

## Citizenship Bill, along with an NRC, is worrying

The security concerns are real, but the idea that India will welcome only non-Muslims will deepen communal divide

IT IS CERTAINLY true, as those defending the Citizenship Amendment Bill (CAB) argue, that while Muslims have both Bangladesh and Pakistan as Muslim-majority nations, the Hindus, Sikhs, Buddhists, Jains, Parsis and Christians have no other country to call their own in the neighbourhood; so, the argument goes, it is perfectly justifiable that the Citizenship Act be amended to grant citizenship to these illegal non-Muslim immigrants who fled to India, possibly due to being persecuted in these countries. It is equally true that, were this automatic citizenship to be opened up to Muslims, there is the possibility that the ISI can send decoys into India on the pretext they are being persecuted in Pakistan. But, any Citizenship Bill which implicitly states that religion is the basis of citizenship is problematic. Apart from the fact that it goes against India's secular fabric and the prohibition on discrimination on the basis of religion, it is also telling the country's Muslim population that they are welcome only due to the fact that they—or their parents—lived in India, or migrated to it, at the time of partition. With one stroke, Muslims have been reduced to second-class citizens; that's a self-inflicted blow on a country that, unlike Pakistan, was not founded as the homeland for a particular religious group.

What makes the CAB even more worrying is the National Register of Citizens (NRC) that the government has said is now going to be implemented all over the country. The NRC was a colossal failure in Assam since, contrary to expectations, more than 60% of those who couldn't prove their citizenship were Hindus; and that is why the process is to be repeated though it is not clear how, the second time around, the result will be materially different. But, what is worrying is the potential damage the NRC will cause and whether this will deteriorate into a communal problem particularly if there is a fear—the CAB does a lot to trigger that fear—that Muslim immigrants can be deported or put in detention camps. Indeed, the government itself has been vague about what it plans to do about those who cannot prove their citizenship, apart from general assurances that no one needs to worry. If, as is likely, Bangladesh or Pakistan don't take back the illegal immigrants, are they to be housed in detention camps or what? If there was clarity on this, it is likely the reaction to the NRC could be quite different.

How are the poor and unlettered, and migrants from within the country, to prove their citizenship since, often enough, they don't have the documents required to prove citizenship such as birth certificates or bank/post-office accounts, and then records to prove their link with their parents/grandparents; the latter includes birth certificates, land documents, school-leaving certificates, ration cards etc. Since India has never had citizenship papers, millions will now have to go back to their villages to get these documents; and there is no certainty they will succeed. If all of this helps make India terror-free, it may still be worth it, but surely a move with such large ramifications needs a broader discussion? Nor is it immediately clear that it is only Muslim immigrants who are responsible for—or are an integral part of—terror activities in India. Along with the NRC, the CAB is likely to exacerbate communal tensions in the country; that can hardly be desirable.

## Delhi, the fire trap

Rampant flouting of norms worsened by resource shortage

THE BUILDING IN Delhi's Anaj Mandi where 43 people were killed in a fire on Sunday didn't have fire safety clearance nor did it have any fire-fighting equipment installed despite being full of combustible materials, the Delhi Fire Services department stated in the aftermath of the tragedy. In the case of the city-hotel blaze in which 17 people were killed in February, the site where the fire broke out didn't have functional fire-fighting equipment, and the inspector who had recommended fire clearance for the property was from a different jurisdiction. Both cases serve to highlight the poor state of compliance and enforcement of fire safety rules in the city. While the Delhi government, in the aftermath of the February incident, cancelled the fire safety clearances of 30 hotels in the area, nearly 120 eateries continue to operate in Hauz Khas Village, despite objection from the Archaeological Survey of India (most are within 100 metres of a protected monument) and the Delhi High Court labelling these a 'ticking time bomb' in terms of fire hazard in 2017. Indeed, last year, the Court had asked the South Delhi Municipal Corporation why it had cleared these eateries while most lacked even basic fire safety exits. Only eight of 57 restrobars in Hauz Khas Village and Khan Market had fire safety NOCs. But, it is not just Delhi's posh market places that are fire traps; the Delhi government had flagged the lack of compliance at 241 schools in July this year. There are nearly 100 buildings in Lutyens' Delhi that don't meet fire safety standards, including the Parliament Annexe building, Vayu Bhawan, Sena Bhawan and the offices of various ministries, as reported by Delhi Fire Service following inspections.

The problem of fire-traps likely populating the entire city is made worse by the fact that the Delhi Fire Services is woefully under-staffed and under-equipped. As per a 2016 report of the Comptroller and Auditor General (the latest such report available), the Delhi Fire Service had a manpower shortage of 42% while it needed at least 12 more fire stations. Calls received by the Delhi Fire Service shot up from 45 per day in 2005-06 to 86 in 2018-19, indicating the growing number of fire-traps in the city. With inadequate fire-fighting infrastructure, this translates into poor response-time, a concern the CAG had flagged in its report. The state government and the municipal corporations need to get their act together if an Anaj Mandi like tragedy is to be avoided.

Against such a backdrop, the Centre announcing the regularisation of unauthorised colonies seems downright reckless—these colonies are some of the worst fire-traps, given how congested they are and how poorly safety standards are followed, not just in design and fire safety equipment but also in construction material used. Ruling parties shouldn't simply be giving safety the short shrift with competitive populist politics in mind. At the same time, sacking a few top officials—perhaps the zonal fire officer and her deputies—will perhaps help drive home the message for authorities, that ensuring fire safety can't be taken lightly, political and other pressures notwithstanding.

## TrashTALK

The “pedo guy” verdict has ramifications for social media conduct, but online insults needn't all be taken too seriously

WORDS FOR THE age of social media are asking, “What's in name-calling?” and a US court has answered, “Not much”—at least in spirit, if not words. Techpreneur, innovator and occasional pot-smoker Elon Musk, on Twitter, had called one of the British cave-divers who, in July 2018, helped rescue Thai school children trapped in an underwater cave a “pedo guy”—after the said cave-diver and hero had made uncharitable comments about Musk's unsuccessful attempts to rescue the children—and a \$190 million defamation lawsuit against Musk ensued. Following the judgment, Musk says his “faith in humanity is restored”. The other party's is perhaps shattered, since he had claimed that the billionaire's tweet had left him “humiliated, ashamed, dirtied” and, post the verdict, his lawyer said “It's a pity that a bullying billionaire may be able to cast such a long shadow as this. We came here because Mr Musk said sue or true”.

Social media was initially meant to connect people, now it could be driving people apart, partly because it is used to call someone “pedo guy” or to suggest inappropriate parking for innovations, as the British cave-diver did when Musk talked about his machine to rescue the trapped schoolchildren. The losing side in the Musk defamation suit has claimed that the verdict has important ramifications for what one can get away with on social media, and it may well be true. But, even when words hurt, they aren't bullets. If cases like this one were upheld, the courts would get clogged. What is *kosher* in social media and what isn't—a death threat never will be—is still getting defined. Watching one's words is advisable, but how dreary life would be if insults didn't sting!

### ● HYDERABAD METRO PROJECT

AN OPEN LETTER TO THE CAG ON THE PPP PROJECT WHERE, AMONG OTHER THINGS THE VGF HAS BEEN UNLAWFULLY APPROPRIATED, GIVEN CONTRACT TERMS ON USER-CHARGES WERE VIOLATED

# Contract sanctity derailed, a green-signal to graft

DEAR SHRI MEHRISHI, This is to draw your kind attention to an ongoing scam that involves very large sums of money and very valuable commercial real estate, besides unlawful exploitation of millions of commuters using the Hyderabad metro rail. This scam could be further divided into four sub-scams, as briefly described below:

A. *Unlawful appropriation of Central VGF Grant of ₹1,458 crore*

■ The project was honestly structured and transparently awarded through open competitive bidding based on the bidding documents that were duly approved by the Union Ministry of Finance (MoF). According to the terms of MoF approval, the project was eligible for viability gap funding (VGF) of ₹1,458 crore from the central government, and the same was payable to the Concessionaire of the Project.

■ Under the VGF scheme, the state government had to certify that the user charge/fare shall be as specified in the bidding documents, and that it was not possible to increase the same in order to reduce the VGF. The Concession Agreement (forming part of the bidding documents) accordingly stipulated the user charges that the Concessionaire could recover from year to year. The sole rationale for providing VGF was to bridge the viability gap that could not be covered by increasing the pre-determined user charges.

■ The Concessionaire, in collusion with the state government, has unlawfully increased the fare by more than double, and yet, received and misappropriated a large proportion of the aforesaid VGF. Since the principal terms of the central VGF grant have been grossly violated, the Union MoF is duty-bound to recover the entire grant released so far, along with interest thereon.

B. *Illegal misappropriation of*

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user charges

■ The aforesaid increase in user charges is said to have been done under the garb of change in law. However, Article 41 of the Concession Agreement provides that if the Concessionaire suffers any financial loss due to change in law, the same shall be compensated by the state government to the Concessionaire. Conversely, if the Concessionaire makes any financial gain due to change in law, he must reimburse the same to the state government, as categorically provided in the said Article 41. However, the state government has not enforced the provisions of this Article, and has allowed the Concessionaire to unlawfully misappropriate large unearned gains, which legitimately belong to the state government or the users.

C. *Real estate scam*

■ In exchange for a low-value land specified in the Concession Agreement, the state government has allotted a large parcel of commercially very valuable land to the Concessionaire, without any authority whatsoever, and in violation of the provisions of the Concession Agreement. Moreover, no process or procedures have been followed in making these unlawful changes that have caused a huge loss to the exchequer, and provided

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enormous unlawful gains to the Concessionaire. This amounts to large-scale plunder of public wealth by the Concessionaire, in collusion with the state government.

D. *Undue largesse of real estate*

■ This project is substantially supported by a large component of real estate since metro projects across the world are otherwise unviable. This entire real estate, as stipulated in the Concession Agreement, was meant to support a 71-km-long project. However, so far, only about 40 km has been commissioned while the entire real estate meant for supporting 71 km is being commercially exploited by the Concessionaire. There seems no intent to make a reduction in real estate corresponding to the reduction in project size. This has provided undue and unearned gains of large proportions to the Concessionaire at the expense of the public exchequer.

■ When some of the above violations came to my notice, I wrote to the then secretary, DEA on January 3, 2018, requesting him to withhold any further release of VGF and also recover the grant already released. My letter was followed by letters dated July 6, 2018, August 30, 2018, and July 18, 2019.

■ The foundation of a public private partnership (PPP) project is a fair and balanced contract

No process or procedures have been followed in making these unlawful changes that have caused a huge loss to the exchequer

## Becoming net carbon neutral

With solar and wind now being the cheapest sources of electricity, India must take leadership to join industrialised nations in becoming net carbon neutral

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CLIMATE CHANGE IS now a reality. People across the world are experiencing extreme weather occurrences that seemed unimaginable a few decades ago. Time is running out for mankind. Getting to zero carbon emissions at the earliest is imperative. The UK and France have, by legislation, decided to become net carbon neutral by 2050. The EU, too, is moving in that direction. Prime minister Modi has shown leadership in facilitating the Paris agreement, and making what then appeared a highly ambitious voluntary national commitment. This was followed by setting up the International Solar Alliance. The National Solar Mission was launched in 2010 with the target of generating 20,000 MW of solar power by 2020-22. This has already been achieved, and the goal is not to set up 100,000 MW of solar power by 2022 is now there. The prime minister has recently announced that India would take renewable energy capacity to 450,000 MW.

It is time for India to move on to achieving net carbon neutrality. From the outset, India's position on climate change has emphasised the per capita principle; on grounds of equity, every human being should have the same right to emit carbon dioxide. Further, India would pursue a low carbon growth trajectory in relation to industrialised countries and ensure that its per capita emissions does not exceed theirs. Now that developed countries are aiming to achieve zero per capita carbon emission by 2050, by extrapolation, India's position should be that it would also achieve this around the same time. Can India do it? Can it afford to do so? Would it moderate the achievement of its development goals? These are issues that need analysis and discussion.

Electricity generation is the largest source of carbon emissions in India, with 72% of electricity being generated by burning coal. India's per capita elec-

tricity consumption needs to go up. The issue is whether this should take place by using more coal, as has been the case, or is a different trajectory feasible. Electricity from solar and wind is now cheaper than all other sources. It, therefore, makes commercial sense to exploit the full wind power potential, and not to burn any coal for electricity. Germany is already getting 46% of its electricity from renewable sources. India should be able to raise its share of renewables from sub-10% at present to Germany's level of over 45% easily.

The real challenge is to get electricity when the sun is not shining. Storage is the answer. Technologies for storage exist and are being deployed. Their costs are falling rapidly. The oldest one in use is pump storage in a hydropower plant, where electricity generated in the day is used to pump water up into the reservoir of the dam, and this flows down at night to generate electricity. A 1,000 MW pump storage plant is under construction at the Tehri dam. The development of all pump storage sites would be a good starting point. Sardar Sarovar and Indira Sagar dams on the Narmada could be potential sites. Then, other hydro power plants could be examined to see whether, with modest investments, they could be run only at night.

Solar thermal power with storage offers great promise. Heat from the rays of the sun are reflected through giant mirrors, and concentrated to heat molten salt. The heat trapped in the molten salt is then used to generate electricity at night through a conventional turbine. The cost, which may at present be, say, twice that of a normal coal-based plant, would gradually come down with larger volumes. The Chinese, having commissioned one large plant, are building 5,000 MW of these. India could start building a few such plants, with competitive tariff bids, which have helped lower costs for conventional solar power. The

same could be done with battery storage. A good beginning is being made in Andaman. With experience in running such storage plants, and their declining costs, India would become well-poised to scale up and produce all its electricity with zero carbon emissions.

Transport is the next largest contributor to carbon emissions in India. Electric vehicles have zero carbon emission per unit of electricity declines, and finally becomes zero, carbon emissions from electric vehicles, too, would become zero. Electric two-wheelers, three-wheelers, and cars are already cost competitive. They would gain market share rapidly as the charging network, including in residential apartments and office complexes, is laid out. For trucks and buses moving on highways, Germany is doing a pilot project with overhead electric cables on the highways so that hybrid trucks can run on electricity on the highway and as a normal hybrid otherwise. India would be well advised to go this route rather than putting up a CNG network on the highways as some have been advocating. The Railways are, fortunately, moving towards full electrification as it makes good commercial sense. Thus, surface transport in the country could, as of now, become nearly carbon neutral with no significant additional cost.

The major industrial sectors, such as steel, cement, and petrochemicals, pose technological challenges along with cost and competitiveness issues in moving towards zero carbon emissions. Indian industry is becoming more energy efficient, and would be well poised to move towards lower carbon emissions along with global industry.

For India to be among the first countries to become net carbon neutral may not be all that difficult. It should take leadership and consider becoming one.

that clearly allocates the risks and rewards among the respective parties. Sanctity of the contract is critical for the credibility of a PPP project. A few cases of malfeasance can destroy public confidence in PPPs, thus losing a valuable resource for national development. Exemplary action is, therefore, essential whenever malfeasance is detected.

■ As this case is nothing short of organised plunder of public money on a large scale, I would request you to kindly consider a special audit, both at the central and the state level. Since I had structured the project and written the Concession Agreement, RFP etc, I will be happy to provide such assistance as your audit team may need for comprehension and interpretation of these complex documents. More than my assistance, it is ultimately the legal experts who will have to be consulted for assessing the criminality involved in this case.

With regards,  
Yours sincerely,  
Gajendra Haldea

PS: A PPP project is meant to be driven entirely by a contract between a public authority and a private entity. Sanctity of the contract is, therefore, of paramount importance. When violated, away with unintended gains! This also opens the floodgates to crony capitalism and corruption, which increases the project costs beyond what may have been spent if the project were undertaken by the public sector. As such, PPP projects should be abandoned, in public interest, if the government does not have the will and wherewithal to recognise and enforce the sanctity of contracts. Furthermore, offenders involved in malfeasance must be brought to book and made to face the legal consequences so that short-changing of public interest is suitably addressed.

### LETTERS TO THE EDITOR

#### A country without economists?

Mr P Chidambaram in his article "Economy sans economists" (*Financial Express*) has indicated that Mrs Nirmala Sitharaman the current finance minister of India holds an MA degree in economics from JNU, thinks she is a competent economist capable of managing the Indian economy. The former finance minister Mr Chidambaram has quoted the Economist calling the government an "incompetent manager" of the country. In my honest opinion, Mr P Chidambaram is unfair to be critical of Nirmala Sitharaman as finance minister and to call her as "incompetent Manager of the country. In the past more than 50% of finance ministers did not have even a MA degree in economics. Secondly, Mr Chidambaram says India's economy is being run without the aid and advice of competent economists. These comments are also unfair. One can put a question. Who are the "competent economists" in the country? It appears to me that India is without economists. For example, today the Input tax credit figure for FY19 was (₹48 lakh crore) four times more than the GST collected (₹12 lakh crore). In other words, gross collection of GST from consumers was ₹60 lakh crore. But only ₹12 lakh crore reached the government and the rest amount of ₹48 lakh crore was utilised to reduce the GST liability of GST payers. On the other hand a sum of ₹12 lakh crore can be collected by reducing the GST rate to 2% with no input tax credit. Whole of the country is engaged in paying GST and then claiming Input tax credit, but all the so called "competent economists" are silent. This is the standard of "competent economists". It appears to me that India is without economists. — SC Aggarwal, Delhi

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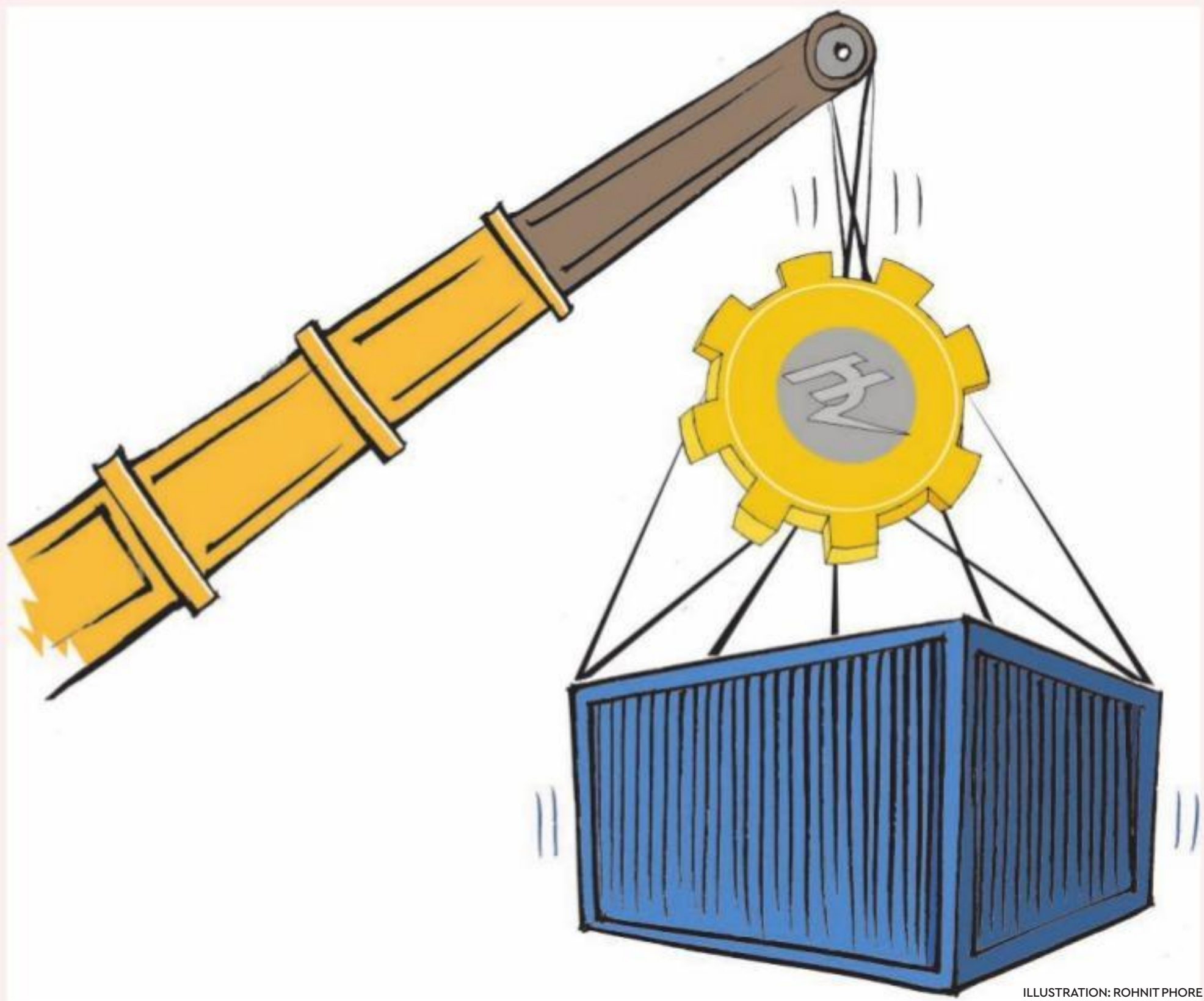


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WTO PANEL REPORT

# Need a fresh debate on trade policy framework

Greater collaboration between the government and the private sector, for developing trade-smart schemes and incentives that have long-term sustainability and contribution to the growth of Indian industry, is the only sensible way forward

RECENT GLOBAL EVENTS have significant implications for reshaping India's trade policy framework. The first important trigger for change occurred in 2013-14 when India's per capita GNI (Gross National Income, earlier referred to as GNP or Gross National Product), assessed by the World Bank, breached the threshold of \$1,000. This development had a ripple effect in India's status as a 'developing country' under the WTO's Agreement on Subsidies and Countervailing Measures (ASCM), which regulates, among other aspects, export

subsidies. In 2017, after three consecutive years of India's per capita GNI exceeding \$1,000, India graduated out of the list of 'developing countries' under Annex VII of the ASCM, which basically meant losing the space for foreign trade policy manoeuvrability that India had enjoyed till then as a developing country. This was the genesis of the second trigger—a dispute challenging India's export subsidy schemes that was initiated by the US at the WTO in March 2018. The initial consultative phase did not lead to any resolution, and therefore the US sought the establishment of a panel for dispute set-

tlement at the WTO in May 2018. At the core of the dispute was the contention that 'export incentives' granted by India under the DFIS, EOU, EPCG, MEIS and SEZ schemes are 'export subsidies' that are prohibited under the ASCM. The WTO panel report, published on October 31, 2019, held these schemes to be prohibited 'export subsidies'. The panel recommended that India should withdraw these schemes in a time-bound manner. The WTO dispute mechanism allows for countries the right to appeal panel reports with the WTO's Appellate Body and India has exercised this right. But while an appeal can provide some tactical advantage in the short run, domestic reform is inevitable.

In anticipation of the inevitable, the government has been undertaking suitable steps, such as emphasising that Indian industry should reduce its reliance on export incentives and has to reinvent itself by increasing its competitiveness in the global market based on increased productivity of resources, improved quality, better efficiency and increasing reliance on data-driven business strategies.

The government has also announced December 31, 2019, as the sunset date for the MEIS (Merchandise Exports from India Scheme). There is also anticipation of the launch of a new scheme, the RoDTEP (Remission of Duties or Taxes on Export Products). Another significant initiative by the Indian government was the setting up of a group consisting of SEZ stakeholders under the chairmanship of Baba Kalyani, which has made significant recommendations for SEZ reforms that the government is considering.

These developments need to be seen in the context of India's positioning in the global trade scenario. This includes recent events such as: (a) India taking a strong stand regarding its crucial and sensitive demands at the RCEP negotiations, while keeping its options open regarding its continued engagement with the RCEP as well as other free trade agreements (FTAs) with strategic trading partners; (b) India's embracing of the tenets of the WTO's Trade Facilitation Agreement, which, apart from ensuring compliance with our WTO obligations, has contributed to improving India's ranking in the World Bank's Ease of Doing Business report; and (c) India's adoption of disruptive technologies for

trade automation and reduction of transaction costs, which has a role to play for making it an attractive destination for trade and investment.

Seen against this overall backdrop, the tactical and strategic response in appealing the WTO panel report on export subsidies is only a short-term solution. In the long-term, as a member of the WTO, and as party to various FTAs, course correction with regard to formulating WTO- and FTA-compliant incentives and subsidies is inevitable.

Firstly, India's trade policy of the future ought to consider distinct approaches for trade in goods and services. This aspect has also been highlighted among the recommendations of the Baba Kalyani report on SEZ reform. The distinction between goods and services will also enable designing separate incentives and subsidies for services exports, which neither the WTO nor India's FTAs currently regulate. With services commanding increasing relevance for India's growth story, and with the increasing 'servicification' of manufacturing, carefully-designed and WTO-compatible services subsidies are an important way forward. Equally, carefully-designed incentive schemes and subsidies for goods, which are compatible with our international obligations, are also essential. There exists sufficient space under both the WTO agreements and FTAs for this.

Secondly, a meaningful trade policy framework needs to be rooted in an evidence-based approach, and rely on microeconomic data from the industry to enable targeted decision-making based on trade data analytics. Early indicators that the government has also recognised and is acting on this imperative is evidenced in the request from the government for microeconomic data from export promotion councils, for quantifying the rate of RoDTEP. In order to be able to respond to such a request and benefit from the scheme that is eventually put in place, Indian industry will also need to be proactive and establish appropriate mechanisms to capture data at the granular level, through innovative changes in accounting systems, IT systems and MIS, as well as ensure auditable record-keeping of the information required to benefit from the scheme. With increasing growth of the digital economy and blurring of lines between the physical and digital economies, the centrality of data-driven insights in informing policymaking is that much more crucial. This necessarily has to be an evolving approach, with the industry informing the design and outcome of the government policy by sharing qualitative data over a period of time.

And finally, the trade policy of the future will have to forego its three-decade old preoccupation with export obligations and foreign exchange earnings. The shift from export growth to broad-based employment and economic growth was highlighted in the Baba Kalyani report as well. This will also enable the new policy to shed the legacy of India's 1991 balance of payment crisis and look at the world with a new and aspirational approach and a perspective of global leadership.

The ability of the government's policy to have real benefits will also depend on the extent to which Indian businesses can provide crucial strategic inputs to the government, a theme which was discussed at a recently held CII conference in Mumbai, on the Global Trade Scenario, aptly titled 'Navigating the New Normal'. Large industry houses, especially, will need to be better equipped with research and appropriate skill-sets, and apportion resources to be able to compliment and supplement government efforts. The government reaching out to industry for collating microeconomic data for informing and refining the RoDTEP scheme is an important starting point. Greater collaboration between the government and the private sector, for developing trade-smart schemes and incentives that have long-term sustainability and contribution to the growth of Indian industry, is the only sensible way forward.

## Curbing crimes against women

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### How to make society safe for women

THE ACT OF rape followed by murder of a woman in Hyderabad has shaken the conscience of the nation. In fact, there has been a stark increase in the number of rape cases since 2011—from 24,206 to 38,947 a year, and outraging of modesty of women has reached a level of 84,746 incidents in a year. There are no signs of abatement even after the 2012 Nirbhaya case, which spurred amendments in law and initiatives for women's safety. There have been persistent gaps in enforcing the relevant laws, policies and guidelines.

Certain groups are more prone to becoming a predator. A group of men may have no hesitation in valuing a woman as a commodity. The primary reasons for rape range from anger, power assertion, extremist patriarchal culture, extra publicity of sexually implicit content in our society, deviant sexual practices, poor parenting, cognitive and attitudinal bias, and sadism. Further, the level of literacy or geographical location cannot be the sole factors influencing the rapist's behaviour—it is the environmental influence on the accused that plays a major role. There should be a presumption of guilt of the accused with regard to such heinous crimes. While a step has been taken in furtherance of this by introducing Section 114(a) of the Indian Evidence Act, 1872, and Section 376 of the IPC in light of the Tukaram judgment, further steps need to be taken.

There was supposed to be a one-stop facility for rape survivors, to be created from the Nirbhaya Fund—but funds for only 151 out of 660 such centres have been allocated, and a shocking amount of ₹3,409 crore remains unused. Another problem that discourages victims from pressing charges is the long duration of proceedings, which only result in further trauma and mental agony for the victim. The provision of anticipatory bail should be removed, and regular bail provisions should be made applicable after filing charge sheet in these offences. The necessity for speedy justice is long felt.

The Criminal Law (Amendment) Ordinance 2018 mandated some changes in the investigation, trial and appeal cases in matters of rape and sexual assault. The recent step of the central government to open up new fast-track courts in offences related to the Protection of Children from Sexual Offences (POCSO) Act is a welcome step; it may also extend to the IPC offences against women.

There are a few other aspects that are left out in this matter—there is no capital punishment in matters of rape of women above 12 years, and the accused is just given a time period of 10 years in prison and not even imprisonment for life. It is urged that capital punishment be served to the guilty in matters of rape if it has been committed with extreme brutality. It needs to be noted that the last rapist was hanged in 2004, and the accused in the Nirbhaya gang rape are still asking for mercy. The next stage is the pardoning power of the President under Article 72 of the Constitution. Currently, there is no specific time limit with regard to pardon of the accused. Although the firm contention is that there must be no pardon at all, there should still be a time limit that is to be set to decide pardons.

These laws have to serve not only as a deterrent, but also act as a retributive form of punishment. The Justice Verma Committee discussed retributive form of punishment widely in its report. The accused must feel the pain that was felt by the victim and her family, and only then the rates of such offences will reduce and the law will start acting as a deterrent. The idea that we are a utopian society, we should have a compassion towards all kinds of criminals, and we all will abide by any law once made should be reconsidered.

Giving advantage of human rights conventions to such criminals is in antithesis to the doctrine of human rights itself. The protection of human rights should be given to the persecuted and vulnerable mass. Keeping their cases pending only strengthens the will of such individuals. Excessive focus on the reformation argument is harming our society. At the same time, our society has to keep a check on all those factors that aggravate the criminality in an individual and that results in such offences. We all have to introspect how can we collectively make our society safe for women.

Laws have to serve not only as a deterrent, but also act as a retributive form of punishment

EVERY CRISIS IN the financial sector brings to the fore the segment that has stirred the pot. When the NPA issue went out of hand, public sector banks (PSBs) held centre stage and levels of above 20% caused shock and umbrage. Later, private sector banks cleaned up their books and their NPAs came to the fore. Subsequently, the non-banking financial company (NBFC) crisis came to light, and after being lauded for their amazing contribution to financing India Inc, especially post-demonetisation, the flaws of asset and liability management (ALM) mismatches made them the fall guy. More recently, the PMC Bank exposé has brought to light the inherent conflict of interest in the model of urban cooperative banks (UCBs) and raised a different kind of storm. Against this background of sequential contagion across financial groups, how should one look at the financial system?

While banks have been closely monitored by RBI, the so-called shadow banking segment, i.e. NBFCs, were only partly regulated, and for all practical purposes were independent in operations. Hence, when they did put in their applications for a banking licence, the first thought that came to mind was that they would be subject to RBI regulations and norms like priority sector lending, CRR and SLR. Now with the PMC problem, attention has turned to the cooperative banking sector.

The financial system is, hence, quite large and goes beyond banks. To get an idea of the overall size of the institutionalised lending market, one can look at some numbers. As of March 2018, commercial banks had an asset size of ₹152 lakh crore.

## Shadows beyond the banking system

The integration of cooperative banks and NBFCs should happen, and the expertise created with the regulator

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NBFCs had a size of ₹21.76 lakh crore—i.e. 14% of banks' balance sheet. Housing finance companies (HFCs) came in next, at ₹11.6 lakh crore—around 8% of banks' size. The overall cooperative banking system as of March 2017 was ₹16 lakh crore (11% size) and can be called the 'covered shadow banking system' that has been in existence for long and yet has never quite been studied in detail. Hence, the non-banking segment is around one-third the size of the banking system or has a share of around 25% in the financial system (excluding All India Financial Institutions, or AIFIs, which comprise regulatory bodies like NABARD, NHB, SIDBI and EXIM Bank, and have a size of ₹7 lakh crore).

The accompanying table provides

some interesting information on this ecosystem. Data for all institutions except cooperative banks (excluding UCBs) is for March 2018, while it is March 2017 for the latter. This helps one grasp the magnitude of the financial system, which should ideally be integrated through regulation.

The interesting thing here is that the cooperative banking system comprises over 98,000 banks/societies; the number is really large. Intuitively one can see that regulating such units is a major challenge given the limited bandwidth of the regulator. The combined NPA ratio for them is 12.8%, which is very high, with the primary agricultural credit societies (PACS) in particular being horrendous at 26.6%. While the recovery rate is fairly high (75%)

### Overview of the organised financial system

	Number	₹ crore			
		Assets	Loans	NPAs	Ratio (%)
Urban cooperative banks	1,551	5,63,200	2,80,500	19,915	7.1
State cooperative banks	33	2,32,900	1,27,000	5,200	4.1
District central co-op banks	370	5,05,500	2,52,700	26,500	10.5
PACS	95,595	2,40,000	2,00,900	53,300	26.6
SCARDB	13	30,400	21,200	5,200	23.6
PCARDB	601	29,100	15,100	4,900	33
NBFC-SI	230	19,30,000	14,53,300	84,291	5.8
NBFC-D	168	2,46,000	3,11,000	17,416	5.6
HFCs	91	11,59,800	9,35,400	12,160	1.3
<b>Total</b>	<b>98,652</b>	<b>49,36,900</b>	<b>35,97,100</b>	<b>2,28,883</b>	<b>6.36</b>
Commercial banks	93	1,52,53,300	87,46,000	9,79,552	11.2
All institutions	98,745	2,01,90,200	1,23,43,100	12,08,435	9.79

Source: RBI Report on Trend and Progress in Banking

for them, the fact that these loans do not get paid on time does raise a question of evergreening that may be taking place. In fact, recovery rates for state cooperative banks (SCBs) and district central cooperative banks (DCCBs) are higher, though NPA ratios lower. The universe of UCBs is also wide, with there being around 1,500 such banks where the NPA ratio is 7.1%. Thus, there is a need to take a closer look at the models being used by PACS. Also following from the fiasco at PMC, there is a broader issue of supervision and inspection that is required, as this space is quite opaque with little known on how business is conducted.

For state cooperative agriculture and rural development banks (SCARDB) and primary cooperative agriculture and rural

development banks (PCARDB) that offer long-term loans to farmers, recovery rates are 44-50%, while NPA ratios are high, too, at 23-33%. This is not a good picture even though the size of loans is not very high to cause any kind of systemic risk to the system. But for sure it is necessary to review the entire cooperative banking system that has an important role to play as it deals with the overall objective of financial inclusion since it covers largely the rural population and SMEs (when it comes to UCBs). By their sheer number, they are difficult to regulate as even maintenance of accounts does not tend to be formal as one steps down to the PACS level.

A pointer can be that RBI should consider integrating these societies into the

banking system. The move towards getting in payments and small banks was to foster financial inclusion. Given that the 'covered shadow banking system' is large at ₹16 lakh crore—a level that new banks will take years to achieve—integrating them with the formal system makes sense. Surprisingly, all the various committees on banking that have focused on reforms in commercial banking have not quite touched on this parallel formal institutionalised system, which occupies a very important place in the flow of credit especially to the rural and SME segments.

NBFCs and HFCs have a crucial role to play in the structure of finance as they have niche customers. HFCs have added a new dimension to housing finance and enabled the achievement of the objective of successive governments to provide access to households for buying homes.

At a broader level, RBI should ideally be regulating all these entities as a single regulator makes sense for better coordination. This also ensures that the scope for regulatory arbitrage reduces. From the point of meeting the objective of financial inclusion, quite clearly the 'covered shadow banking system' has a very important role to play. While nudging commercial banks to do their bit is okay in the short run, ideally the rural responsibility has to be shifted to the cooperative system, which, admittedly, has to be strengthened substantially. At present, the focus has been on creating a new category of banks, like small and payments banks, and merging PSBs. As part of this transformation, the integration of cooperative banks and NBFCs should proceed in parallel and the expertise created with the regulator.