary Fund. In South Asia, only Pakistan has spent a greater proportion of this period under the International Monetary Fund's (IMF) supervision. Bangladesh has had Fund programmes around 50 per cent of the time, and appears to have graduated from IMF tutelage in 2015. And India has had IMF programmes only about 15 per cent of the time, and none since 1995.

Macroeconomic instability reflects deeper social and political factors. According to the late Albert Hirschman, one of the leading thinkers on economic development, "It has long been obvious that the roots of inflation … lie deep in the social and political structure in general, and in social and political conflict and conflict management in particular." Even Milton Friedman, who famously said that inflation was "always and everywhere a monetary phenomenon," conceded that it had deeper social causes.

Essentially, macroeconomic pathologies arise from conflicts over how to divide the economic pie. Unless these conflicts are resolved, they lead to unsustainable fiscal deficits, excessive foreign borrowing, inflation, and exchange-rate instability. Latin American macroeconomic irresponsibility, exemplified by Peronism in Argentina, involved favouring urban and government workers. Sub-Saharan Africa's periodic crises, meanwhile, often reflect ethnic and regional conflicts. More generally, Dani Rodrik has shown that external shocks give rise to macroeconomic instability when a society's mechanisms for burden-sharing do not work effectively.

Sri Lanka suffers from cleavages along many different lines, notably ideology, ethnicity, language, and religion. Michael Ondaatje's gorgeously sensitive novel, *Anil's Ghost*, captures the human, personal consequences of these conflicts.

Arguably, Sri Lanka's original sin was the assertion of linguistic dominance in enshrining Sinhala as the only official language in the 1956 constitution. By the 1970s, Sri Lanka was facing a communist insurgency. Then came the decades-long ethnic conflict involving the Tamils, which nearly tore the island asunder. After that war's brutal conclusion in 2009, religious cleavages came to the fore, reflected in the Easter bombings earlier this year by Islamic extremists.

These conflicts have exacted a heavy economic toll. Societies with stable social and economic compacts between citizens and the state tend to have healthy rates of tax collection, reflecting a broad willingness to share the burden of paying for the services the state provides. But in Sri Lanka, the ratio of tax revenue to GDP is less than 12 per cent, with income taxes accounting for less than a quarter; these are extraordinarily low figures given the country's relative prosperity.

This revenue was manifestly insufficient to cover the government's spending needs, especially toward the end of the civil war and afterwards. Sri Lanka therefore embarked on a binge of foreign borrowing in the early part of this century, propelling its debt-to-exports ratio to a whopping 270 per cent. Moreover, this debt has become increasingly onerous, with the share of non-concessional borrowing rising from about 25 per cent to close to 70 per cent. The debt has already proved unmanageable, and Sri Lanka has had to pay a humiliating price, handing over the Hambantota port and land to China in order to settle some of it.

A final factor adding to Sri Lanka's vulnerability has been a sharp deceleration in export growth since 2000, well before the collapse in world trade. In fact, Sri Lanka was deglobalising for nearly a decade while the rest of the world was hyper-globalising. That, too, was related to social conflict.

It remains to be seen what political direction Sri Lanka will take under Rajapaksa. But if the government pursues non-inclusive policies, this almost certainly will lead to weak resource mobilisation, continuing dependence on external financing on onerous terms, low rates of foreign direct investment, and stagnant export growth. In these circumstances, macroeconomic stability will remain elusive.

The challenge for Sri Lanka's new president is as simple as it is stark: to prevent South Asia's one-time Scandinavia from becoming its Argentina.

The writer is a former chief economic adviser to the government of India, is a non-resident senior fellow at the Peterson Institute for International Economics and a visiting lecturer at Harvard's John F Kennedy School of Government.
©Project Syndicate, 2019

Japan's harmonious contradictions

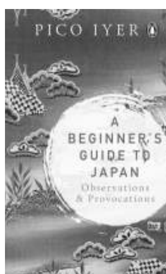
BOOK REVIEW

PARTHA BASU

Even before you've gone through much of Pico Iyer's book, you will realise two of its essentials. First, it's easy on the eye and, second, it's challenging. The book moves forward with quick snapshots of Japan the nation and of the Japanese people with no discernable narrative arrangement, each click individually relevant — much like those black-on-white, thin-brushed Japanese postcards stacked and then dealt out for you — but each digging deeply into the Japanese psyche and ethos, locking you in until the next card. Ironically, the process parallels Mr Iyer's frequent promptings about the paradoxes (used by him as positives) that appear to be an integral part of the country and its people. We all know how the Japanese had shielded Michelangelo's David from the public eye with artificial fig leaves while saying nothing about families and neighbours exposing themselves in community baths, but Mr Iyer says a lot without being half as facetious as this. His short paragraphs and sometimes *haiku* — like single sentences that constitute 90 per cent of the book make enjoyable reading and he imbues each with insight and meaning that are not to be taken lightly.

However, as Mr Iyer concludes in his prelude distilled from his 32 years of living in the country with his Japanese wife Hiroko, "The first rule for any foreigner in Japan is not to talk of this-or-that, the second is never to take anything too seriously". To that I'd add, the only people in the world today who don't learn from Japan are the Japanese. For most readers, whether familiar with Mr Iyer's emblematic writings or not, this apparent (I use the word with care) contradiction in terms forms the leitmotif of his Japanese reflections and you will find this coming through in his stylish prose.

When I visited Japan in the mid-1990s, I declared that this was the most conformist nation in the world, indeed uncomfortably so. I understand now how wrong one could be. Mr Iyer relates the Buddha's principle of flexing his teachings to reach disparate groups of devotees: "What we call inconsistency" he writes, "speaks in fact of a consistent wish to do the appropriate thing"; the operative words that didn't occur to me then were "consistency" and "appropriate thing". This book, for any number of reasons, is a primer for Mr Iyer's "Beginner" who believes that it's disgraceful to expose one's body yet flagrantly opens his or her mind without pause.



A BEGINNER'S GUIDE TO JAPAN
Author: Pico Iyer
Publisher: Penguin
Price: ₹499
Pages: 210

The other widely held conviction is that Japan is not only conformist but regimented as well and the sight of a phalanx of grey-suited men and women marching in step from their workplaces to their eating places on the dot of their lunch break and marching back at the precise end of that break was anathema to my Indian eye. As are the rigid ground rules that govern Japan's after-office pleasure parlours where feeling ill at ease is the visitor's problem, not the local's. Mr Iyer presents this poser several times in his book and at one point relates his experiences at US's West Point Military Academy to explain how regimentation tightens the bonds not only between cadet and cadet but also between cadet and country. Naïve, maybe, but the alternatives, we know, can be dreadful. The terrible punishments meted out to Allied prisoners of war by invading Japanese forces during World War II were carried out in accordance with strict rules and conventions.

Since Mr Iyer is a consummate craftsman who understands that he is writing a beginner's guide, he doesn't allow his book to become too heavy with elucidations of the many omnipresent principles of Japan —simplicity, clarity, emptiness and so forth — and uses his subliminal humour to surface as a natural counterpoint. For instance, an unusually longish narrative of his complicated and wildly funny exchange with an Apple delivery boy and the girl from the Apple Japan office concerning the replacement of his damaged keyboard is top-drawer. At other times Mr Iyer extols the Japanese virtues of silence; as he says, "Words only separate what silence brings together", which I think is, forgiving the convolution, an aphorism worth a thousand words.

Ironically, though various critics use the expression "elegant" repeatedly to describe Mr Iyer's writings. Consider his take on Apple Computers, "It remakes the world by keeping most of the world out" and then, "As the world grows more cluttered, the spare Japanese aesthetic (of clean sushi bars and minimalism) grows even more appealing". Mr Iyer could have stopped at that, but he doesn't and there lies his skill; he ends this capsule with, "In a global Varanasi, nothing so clarifies as a bamboo flute in an empty room". The images are sparse, but one needs to stop and reflect at length.

The problem with a winning book when it involves an extremely interesting place and its appealing people is that it may leave the reader thinking more about the book than its subject matter. But these two positions have been known to coalesce in Pico Iyer's work. The true reader will, therefore, have to read this book so totally that people will believe that he hasn't read it at all.