

Society gets the law it deserves

Ultimately, the law that gets upheld in a society is typically the law that resonates with it



WITHOUT CONTEMPT

SOMASEKHAR SUNDARESAN

It is an extraordinary time that we live in. When last fortnight’s column was being written, onions and indicia of economic slowdown occupied the consciousness of business and industry. This fortnight, an extraordinary and unexpected outpouring of protests is spilling on to the streets of campuses — all over the country, some would say, while others would say only in 22 of 400 universities. If one were to consider a business equivalent of the citizenship amendment law, here is that it would be like. Picture legislation that would identify some

industries that have gone through hardship — say telecom, power and steel. Imagine saying fuel costs went haywire rendering the power sector unviable; interpretation of revenue sharing went haywire rendering telecom unviable; and cyclical pressures have rendered steel unviable. The citizenship amendment law picks only three countries — Pakistan, Bangladesh and Afghanistan. Also imagine saying industrialists have for decades worked hard under severe expropriatory tax rates — indeed, the effective tax rates in the Indira Gandhi regime has been worked out to be over 90 per cent. But imagine the law being silent about persecution and hardship faced due to such a horrendous fiscal regime, and yet being defended on the basis of such persecution. The citizenship amendment indeed does not have a whisper about religious persecution being the relevant factor in declaring illegal immigration as legal. Now, imagine an amendment to the law that provides for anyone engaged only in these three industries, having either stacked up wealth hitherto unaccounted for, or having serious dues owed

to the state, being excused from their legal obligations. The citizenship amendment law refers only to three countries from which illegal immigrants would no longer be regarded as illegal. Also imagine offenders not even born during the era of those horrible tax rates too getting included in the exemption from legal obligations. The citizenship amendment law draws the line at 2014 while it is being defended on the basis of persecution during partition in the 1940s. Indeed one can argue that those who suffered by paying taxes of 90 per cent-plus rates could not provide well for their offspring and the effect of the persecution cannot be limited to the 1970s. And then imagine arguing that the law is indeed constitutional and therefore good law. Indeed, multiple voluntary disclosure of income schemes, amnesty schemes for black money, and other benign means of coming clean with a dip in the Ganges have indeed been held to be constitutional. Of course, in the mid-1990s, the then United Front government promised the Supreme Court that there would be no more such cleansing of unaccounted wealth. But equally, it is a

principle of law that there can be no “estoppel” in matters of fiscal legislation. In layman terms, the sovereign power to make laws cannot be curtailed by promises not to make a certain laws — the only challenge can be on constitutional validity and on no other ground. What is constitutionally valid is a question to be answered by the judiciary — with a reasonable mind’s reasoning. This can lead to multiple outcomes depending on whose mind is being applied. In the United States, President Donald Trump’s executive order banning travellers from specific Muslim countries was held by some judges to be unconstitutional and others to be valid. The former took into account the Trump’s election campaign speeches making an unconstitutional promise of a ban on entry from Muslim countries. The US Presidents’ law officers defended the law arguing that judges must not look to his speeches at all, and should stick to the language of the law. The US Supreme Court agreed with that line of argument — although it must be said that Trump added some ornamental non-Muslim countries in a revised ban order, to win

the constitutional battle. In India, the citizenship amendment law is silent on “religious persecution”. What is “good law” (constitutionally valid) and what is fair and reasonable law (from the perspective of universal acceptability) can be two completely different things. Again, in the United States, a constitution guaranteeing equality of all human beings was held to be consistent with a robust legal framework to enforce slavery — the ownership of, and trade in, human beings. In India, those in business and industry have a strong tendency to seek refuge in nationalism. A comparison of how the citizenship amendment would play out if it were to be embraced in the field of business, would be instructive. When multiple buttons get pushed all at once - religious differentiation versus linguistic differentiation; asylum law versus citizenship law; era of partition versus era of politics after seven decades — the churn of the manthan should hopefully lead to serious thought. Ultimately, the law that gets upheld in a society is typically the law that resonates with it. Unpopular social reform is easier to implement when it is forced by a patronising external colonial power — for example, the ban on sati. In a democracy we get the laws we truly deserve.

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CHINESE WHISPERS

Adityanath's Achilles heel



While Uttar Pradesh Chief Minister Adityanath (pictured) is seen as among the most sought after Bharatiya Janata Party (BJP) leaders

for campaigning in other states, he has drawn flak for apparently failing to detect and diffuse discontentment brewing in his own backyard. Even as the unprecedented sit-in by the ruling BJP legislators in the Vidhan Sabha on Tuesday protesting alleged harassment by police and district officials was widely reported in the media, another party MLA, Shyam Prakash, took to social media to suggest the formation of an employees’ union-style body for legislators. He also alleged widespread public corruption in the state under the current dispensation and rued that legislators were hapless under such circumstances. Taking note, Adityanath has arranged to meet all his party MLAs in batches of 40 to settle the matter once and for all.

Home remedy

The negative publicity following Sunday’s crackdown by Delhi Police on students of Jamia Millia Islamia protesting the Citizenship Amendment Act has left the force fighting a perception battle. To contain the PR damage, the top brass of the police is now looking at current and former officers to act as emissaries. These are officers who have had some connection with Jamia or Aligarh Muslim University in the past. This list may have alumni of the two universities or those who enjoyed a good rapport with faculty and students. Sources said that these officers would “explain the police’s viewpoint, allay fears and provide clarification on misinformation”. Among the prominent names on this list is an AGMUT officer who has headed the southeast district in the past and is now serving in a cadre state but on deputation in Delhi.

Reason to celebrate

Amid the news of protests over the National Register for Citizenship (NRC) and the Citizenship Amendment Act (CAA), a bunch of people in Kolkata found reason to celebrate. Worried that they didn’t have valid marriage documents, 15 couples took part in a mass remarriage ceremony to obtain marriage certificates. Some of them were well into their 50s and 60s and were “officially” wed before their children and grandchildren. The organiser of the event later said that while couples paid scant attention to documenting their marriages earlier, now, thanks to the “confusion” surrounding NRC and CAA, there is a mad rush to secure all documents that can save people from future legal hassles. In view of its “success”, the organisers are planning to conduct more such events.

The high cost of low tariff

In the absence of a common ground between large and small steelmakers, India has turned into a dumping ground for low quality and radioactive aluminium scrap

KUNAL BOSE

In the slugfest between the country’s three primary aluminium makers – Vedanta, Hindalco and the National Aluminium Company – and the large number of small and medium secondary metal producers over what ideally should be the import duty on scrap, the government is unwittingly caught in the middle. By now, it has become a ritual ahead of the presentation of the Union Budget for the two contestant groups to demand steep duty hike or further easing of scrap imports depending on where each stands in the two-tier industry where the government as the arbiter has not yet been able to find any common ground. New Delhi has, therefore, thought it wise to leave the customs duty on aluminium scrap at a low 2.5 per cent. It, however, tinkered with import levy on primary aluminium and aluminium products the way big boys of the industry—that is, the integrated producers— wanted. Aluminium recyclers are happy that scrap is spared any extra customs duty burden. In the prevailing environment favouring unrestrained imports of scrap from multiple sources, the integrated producers, who among them have built smelting capacity of 4.1 million tonnes (mt) and most of that in bauxite and

non-coking coal rich Odisha, take exception on three counts. First, according to them, it is “logic defying” that of all non-ferrous metals, including copper, zinc, lead and nickel, it is only aluminium for which there is import duty variance. Second, as a primary producer group official says: “The global trading environment in aluminium scrap, triggered by China rapidly scaling down imports before it finally puts a ban is changing radically. Angered by Donald Trump’s trade actions, Beijing has put a whopping duty of 25 per cent on scrap imports from the US. This has led edgy American traders to push as much scrap as possible into India, taking advantage of our low duty and big appetite for the material.” Post Chinese punitive duty, the US stepped up scrap exports to India by 149 per cent to 259,000 tonnes in 2018-19. Again during April to October 2019, our scrap imports from the US further advanced 50 per cent to 190,000 tonnes. Third, in the absence of official standards and proper checks at entry points, the country gets all kinds of aluminium scrap, including some with lead content and also containing traces of radioactive properties. When such impure scrap is recycled into secondary metal and products such as consumer durables and

DUMPING GROUND

US scrap imports into India

■ 259,000 tonnes: 2018–19

This is 149 per cent increase over previous year

■ 190,000 tonnes: Apr to Oct 2019

■ 4 mt: Aluminium consumption annually

■ Metal demand growing at 8 to 9 per cent annually

utensils are made from that aluminium, their use cannot but affect human health and cause damage to the environment. A nagging problem with the country’s electricity sector is transmission and distribution (T&D) loss amounting to around 20 per cent of power generation. T&D loss here is more than twice the world average and nearly three times as large as in the US. A major reason for the loss is the use of wires made from indifferent quality recycled secondary aluminium. Below average performances of electrical appliances are also due to the same reason. The Chinese market shrinking on government order and India where close to 4 mt of aluminium is consumed a year and where the demand for the metal is growing at an annual rate of 8 to 9 per cent, it is a given that exporters of aluminium scrap will target this country for disposal of what cannot be any longer sold in the world’s second largest econ-

omy. But when so much holds against the imported feedstock for secondary aluminium makers, what it is that stops the government from reining in inflow of foreign origin scrap by aligning the import duty on it with the rates obtaining for primary aluminium at 7.5 per cent and 10 per cent on downstream aluminium products? One sure way to staunch inundation of our market by exporters of scrap based in the US, West Asia, the UK and Australia is to raise the duty barrier. But New Delhi is possibly restrained from exercising the option due to pleas of secondary producers that in the absence of an infrastructure in the country to collect, segregate and bale scrap for recycling, their existence is linked to the imported stuff. Secondary producers also argue that they being participants of the circular economy, they are recycling metal by only using 5 per cent of the energy required for primary smelting of aluminium. Moreover, to the extent the metal is recycled, the country can leave the required bauxite and coal beneath the earth’s surface. Their defence for low customs duty is primarily built on the pivot of environment care. Till such time as an efficient infrastructure is in place facilitating large-scale collection of indigenous aluminium scrap for use by the secondary sector, the government is unlikely to entertain primary producers’ demand for higher duty on scrap imports.

TICKER

The populists march on



MIHIR SHARMA

The wholesale defeat of the Labour Party in Britain’s general elections is unprecedented in scale. The party has won the fewest seats of any election since the 1930s — during a period when, in fact, the party itself had split into two. Worse, it has lost seats to Prime Minister Boris Johnson’s Conservatives even in areas which have been Labour strongholds for decades, and where the cultural resistance to voting Tory seemed, in the past, insurmountable. Appropriately, among the seats lost to the Conservatives in the formerly industrial north of England is Sedgefield — which was, for his entire career, former prime minister Tony Blair’s seat. Nothing could better indicate the distance that Labour has travelled since Blair took the party to three successive election victories from 1997 on. The immediate consequence may be, of course, that Johnson’s Conservatives now have the mandate to take Britain quickly out of the European Union. This would be a secret relief to many in Europe who, while sad to see Britain go, are exasperated by how long the process of Brexit is taking and the degree to which it colonises time that Brussels would prefer to spend on reviving the continent’s economy. The size of his majority is, paradoxically, good news for those who fear the consequences of Brexit. Johnson now has enough of a par-

liamentary cushion that he has no reason to pander to the hardest Eurosceptics within the Tory party, and is additionally responsible to a large bloc of new Tory voters in the north of England who would be vulnerable to a no-deal exit from the European Union. Not every populist is identical, some are more careerist than ideologue — and he seems to be one of these, indicating that while Brexit is now unfortunately inevitable it may not be softer than was feared at points over the last year. But that is the extent of what can be hoped for. Other implications of this election result are very disquieting for the stability of the United Kingdom — which is, remember, the location of a financial centre vital to India Inc., as well as a significant investment and trade partner. The end of a Brexit crisis will precipitate others, in particular in Northern Ireland and Scotland. Unless a hard border is avoided in Northern Ireland, there is a real threat to the region’s decades of peace. Worse, Scotland and England are now on a collision course. England voted overwhelmingly for the Tories and to leave Europe; Scotland has given the pro-independence and pro-Europe Scottish National Party an even more comprehensive sweep. Scotland First Minister Nicola Sturgeon has already made it clear, in her remarks after her victory, that she views the Scottish mandate as an indication that its parliament does not need a UK prime minister’s “permission” to move towards independence. Johnson will do all in his power to block another independence referendum. Another constitutional crisis, along the lines of what has happened in Catalonia, is not out of the question. The larger question for observers of politics worldwide is where this result fits into the broader narrative about the upsurge in populism and right-wing nationalism. Stylistically, it ticks all the

boxes. A charismatic but essentially deceptive leader; a discredited social-democratic alternative alienated from its former working-class base for cultural reasons; a growing political divide between those more educated and those less; and the willingness to absorb economic pain in the service of nationalist or xenophobic reasons. Progressive politics has struggled to come to terms with these factors wherever they have emerged, whether in Britain, the United States, Turkey, Southeast Asia or India. Briefly it was hoped that a left-populism would somehow be potent enough to nullify the populism of the right; but the Corbyn experiment, in which the Labour Party gave itself over to a hard-left faction of enthusiasts, has failed spectacularly at overcoming the cultural divide. The simple fact is that there are no easy answer for progressives, whether in Europe, Asia or America. The few places where the centre-left has held its ground it does so tentatively, and with flawed but charismatic young leaders such as Justin Trudeau or Emmanuel Macron. Neither of these inspires enormous loyalty any more, but they are less unpopular than their main rivals, and can at least pretend to be unifying, optimistic and forward-looking figures. Places without such a figure — Germany, India — seem fated to see the centre-left move towards political extinction. What would be fatal, certainly, is to tell oneself lies about the popularity of one’s own political platform and positions. The creation of echo chambers online and the increasing self-segregation geographically of those with different opinions means that it is easy to convince yourself that a silent majority agrees with you. Most of the time, they don’t. For progressives, it can no longer be about “clever politics” or “mobilisation”. We have to move two steps back in the game, and go back to “persuasion”.

LETTERS

Don't just chase ratings

This refers to “The fires that Indian news television lit” (December 18). The author has rightly pointed out the pitfalls that the Indian television media currently faces and how the whole purpose of its existence is being defied. If a picture is worth a thousand words then going by McQuivey’s Forrester study, a video would be worth 1.8 million words. This explains why the reach of television is way more than that of newspapers. Despite the far-reaching impact the news channels can have, they are busy fostering hatred and negativity. In the past few years, the Indian economy has witnessed several changes on the political, economic, and social fronts. Good or bad, these changes have hardly been taken positively by the masses. Going by the developments following the passage of the Citizenship Amendment Act, it is facing flak from different parts of the country. The incidents of violence have traumatised the nation and raised a question mark over the role the news channels could have played by moderating the whole fiasco. Clearing the air of confusion by imparting education on the said matter could have sensitised people. These problems could have been avoided if the channels gave less importance to their ratings and to attracting sponsors. What direction a channel will take depends on who owns it, since the majority have affiliations to political parties, and that means the channels are no less than spokespersons. The suggestions offered by the author to fix the Indian news television problems can be fruitful only if implemented with sincere efforts

Ankita Kalia Chandigarh

Address real concerns

With students out on the streets in protest against the Citizenship Amendment Act (CAA), the best recourse available to the government at the Centre in a democracy is to engage



with them through talks. Violence has no place in a civilised society guided by liberal and democratic ethos and it needs to be condemned in the strongest terms. Any attempt to quell the protests by dubbing them as being orchestrated or politically motivated or through disproportionate use of force would do more harm than good to our standing as one of the most vibrant democracies of the world. The despicable trend of stifling dissent and calling the critics of the government anti-nationals is in dissonance with free and liberal values defining our democracy. However, the assertion by Prime Minister Narendra Modi that no vested interest group would be allowed to divide us and create disturbances is encouraging. It is time the Modi-led dispensation reaches out to the restive voices over CAA and addresses their legitimate concerns with all the seriousness it deserves.

M Jeyaraman Chennai



Open more fronts

The Bharatiya Janata Party (BJP) has had a very profitable outing since 2014, opening up fronts against the Congress party and Pakistan, as per its convenience. In the aftermath of the Citizenship Amendment Act, it has taken a new line by saying that both the Congress and Pakistan are talking the same language. However, Pakistan is yet to say a word. The BJP needs open more fronts rather than merge them especially when it has to juggle multiple scripts to divert attention from one adverse economic index or the other.

R Narayanan Navi Mumbai

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Setback for the Tatas

NCLAT judgment raises several questions

The National Company Law Appellate Tribunal's (NCLAT's) decision to reinstate Cyrus Mistry as chairman of Tata Sons and term illegal the appointment of N Chandrasekaran as his successor will undoubtedly cause ripples of uncertainty through the Tata empire and the broader corporate sector. The move to take Tata Sons private has also been declared illegal and reversed. Though the decision will be implemented after four weeks, giving time to the Tata group to contest it, the charges are serious: Oppression of minority shareholders (the Shapoorji Pallonji group is one of them), mismanagement at Tata Sons and undue haste in removal of Mr Mistry as chairman. If the NCLAT judgment is upheld by an appropriate forum, several critical decisions taken by the new management will come up for scrutiny.

It is clear from the NCLAT's judgment that much will have to change at Tata Sons. The Tata group has traditionally been held to represent the gold standard for Indian corporate governance, but the NCLAT's judgment reveals that there were instead severe problems within Tata Sons. It is a severe setback to the Tata group and to Ratan Tata personally, who has been asked by the tribunal to "desist" from interfering in the affairs of the group. Mr Mistry's complaint that directors left a board meeting midway in order to discuss issues with Mr Tata, and that he had to report on issues to the Tata Trusts separately instead of solely to the board of Tata Sons, factored into the NCLAT's decision. It is clear, therefore, that the Tata Trusts (and therefore Mr Tata) will have to properly and transparently manage their interest in Tata Sons in future. They will have to do something to address the allegation that the shareholding trusts of a holding company with minority holdings in operating companies take key decisions, not the chief executives or the boards of the operating companies. This is a manifestation, essentially, of the managing agency system that was abolished half a century ago. The Tata group's corporate structure is a similar opaque throwback, with two-thirds of Tata Sons' shares held by trusts, and must be modernised.

Broader questions about the appointment and removal of chairmen are thrown up by this decision as well. How can a chairman who has lost the confidence of the board and principal shareholders, for whatever reason, be allowed to continue? The Mistry group had alleged that the chairman was removed without any notice or explanation, making it illegal. But the fact also is that seven out of nine Tata Sons directors had voted in favour of Mr Mistry's removal. Hopefully, both the executive and the Supreme Court will deliberate carefully on the implications of the NCLAT judgment and make suitable changes as needed. The tribunal's observation that majority shareholder approval of a chairman's appointment is not enough and concurrence of the minority shareholder is necessary is also contentious. Questions must be asked about the implications of this judgment, unless overturned by the Supreme Court, for companies more generally. For example, the NCLAT insists that in spite of a notification and rules outlining a method for companies to go private without a tribunal order, the original requirements of such an order in the Companies Act, 2013, must be followed. The Union Ministry of Corporate Affairs had better clarify this uncertainty as soon as possible.

Plug the gaps

Govt must address the glaring deficiencies of the Seed Bill

The draft Seed Bill, 2019, released by the agriculture ministry for public comments, has not gone down well with the farmers or the seed industry, though it is broadly aimed at protecting the interests of both. One of the major sore points in the mooted law that would replace the outworn Seed Act, 1966, is the absence of an in-built mechanism for grievance redressal. In case of any failure or underperformance of the seeds, the affected farmers would have to seek compensation under the Consumer (Protection) Act, 1986. Not only farmers, the industry is also uneasy with this arrangement as the performance of seeds depends on several agro-climatic, agronomic and biological factors, apart from the quality parameters, which the consumer courts may be ill-equipped to gauge. In fact, the Plant Varieties and Farmers' Rights Protection Law, 2001, has far better provisions for this purpose, which have worked well to the satisfaction of both farmers and seed producers. The same needs to be incorporated into this Bill.

Another prickly issue is the powers given to the Union and state governments to cap the prices of registered (read patent-protected) seeds. Though the Bill lists the situations under which such a step can be taken, past experience shows that this provision is often misused for political gains. Such interventions are needless in the functioning of a sector comprising over 400 seed companies vying with one another for market share. Besides, retrograde measures like price control could prove counterproductive by discouraging fresh investment in the development of new and improved seeds. Already, some of the internationally acclaimed innovation-savvy multinational seed companies have left India for this reason.

This apart, the Bill seems to further complicate the legal framework governing the seed sector. Even now, this industry has to cope with at least eight different laws, policy pronouncements and official orders. The major ones among these are the Seed Act, 1966; the Protection of Plant Varieties and Farmers' Rights Act, 2001; the Essential Commodities Act, 1955; the Seed (control) Order, 1983; and the National Seed Policy, 2002. Instead of paring down this multiplicity of regulations, the proposed statute intends to exacerbate it by subjecting this sector to two more formidable laws — the Consumer Protection Act, 1986, and the Environment Protection Act, 1986. While the former is for settling disputes over the performance of the seeds, the latter is for granting permission for the registration of the genetically modified seeds for which a slot has been created in this Bill.

It's not that the Bill does not have some welcome features as well. It makes registration of seeds of all crop varieties (except the farmers' varieties) mandatory and specifies standards for this. Registration has also been made compulsory for all stakeholders in the seed sector, from producers to retailers. Interestingly, the Bill seeks to differentiate between the seed producers, processors and dealers for the purpose of licensing. And most importantly, it protects the farmers' rights to sow, exchange or even sell their farm-grown seed but without branding them. However, these plus-points would not be able to woo the much-needed private investment in this sector, unless the glaring deficiencies of the Seed Bill are addressed to the satisfaction of all the stakeholders, especially the farmers and the seed developers.

ILLUSTRATION: BINAY SINHA



The 2020 Budget speech

The finance minister will present her first full Budget on February 1. This is the speech I wish to hear

“Mr Speaker, as I rise to present the Budget for 2020-21, I am first greatly mindful of the long-term destiny of our country. India has been one of the world's 10 best-performing economies in the last 25 years, and we can be for the next 25 years too. Without question, the current economic slowdown with growth under 5 per cent is the greatest concern of our government, and this Budget takes much further the steps underway to bring about a rapid, deep, and sustained recovery that will seed the sources of growth for the next 25 years. Second, I greatly miss the presence of my illustrious predecessor, Shri Arun Jaitley. Jaitley was admired across party-lines — he had the uncanny ability to bring out the best in people, and attract the very brightest to work with him, even those of a different ideological persuasion. So, third, in developing this Budget, my team and I have been inspired by Shri Jaitley. In the national interest, we have drawn on ideas far and wide, including from some of our critics. Finally, like Mark Twain, I apologise in advance for the length of this speech as I simply did not have the time to write a short one. I will start with a summary of eight measures to re-energise our economy.

1. Taxation: Tax proposals normally come in the last part of a Budget speech, but our stressed economy cannot afford suspense. I am making no changes for 2020 in either corporate or personal income taxes. But I am providing a timetable of reform, to move to a regime of lower tax rates with fewer exemptions. Following the landmark corporation tax announcements our government made in September, companies are in one of the three tax regimes — the erstwhile rate of 34 per cent with exemptions galore, 25 per cent without exemptions, or 17 per cent for new manufac-

turing companies. We have set out a timetable to converge all corporate taxes to a rate between 15 and 22 per cent by 2023 with no exemptions. It is my hope that revenue buoyancy will permit a rate at the lower end of that range.

2. Much as I would like to address personal income tax, reducing rates and eliminating exemptions and deductions, revenue considerations do not permit this at the present time. Here, too, we have set out a timetable to reduce income tax rates for all incomes below ₹50 lakh, and to progressively eliminate the surcharges on income above ₹50 lakh, by 2024. We will simultaneously eliminate the exemption of agricultural income from income tax for income beyond ₹50 lakh per annum.

3. Tax terrorism: The prime minister himself has often spoken of the scourge of tax terrorism in our country. I am putting in place legislation that decriminalises all financial offences except fraud. Imprisonment will only follow criminal conviction in a court of law — there can be no preventive arrests or look-out notices at the discretion of the tax authorities. Any tax raid will in future require the personal approval of the revenue secretary and be subject to periodic review by a cross-party parliamentary committee. Henceforth, no Indian should fear the taxman. It is time to fulfill our prime minister's vision.

4. The economy needs a serious infusion of liquidity. The largest debtor in the country is the government itself. We are creating a public portal to list all dues of the Centre, states and public-sector entities. The transparency this provides will bring in accountability. I am simultaneously requesting the 15th Finance Commission to include in its final report a plan to transition the country from cash to accrual



INDIA'S WORLD?

NAUSHAD FORBES

and even the due diligence of a credit score.

Instead what these fintech lenders do is build a profile and "trust" score based on analysing your personal data, which they demand as a pre-condition for loan approval. Once they receive full access to your digital life, they analyse the data on your phone — SMSes, mails, photos, contact list and then apply artificial intelligence (AI) and machine learning tools to create a customer profile. Based on this "trust score", it is determined how much can be lent, at what cost and for what period. For their customers, giving access to personal data and privacy concerns are a good trade-off to access loans, which otherwise they cannot access.

This type of lending is growing fast with enormous margins (think rates higher than credit card debt). Many such firms are not just lending directly but licensing their technology to commercial banks and non-banking financial companies, for whom fintech allows them to lower their know your customer costs to determine creditworthiness.

Search for fintech lending, and many success stories pop up. Tales of quick loans that paid for important life events or averted personal disasters abound. But search deeper, and there are equally harrowing tales of social embarrassment and familial stress when these loans turn sour. Operating outside banking industry safeguards, fintech lenders can go after errant customers using the only weapon they have — social embarrassment. By harassing a borrower's parents and other family members and ruining social reputations with people they may work with, fintech lenders'



THE NUTGRAF

PRADIPTA BAGCHI

The year ends with the reputation of banks and non-banking financial companies (NBFCs) in tatters. Even the Reserve Bank of India's (RBI's) cast iron image has been dented. Rocked by crisis, from blatant mismanagement (in the Jet Airways) to large-scale fraud (PMC Bank, DHFL) and outright capital destruction (Yes Bank, IndiaBulls), the sector has struggled to save its reputation.

Once again, the banks shot themselves in the foot, unsuccessfully fighting the Securities and Exchange Board of India (Sebi) for ownership rights to shares pledged fraudulently by Karvy — thereby, continuing to build a public narrative that banks were ever ready to be irresponsible — be it at the taxpayer's expense, the depositors' or retail investors'. From being perceived as economic victims weighed down by bad loans, the finance sector has emerged as the villain in 2019.

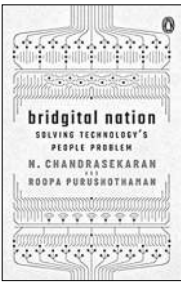
Bad decisions aside, 2020 will see new reputational dangers for the sector. While fintech has resulted in some meaningful breakthroughs and disruptions, for instance, new peer-to-peer standards like Unified Payments Interface (UPI) have transformed digital payments.

But fintech heroes come with a set of villains — such as the new breed of fintech lenders. These startups are thriving on delivering loans to customers, mainly millennials who are starting out in life with little or no credit histories and an appetite for loans. New types of loans, such as short-term (a day to a week) advance payments before salaries (payday lending) or similar bridge loans, are released without personal guarantees, collateral

to hundreds of millions in India. Stepping up the pace of enabling such access is key to India's development. Although JAM has a strong emphasis on financial inclusion,

two important dimensions of social development still lag in terms of use of technology. Education and health services have the most potential to use low-cost digital technology for targeted solutions but have been relatively slow to do so.

This book is about accelerating the approach the government has adopted and refining policies around it. "The future, if India is to harness, has to come from a mutually beneficial relationship between its citizens and new



applications of technology," the authors say. They underline the importance of an effort that is underway. Technology has to be deployed in India for creating unique

solutions for challenges unique to India. Global companies that have tailored their products and services to India have achieved greater success in the market. Similarly, developmental policies that leverage private participation with technology must have delivered. It is easy to look for solutions in other countries especially at a time when several global organisations are trying to influence India's thinking.

Copying the West or even China would be a mistake. The West doesn't have the scale and diversity of challenges. And China does not have several layers of democracy that often requires dialogue and engagement. The best solutions are being created locally.

Bridgital Nation is also an effort to introduce a new word in our lexicon. A construct of bridge and digital, the new word is explained in its various dimensions. A "bridgital" process is a "rethink[ing] of conventional approaches to who does what in a value chain of service delivery" especially for those who don't have access. Bridgital technology is "digital technology and low cost delivery models that push the limits of how efficiently we can make use of valuable assets such as physical infrastructure and the time of high skill workers." And Bridgital workers are "digitally literate and technology augmented workers."

The format used for the book is eminently readable since it intertwines the lives of individuals with how they are impacted by policies and processes.

accounting. Future finance ministers may not appreciate being unable to fudge the fiscal deficit, but decent administration demands accurate numbers.

5. Our financial sector has been under great stress of late, and its problems have impinged on the performance of the real economy. While our public-sector banks are slowly returning to health, the same cannot be said of our non-banking financial companies (NBFCs), whose problems are intertwined with those of the real-estate sector. All NBFCs with an asset base above ₹20,000 crore will henceforth be regulated by the Reserve Bank of India (RBI). I am furthermore announcing the setting up of a "bad bank", specifically to address the solvency issues of NBFCs in the real-estate sector. I trust our former chief economic advisor will appreciate our use of his idea enough to reduce his criticism of my ministry.

6. Indian industry is second to none. It has demonstrated its capability to compete with the best in the world. Tariffs tend to cascade, and lead to demands for more tariffs. The time has come to decisively address the complete integration of Indian industry with the world. Henceforth, the maximum tariff for raw materials and intermediate goods is being capped at 5 per cent and for finished goods at 10 per cent. There are rare exceptions, such as for automobiles and alcohol, which are detailed later. We further need to facilitate trade with the most dynamic economies of the world. We are re-engaging with the Regional Comprehensive Economic Partnership negotiations, and in discussion for an early conclusion of the India-EU free trade agreement. We are further working towards a free-trade agreement with the emerging single African trading area. The rupee must be internationally competitive, and we will use internationally permitted means at our disposal to target an exchange rate of ₹80 per dollar.

7. Employment: Agriculture today employs half our workforce, and tourism has the potential to employ many more millions as visitors seek out our unparalleled cultural heritage. The success of the Goods and Services Tax Council as an institution pioneered by Shri. Jaitley, prompts us to address in a similar manner the coordination issues of the Centre and state by setting up an Agricultural Council and a Tourism Council.

8. Running a 21st century economy requires 21st century statistics. Serious questions have been raised of late on the accuracy of gross domestic product calculations, employment data, and even consumption. I am calling for an independent committee to review our statistical infrastructure, methodology and governance, to be headed by a former CEA. I would ask for this review to be completed within six months, and commit to a speedy implementation of their findings.

I trust this brief summary has served to convince members across party lines of our resolve to decisively set in place both the elements of a quick recovery and to lay the foundation for long-term growth. I now move on to detailing these measures. I hope the members of this house will note that this time it is only God, and not the Devil, that lies in the detail."

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Where can you bank for your buck?

collection methods resemble an old 20th century model — that of credit card bill collectors introduced by American banks in India in the 1990s.

In contrast to the banks in the country that are shrinking in size and number due to consolidation and bankruptcies, the digital financial needs of our aspiring 1.3 billion are only growing rapidly. Many of the troubles stem from a patchwork approach, which tries to fuse a digital economy with a cash-driven one as well as manage the parallel co-existence of 20th century brick-and-mortar banks with 21st century fintech start-ups.

Creating a regulatory umbrella could help a new breed of digital-only banks to take root instead of dangerous fintech bubbles that can further erode the trust in the financial system. From the UK to South Korea, digital-only or virtual banks are making a big impression with lower lending rates, transaction costs as well as greater ease of use. Singapore is set to auction its first digital bank licences. Although regulations have been benign for foreign banks with digital-only operations here, the RBI's plate is too full of troubles of existing players to worry about new type of banks. However, given the emerging trends, it may be time for India to embrace digital banking holistically.

Given the rapid growth in fintech lending and, therefore, the potential scope for abuse, the government must use this opportunity to jump-start the next phase of banking evolution and help renew customer confidence. Fintech, when done well, has been the biggest success story for Digital India: UPI has become the global benchmark in digital payments in such a short time. Recovering one's reputation often involves reimagination and reinvention. It is time to push the banking sector to that new digital frontier.

The writer is a communications professional

Bridges to the digital mainstream



BOOK REVIEW

PRANJAL SHARMA

India is the world's largest free-market democracy. No other country compares with India in its entirety. The country, however, severely lacks the important and timely data that is crucial for informed policy-making. Most decisions are made with partial, delayed or faulty data combined with deep experience and intuition. Technology is slowly changing India's data problem, though, with more and more citizens and consumers connected to the digital mainstream.

Various called *juggad*, frugal engineering and *desi* innovation, the best solutions for India now involve low-cost options that use some technology and a lot of ingenuity. It is not a surprise, then, that even global tech companies are eagerly watching how India innovates in full public view (China does it behind an opaque curtain mostly).

Consider Google's endorsement of United Payments Interface (UPI). Google wants the US Federal Reserve to follow a similar structure in which government, banks and tech companies collaborate to deliver financial services.

India has demonstrated surprising success with digital services. *Bridgital Nation* takes forward the argument for enhancing low-cost digital access to the masses. In many ways, the JAM (Jan Dhan-Aadhaar-Mobile) trinity is all about this. JAM has improved the efficiency of welfare and government service delivery

Bridgital Nation narrates the life stories of people such as like Nikhil in Tripura or Jasleen in Bhatinda and interprets the current state of India's social services.

Nikhil's story is about the weaknesses in healthcare system, while Jasleen represents the lack of access for women in the workforce. The solution for Jasleen is to create a "care economy" and "smart gender policy" for women and mothers. "Allowing quick and low cost access to global markets for small scale and growing ventures," using digital platforms is one of the solutions emphasised.

The smart writing puts individuals at the centre. It personalises and humanises policies that help connect policy action to impact on citizens. Click quoteable phrases such as "escalator sectors" and "everywhere entrepreneurship" seemed to be aimed at the social media generation. For the more traditional, there are several charts and graphs that endorse the writers' arguments.

The reviewer is author of India Automated, Pan Macmillan, 2019