# Opinion

MONDAY, JANUARY 6, 2020

**HOME TRUTHS**

Chief minister of Delhi Arvind Kejriwal

"The economy is down, no homes, no jobs for our children... and they plan to get 2 crore Pakistani Hindus. What was the need for this law? First fix your own country. Then we will get everyone"

## RationalExpectations

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# Unfair to expect India Inc to be bold

Govt policy can kill your business, your assets can be seized, your dues may stay unpaid ... not criticising govt is a good idea

**AS THE INDUSTRIAL/INVESTMENT** climate gets worse, paradoxically, India Inc is the new villain of the piece. If only top industrialists spoke their mind—like Rahul Bajaj did with home minister Amit Shah—and told the prime minister just how badly he was getting it wrong, the government would have course-corrected a long time ago. As part of this narrative, a former CII president, Naushad Forbes, has a recent article where he blames Indian industry's habit of seeking favours from the government for this state of supplication (his term).

Certainly, even close to 30 years after the Bombay Club days—ironically, Bajaj was a leading spirit of that gathering—sections of India Inc continue to look for favours. Many industrialists have, successfully, petitioned the government to raise import duties—using anti-dumping and other actions as well—on their products; indeed, sections of industry petitioned the government to walk out of RCEP since they were uncomfortable with the import competition this would have resulted in.

But, in a more fundamental sense, the problem is that even after three decades of the PV Narasimha Rao-Manmohan Singh reforms, India hasn't reformed in critical ways. Reforms are not just about cutting taxes and import duties, they are equally about their irreversibility, the predictability of the downward cuts; the moment there is subjectivity involved, and the possibility that the rates can be hiked, lobbying begins.

Reforms are about easing entry barriers—including for FDI—in as many sectors as possible, but if firms are not allowed to exit, it creates room for lobbying; more important, it ensures that firms *have* to lobby for what is a natural right. An obvious example is that of Vodafone. When, after years of hostile government policy has driven most telcos to the ground—this newspaper has chronicled this in detail—the Vodafone global CEO said his firm would have to shut its India operations, telecom minister Ravi Shankar Prasad found it easy to condemn this as 'dictating terms' to India. Imagine the irony—the firm has invested $30 bn in India, is close to losing all of it due to hostile government policy, and a senior minister is upset at the Vodafone chief speaking the truth! More important, when Vodafone-Idea does shut shop, will the government allow it to, or will it put all manner of hurdles in the way? Keep in mind that while Airtel bought Tata Tele's mobile business more than two years ago—when the Tatas wanted out—the government has just approached the Supreme Court to nullify this!

**Govt seized Cairn's shares but not Vodafone's, it asks telcos for AGR dues but not PSUs, stops Airtel-Tata merger, won't pay damages in Antrix-Devas case, doesn't allow GST credit for telcos ... who can take it on?**

Is asking the government to fix this asking for a favour, or is it just a demand for rights? Another good example is the purchase of Bhushan Power and Essar Steel by JSW and ArcelorMittal, respectively, in the insolvency courts. These were sales that PSU banks initiated under a mechanism devised by the government; yet, when the sales were nearly complete, JSW found some of Bhushan's assets were seized by authorities investigating the crimes committed by the previous owners. Both JSW and Arcelor approached the government to ask for a halt to all investigative action and criminal action—including seizing of assets—since they were not responsible for what happened before they bought the firms; pursue the previous owners, don't take action against the company, they argued. The question to ask is if either Sajjan Jindal or Lakshmi Mittal were to criticise the government for its poor handling of the economy earlier, would it have changed the law to put a stop to such action after a firm was sold at the insolvency courts? Chances are it won't have acted so fast, if at all.

There are countless such examples of firms needing to approach the government, not for favours, but just to correct obvious wrongs; but, to get even that done, businessmen can't afford to take a chance and criticise the government—this applies as much to the Congress as it does to the BJP. After the Congress levied the retrospective tax, and the BJP didn't fix this despite campaigning against it when in the Opposition, it even seized $1.3-1.4bn of assets of Cairn Energy; can the CEO of Cairn Energy afford to talk openly about the government's breach of faith and still hope to get justice? Keep in mind that even if Cairn wins the arbitration case on the tax, the decision to honour the award and to give Cairn back its money is Narendra Modi's. And, in cases like Antrix-Devas, despite the government losing the arbitration, the money has not been paid to Devas Multimedia; in the case of Tata-Docomo, where the government was not even a party, it petitioned the court to prevent the Tatas from paying Docomo!

Even if you believe that the government shouldn't be diluting the demands made on telcos after the SC's AGR ruling—read *bit.ly/2MO4QPZ* to know how flawed this assumption is—it is surely unfair that while the government leans on private telcos to pay up, it is quite relaxed about PSUs paying up even though the amount they have to pay is much higher. Once again, the government has such huge discretion, only someone not too worried about their business would openly take it on.

And, is it a favour if KM Birla approaches the FM to ask for permission to use the GST input credit that is due—₹35,000 crore for all telcos—to reduce the GST that he has to pay? Or take the case of Ajit Gulabchand, who is owed more money by the government's NHAI—not only was he owed the money, when NHAI contested it, the arbitration panels ruled in his favour—than he owes the PSU banks for his Lavasa township project; he hasn't got his money from NHAI, but the banks have taken over Lavasa!

If PM Modi really wants to make it easy for industry to invest, he needs to stop this discretionary power his government has, not showcase the easily-gamed and irrelevant Ease of Doing Business index of the World Bank. So, let's praise Rahul Bajaj for his statement to the home minister, but keep in mind he doesn't run any business now—indeed, one of his two sons, who runs Bajaj Auto, was quick to criticise his father's statement the very next day!—and be less harsh on businessmen who don't want a favour, but are just asking for freedom to run their businesses; businessmen who don't know, even if they agree to opt out, whether they will be allowed to sell their businesses since government permissions are required for this as well.

## Kota, Gorakhpur...

Preventing a Kota redux will need a structural overhaul of the public healthcare system in the country

**OVER A 100** infants dying in Kota's JK Lon government hospital in 33 days is a perverse reminder of the failure of public healthcare that, among other instances, caused the death of nearly 1,300 children in Gorakhpur's BRD Hospital in 2017. At JK Lon, 963 children died last year, and that's after such deaths at the hospital have trended downwards over the past few years. What is atrocious is that the state government should point to the trend to defend itself. Even as patients, parents, and external supervisors point to the lack of basic but life-saving infrastructure—nearly 320 of 500-plus key medical equipment at the hospital, including ventilators, are in various states of disrepair—the hospital has attributed the deaths to the critical condition of the children at the time of being brought to the hospital.

To be sure, the severe imbalance between the supply and demand at the hospital is a factor that must be considered; the hospital records an average of 200-300 out-patient consultations and 30-40 admissions per day. But, JK Lon is the norm, not the exception. Given how poor India's public health infrastructure is—there are just three government hospital beds for every 10,000 rural population, and one government allopathic doctor for 10,926 Indians—a Kota/Gorakhpur-like situation is, in theory, possible anywhere in the country. There is just one government hospital for 90,000 people. If India has to meet the SDG of ending under-five child deaths by 2030, it needs a structural overhaul of its healthcare system.

**FROM PLATE TO PLOUGH**

REFORMING THE COUNTRY'S GRAIN MANAGEMENT SYSTEM COULD SAVE THE GOVT ₹50,000 CRORE ANNUALLY, ALLOWING THE FM TO FUND INFRA INVESTMENTS WHILE MAINTAINING FISCAL DEFECIT

# Lifting growth, containing inflation

ASHOK GULATI
Infosys Chair Professor for Agriculture, ICRIER
*Views are personal*

**WITH GROWTH RATES** plummeting to 4.5% for overall GDP and 2.1% for agricultural GDP (GDPA) in the second quarter of this fiscal year, everyone concerned with the economy is anxious and a bit worried. The moot question being asked is whether the Indian economy can be put back on its 7-8% growth track and whether agri-GDP can grow at 4%, if not more.

It may be noted that while the average rate of GDP growth in the UPA-2 and Modi 1.0 periods was 7.2% and 7.5%, respectively, GDPA growth slowed down in the latter to 2.9%, way below the 4.3% achieved during UPA-2. And, now that quarterly GDPA growth is hovering around 2%, it is cause for greater concern (see graphic). As agriculture still engages about 44% of India's workforce—and if masses do not gain from the growth process, their incomes remain subdued—the demand for manufactured goods as well as for housing etc will remain low. This low demand in the economy is one of the prime reasons behind India's great slowdown today.

Interestingly, during this slowdown, inflation has started surging after a long period of low inflation under Modi 1.0. Inflation is led by different components of the food basket—cereals, pulses, and vegetables—in the Consumer Price Index (CPI).

So, everyone is waiting to see how finance minister Nirmala Sitharaman can prop up the economy by boosting demand, without causing undue inflation (beyond the threshold level of 6% observed by RBI). Also, there is the challenge of not slipping on the fiscal deficit target of 3.3%, although the Comptroller and Auditor General (CAG) of India has already indicated that the real fiscal deficit in the country, if one accounts for the increasing loans being undertaken by many PSUs, is much more than this number.

Sitharaman has already announced an infrastructure investment package of about ₹102 lakh crore for the next five years, which implies more than doubling the growth in infra-investments from its current levels. The legitimate question being asked is from where the resources will come. The announcement does not unveil any clear strategy on the resource mobilisation front.

Here are my two cents on raising (saving) about ₹50,000 crore per annum to finance infrastructure projects without causing high inflation and without breaching fiscal deficit targets. I would submit that the FM and PM kindly look at the massive inefficiencies in the grain management system under the National Food Security Act (NFSA) to find the required resources.

The NFSA gives certain quantities of wheat and rice to 67% of the population at ₹2/kg and ₹3/kg, respectively, while these cost the Food Corporation of India about ₹25/kg and ₹35/kg, respectively. This led to a provision of food subsidy worth ₹184,000 crore in the Union Budget for FY20. Not many people know that FCI has pending bills of ₹186,000 crore, and FCI has been asked to borrow more and more to finance its operations. The grain stocks with FCI are more than even double of the buffer stock norms as on January 1 every year (see graphic).

The massive grain stock accumulation is the result of a highly inefficient food management strategy, wherein the procurement of wheat and rice (paddy) remains open ended, but disbursal is largely restricted to public distribution system (PDS). The open market operations (OMO) are much lower compared to what is needed to liquidate excessive stocks. We don't have a clear strategy. And now, if the rabi procurement is good, FCI may not have ample storage space to accommodate this. The money locked in these excessive stocks (beyond the buffer norm) is more than ₹1 lakh crore. Even if the government decides to liquidate half of it, it can garner ₹50,000 crore to finance at least half of its infrastructure projects! We need a bolder move to reform our grain management system. There is no need to set up another expert committee for this. The blueprint for reforming grain management was presented to PM Modi by the Shanta Kumar Panel, whose report is on FCI's website. Only three points from this report need reiteration:

1. While the poor under the Antyodaya category should keep getting the maximum food subsidy, the issue price for the others should be fixed at, say, 50% of the procurement price (as was done under former PM Atal Bihari Vajpayee for the BPL category).

2. Limit subsidised grain distribution under NFSA to 40% of the population rather than the current 67%. After all, we must ask: what is the poverty ration that cannot afford even basic food? Since 2011, when the number of poor as per the Tendulkar poverty line was 21%, the Indian government has not updated this figure. Time for the Modi government to tell the nation what the level of extreme poverty in India is.

3. Limit procurement of rice, particularly in the north-western states of Punjab and Haryana, where the groundwater table is depleting fast, and invite the private sector in grain management.

If the government can implement just these points, it can save another ₹50,000 crore annually! Additionally, this will help the government reduce the fiscal deficit. And, if it liquidates stocks fast, it can contain inflation too.

Can the Modi government focus on reforms and implement them? Only time will show.

**Growth rates in overall GDP and Agri-GDP**

Growth rate (%)

| Period | GDP | GDPA |
|---|---|---|
| 2009-10 to 2013-14 (UPA-2) | 7.2 | 4.3 |
| 2014-15 to 2018-19 (Modi 1.0) | 7.5 | 2.9 |
| Q1 (Modi 2.0 (2019 onwards)) | 5.0 | 2.0 |
| Q2 (Modi 2.0 (2019 onwards)) | 4.5 | 2.1 |

Source: MOSPI for basic data

**Actual grain (wheat plus rice) stocks with FCI vis-à-vis Buffer stock norms**

(million tonnes)

Wheat and rice (including unmilled paddy); Norm; 2001–2019

Source: Food Corporation of India

# Central banks: Economy's biggest risk

There is no need for central banks to start tightening monetary policies anytime soon and "break" the economy. But, should policy makers get their wish and some inflation returns, then it would be time to worry

JIM BIANCO
*Bloomberg*

**THE US ECONOMIC** recovery that began in June 2009 is now in its 127th month, which is a record. Even more impressive is that for the first time since the signing of the Declaration of Independence in 1776, the US just completed the first calendar decade without even one day of a recession. There are a few key reasons why this is happening, and one clear risk that could bring the expansion to an end.

The natural trend for an economy is to grow. A recession only occurs when something "breaks." So, this record expansion is happening because nothing has broken. The primary reason is new technology that gives businesses more flexibility to adapt to changing conditions.

Technology is also preventing faster inflation in the developed world, a major cause of recessions in the past. Pricing has become hyper-competitive (think of the "Amazon effect") and the internet allows for product substitution at lighting speed. Unhappy with a Chinese supplier? A quick Google search or a Skype call will quickly help you find a Vietnam substitute at virtually no cost.

Breaking things, in the literal sense, is also at an all-time low. Major powers have been at war with each almost continuously for over 500 years. But starting in 2000, they have stopped fighting in an unprecedented period of peace in human history.

Another leading cause for breaking an economy has been rapidly rising energy prices. Crude oil at $147 a barrel was concurrent with the Great Recession in 2008. But, this is changing. Abundant energy supplies due to new fracking technologies are reducing the threat of a supply shock. *Bloomberg News* reported that November was the first month in 70 years that the US was a net petroleum exporter.

And note the muted response in energy markets to the drone attack on Saudi oil facilities in Abqaiq in September. Forecasts that the attack would cause oil prices to spike to $100 were not entirely unfounded, as that would have happened in the past, when supplies were not nearly as flexible. Instead, Brent crude is holding below $70 a barrel.

All of these are powerful, but standard, reasons for why the economy is stable. There is, however, an unconventional source of strength that emerged in the last decade that also doubles as its biggest risk: central banks. As of November, the collective balance-sheet assets of the Federal Reserve, European Central Bank, Bank of Japan and Bank of England stood at 35.9% of their countries' total gross domestic product, up from about 10% in 2008, according to data compiled by *Bloomberg*.

**A recession only occurs when something "breaks." So, this record expansion is happening because nothing has broken**

At the same time, the latest World Bank data show that developed country GDP expanded to $54.2 trillion at the end of 2018 from $46.1 trillion a decade earlier. Restated, central bank balance sheets grew at faster rate, by $9.9 trillion, than their underlying economies, which have expanded by $8.1 trillion, which is a big reversal from the 2001 to 2006 period.

It is hard to quantify just how much of this combined "money printing" by central banks contributed to GDP growth, but most would agree that it ranges anywhere from "some" to "much".

So, what happens when central banks pull back from this stimulus? When the Federal Reserve hinted in late 2018 that they were going to increase interest rates several more times in 2019, and the balance sheet reduction was on "automatic pilot", the S&P 500 Index plunged almost 20% and recession fears became prevalent.

And when the Fed partly reversed its stance in early 2019, suggesting it wouldn't increase rates, recession fears receded and stocks soared to post one of their best years ever in terms of returns.

But, the Fed kept shrinking its balance sheet, and by September the repo market ran into trouble. The central bank was forced to reverse here, too, and has boosted its assets by more than $400 billion, a move that coincided with the strong fourth-quarter rally in riskier assets such as equities. The takeaway here is that it will be extremely hard for central banks to reverse "money printing."

With inflation doormat, though, there is no need for central banks to start tightening monetary policies anytime soon and "break" the economy. But, should policy makers get their wish and some inflation returns, then it would be time to worry.

Central bankers try to operate under the Hippocratic Oath: "First, do no harm". We will not know if they have caused any harm until they reverse their unprecedented balance sheet expansion without incident. The Fed's recent experience is not encouraging.

*This column does not necessarily reflect the opinion of the editorial board or Bloomberg LP and its owners*

## LETTERS TO THE EDITOR

### Trader last year, investor this year

After a series of diktats to promote accountability of fiduciaries and curb violations by auditors, financial advisors, and portfolio managers, the stringent regulatory stance is expected to continue in the new year too. In order to mitigate investment risks, it is prudent to improve the quality of service, discourage cartelisation, and lower the cut-throat competition in the market. Regulatory compliance demands equitable focus on accurate reporting of financials, expedited redressal of delinquencies, and high return on investments. It is important to flag concerns proactively, resolve non-conformances and penalise negligence to limit the business impact, probability of a wilful default, money laundering, and non-adherence to CSR-goals. It is time to embrace a business culture driven by rule-based due diligence to mix caution with aggression. The last thing which the resilient capital markets need is recurring instances of subprime lending, security breach, redundant corporate actions, and trade malpractices. As it becomes increasingly difficult for underperforming entities to conduct business and thrive in the economy, authorities must continue to highlight the grey areas to safeguard enterprises from potential losses. Although, the recent proposal to discourage intra-day trading is a mixed bag, it sets the tone for the year. Market participation could witness a setback as retail and institutional traders, would be reluctant to pay upfront the full consideration, including the increased fee towards a delivery order. Undoubtedly, stricter guidelines can prevent potential adverse impact and help improve transparency, and shareholder confidence.

— Girish Lalwani, Delhi

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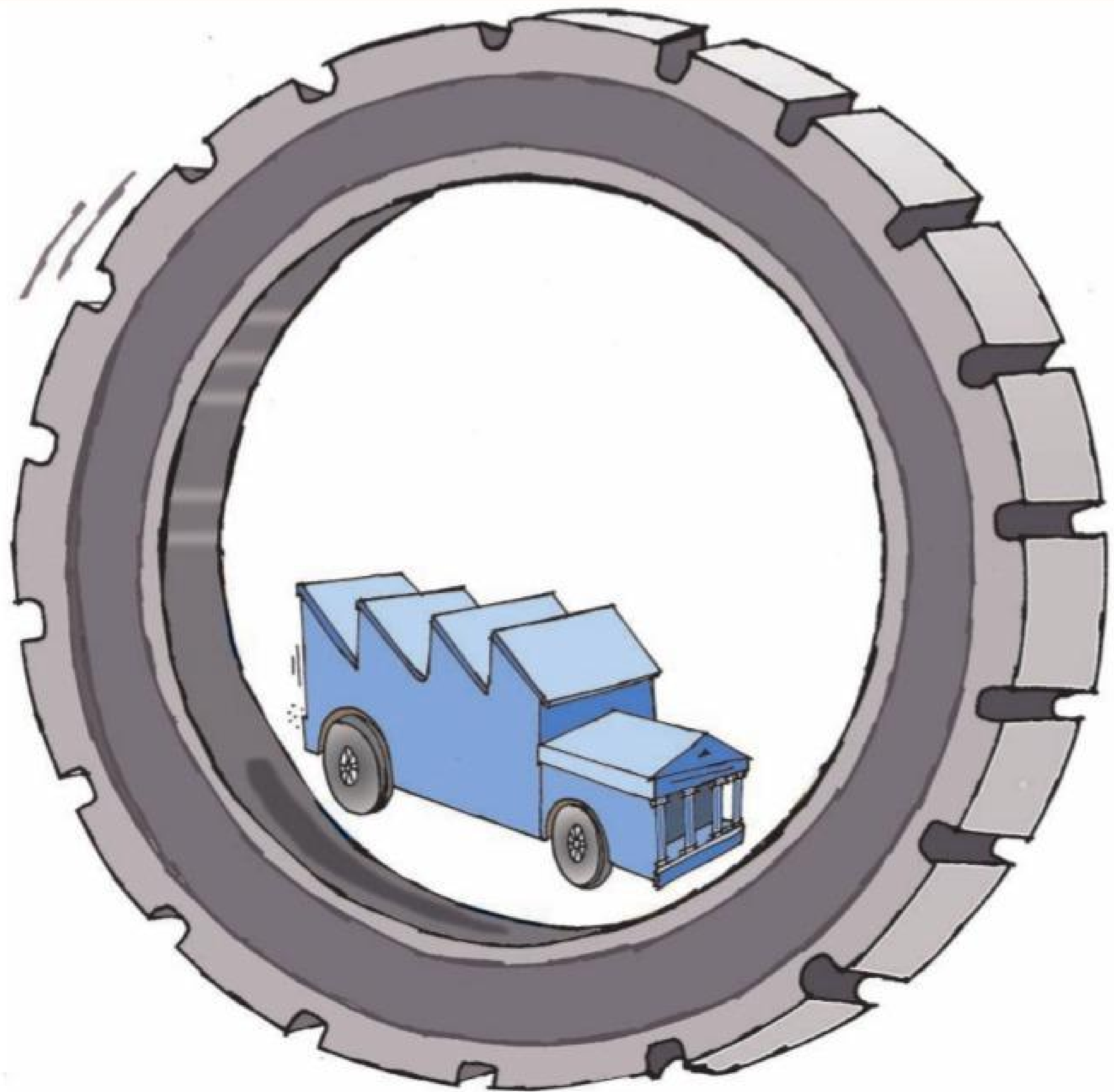

ILLUSTRATION: ROHNIT PHORE

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OVER THE BARREL

# From State vs society to State and society

The hope for the new decade must be that our 'State' and 'society' will find a narrow corridor where both can be in balance (shackled leviathan). This would reinvigorate our institutions, and accelerate the resolution of outstanding critical issues

AS I REFLECT ON the decade just ended and the year ahead, three thoughts cross my mind. First, most of the issues that are front and centre on this government's policy agenda are those that have been on the previous government's priority list for years. Irrespective of the acronym defining the politics of the government or the personalities in charge, the needle of change has hardly moved on these issues.

Second, there are multiple reasons for this policy stasis, but the one that is relevant for all governments is the steady erosion of the institutional underpinnings of governance and the consequential concentration of power in the hands of extra-constitutional authorities and individuals. Decisions have been held in abeyance because of the blurring of the lines of responsibility and accountability, and the lack of clarity on where power truly resides.

Third, 'society' and the 'State' are in conflict. This conflict is structural. A youthful, vibrant, ambitious and connected 'society' is pitted against a hesitant, at times paralytic, politically-shackled and precedent-bound 'State'. How this clash will evolve is a matter of uncertainty, but what is clear is that constructive change will be difficult to bring about in the absence of a balancing of interests—a modus vivendi between these two entities.

I have been a columnist for the past nearly two decades. I have written mainly on energy and business, but my op-eds have also covered the economy, finance, environment and governance. I have endeavoured to write about issues of contemporary significance. I was flipping through my articles recently, and I noted that many of the topics I had written about in the past remain unresolved issues of concern today.

I have, for instance, written about our vulnerability to energy imports, and the need for developing and implementing an integrated energy strategy. Today, we import 85% of our oil requirements and, more worrying, our imports of thermal coal are increasing despite the abundance of indigenous deposits. Further, there is still no one executive authority responsible for energy policy. The banking crisis has been staring us in the face for years, and reams have been written about it, including by economists of world-class renown. Solutions have been proffered, and some steps have been taken. But, clearly, not enough has been done. For the contagion has now spread to the non-banking financial institutions. The consequent credit choke is a major contributor to the current economic downturn.

Disinvestment was first brought onto the governments' policy agenda 20 years ago. Several Maharatnas, including the PSU petroleum companies, were identified for strategic sale. I advocated the government hold fast to its policy in the face of the inevitable challenge from trade unionists and vested interests. The government was not persuaded, and the process was aborted. Today, BPCL (and Air India) are back on the table. Interested investors will be wondering whether the countervailing forces that stalled the process earlier are now firmly in check.

One could continue to cite examples of policies that everyone agreed needed to be implemented, but which remain unresolved and unimplemented to date. Issues like 'second generation' factor market (land, labour, capital) reforms, environmental pollution and administration overhaul.

The question is, 'why'?

The simple answer is, it is because of the nature of our democratic system of governance. This is a system that does not allow pragmatic politics and good economics to share the same bedspread. And when political push comes to economic shove, it pushes economics off the mattress.

But some issues do not impact politics. Why has there been no progress in tackling those issues? Why have governments not effectuated good economics when politics has not been a constraint? Here, the answer is more complex and, in my view, rooted in the erosion of our institutions of governance. This erosion commenced decades ago, in the 1970s, when for the first time since Independence appointments to the bureaucracy and the judiciary were made on the basis of personal and political preference, not professional integrity. The erosion has continued unabated, and as a result, today, the institutional checks and balances embodied in our constituency have got corroded and power has shifted from the constitutionally embedded organs of governance towards extra-constitutional authorities and individuals. There is now lack of clarity about who is responsible for what, and this has further calcified decision-making. A senior bureaucrat on the edge of retirement is now understandably cautious. Why risk the fallout from an 'act of commission' when there are no sanctions attached to 'acts of omission'.

The consequence of the hollowing out of our institutions, the 'personalisation' of power and the widening gap between the promise of policy and its delivery is compounding the tensions between the 'society' and the 'State'. These relations have been tense since 1991-92 when economic reforms unleashed the 'animal spirits' of our youthful population, and since the forces of globalisation and technology heightened expectations. We are witness today to public manifestation of these tensions. The trigger is the Citizenship Amendment Act (CAA), but there is a deeper message underlying the current protests. The 'society' will not allow the 'State' to rewrite the social contract to reflect narrow and partisan predilections.

> Our 'society' and the 'State' are in conflict. A youthful, vibrant, ambitious and connected 'society' is pitted against a hesitant, at times paralytic, politically-shackled and precedent-bound 'State'

Professors Daron Acemoglu and James Robinson have recently published a book entitled "*The Narrow Corridor: States, Societies, and the Fate of Liberty*". They write that squeezed between the lawless chaos of a failed State ('absentee leviathan') and the choke on civil liberties by autocracy ('despotic leviathan'), there is a narrow corridor where the 'State' and the 'society' can be in balance ('shackled leviathan'). It is within this corridor that the State can discharge its duties to "resolve conflicts, enforce law, provide public services, and create economic opportunities," but without "encroaching on the rights and liberties of the society." The hope for the new decade must be that our 'State' and 'society' will find a way into such a corridor. This would reinvigorate our institutions, and accelerate the resolution of outstanding critical issues.

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DATA PROTECTION BILL

# Game-changer for fintech?

**MEGHNA SURYAKUMAR**

The author is founder & CEO, Crediwatch

How the personal data protection Bill will impact the Indian fintech sector

UNION IT MINISTER Ravi Shankar Prasad recently presented the draft Personal Data Protection Bill, 2019, in Parliament. The Bill provides a framework for protecting citizens' privacy, barring technology companies from storing and processing 'sensitive' personal data without explicit consent from individuals. But it empowers the central government to "exempt any agency of government from the application of Act in the interest of sovereignty and integrity of India, the security of the state, friendly relations with foreign states, public order." It also provides exemptions for 'reasonable purposes', such as prevention and detection of any unlawful activity including fraud, whistle blowing, merger and acquisitions, network and information security, credit scoring, and recovery of debt, among others.

The Bill intends to bring more 'accountability and transparency' into the country's information ecosystem while addressing the loopholes and major data security concerns. Once implemented, it is expected to create disruptions across industries and verticals. One such sector is fintech, which includes digital lending, mobile payment companies and investment platforms. RBI and SEBI are yet to release separate, comprehensive guidelines for the fintech sector. Hence, ambiguity over regulations continues to be a pain point for fintech participants in India. With standardised rules in place, even smaller companies will have to adhere to practices that are on par with global standards.

The Bill can pave way for a true consent-based data sharing in the financial services industry. Financial institutions often fail to accurately price risk, mainly because of lack of relevant data on each individual and, so, it is largely a game of averages applied over an aggregate. If enforced strategically, customers may be willing to disclose personal data as the chances of data misuse will go down. With more data available, fintech companies will be able to better customise their services and products.

> With more data available, fintech companies will be able to better customise their services, products

At the same time, the Bill has sparked concerns within the industry as it necessitates fintech companies to prepare for additional compliance obligations. Fintech companies deal with large volumes of sensitive customer data—names, cellphones, address, bank account number, credit history, PAN, etc. The Bill classifies all forms of personal financial data as 'sensitive personal data'. As such, most companies operating in the fintech space could be categorised as 'Significant Data Fiduciaries' by the data protection authority (DPA).

The Bill proposes restrictions on cross-border data transfer, and prohibits processing of sensitive personal data and critical personal data outside India. Another challenge is the provision of 'right to be forgotten', where organisations are not allowed to access customer data after the purpose of which it was shared is met, unless they have explicit consent from the customer. This can pose temporary regulatory bottlenecks for fintech companies. But it is the large internet companies, both global and domestic, that will face severe consequences. Since they won't be able to assume ownership of consumer data as their own, it will not only eliminate their dominance on consumer data, but also erode their competitive edge where data was their moat. In contrast, opportunities will open for new players like consent brokers who facilitate data sharing, storage and management of end-user data across multiple platforms on behalf of users.

Companies should start making investments in data systems to comply with the Bill; they would need to put the control of customer data back in the hands of their true owner, the customer. This is essential to obtain informed consent from the customer to use the data for specific purposes and share the same with other providers as well, if needed.

It might take a while for fintech companies to adapt to the new data protection guidelines. A quick makeover won't suffice; they must make continued efforts to build a robust privacy system for storing and processing of personal data. Despite initial hiccups, however, the Personal Data Protection Bill can be a game-changer for fintech companies wherein they can derive immense value from free sharing of data between the customer and the service provider as a result of new-found end-user comfort.

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# Audit lessons from across the world

Why Indian audit and secretarial business needs to globalise?

**PAVAN KUMAR VIJAY**

The author is former president of ICSI and founder of Corporate Professionals Group. Views are personal

OPENING UP PROFESSIONAL services to the competition is necessary. The time is opportune when audit firms—as well as secretarial practice firms—be allowed to graduate to the next level, and along with the freedom to advertise with some reasonable restrictions.

In a rapidly growing interdependent global economy, the Indian audit and secretarial practice community cannot, and should not, lock itself up into a corner. It is in the best interest of Indian firms to globalise by adopting best practices, state-of-the-art technology and invest in people, rather than resisting international networking, especially when we have one of the best talent pool.

Restrictions on advertising and marketing by Indian accountants that have been applied by the Institute of Chartered Accountants of India (ICAI), over and above internationally accepted rules, need to be reviewed. If the Indian chartered accountant (CA) firms, in their own right, aspire to have a global presence, it may be necessary to adopt the internationally accepted and applied policies under the laws of the country. Instances may be drawn from the mature audit markets such as the US, the UK, France, Germany, China, Singapore and many others on advertising and branding that is allowed for public accountants.

Indian CAs and company secretaries (CSs), too, should be allowed to perform advertising and marketing activities that do not bring the profession into disrepute. In such activities, the professional advertising should be honest and truthful, and not make exaggerated claims for the services offered, qualifications possessed, or experience gained, or make disparaging references or unsubstantiated comparisons to the work of a fellow professional. Objective and non-misleading advertising and marketing activities will help in spreading awareness and knowledge-sharing. CAs and CSs would be able to organise leadership conferences on new accounting, secretarial and auditing standards, changes in laws and regulations.

Regulation 190 of the Chartered Accountants Regulations, 1988, requires a CA firm established in India after 1988 to apply to the ICAI for approval to use a firm name. Subsequently, since 2005, the ICAI has allowed Indian CA firms to enter into contractual or other arrangements with an international network and become a member of the said network. In fact, the ICAI's Revised Guidelines of Network, 2011, allow the use of a familiar brand name.

Consequently, Indian audit firms that are members of an international network are often associated with the brand name of the network. Regulation 190 does not explicitly prohibit the use of international brand names of networks. It gives power to the Council of the ICAI to reject a trade/firm name that, it thinks, may smack of publicity. In addition, the Council of the ICAI reserves the discretion to refuse registration of a trade or firm name, if that name is undesirable in the opinion of the members.

The current guidelines to approve firm names followed by the ICAI and the Institute of Company Secretaries of India (ICSI) seem to be too restrictive. The guidelines require that the name should include the name of the proprietor/partner as they appear in the Register of Members. A trade or firm name that has no relationship with the name of the member(s) is not allowed. Similarly, descriptive trade/firm name is not allowed. Therefore, it's time that these guidelines are reviewed and liberalised as long as the name applied for does not smack of publicity.

Indian audit and secretarial firms need to equip themselves to manage stakeholder expectations, disclosure of financial information, and global accounting practices, as domestic companies are looking to move beyond the country. MNCs are seeking to invest in growth hotspots such as India.

Indian firms need to be as nimble-footed as some of the domestic companies that successfully turned MNCs by expanding overseas by drawing from the templates of global companies that set shop here in 1991. There could be a lot to gain by allowing audit firms to market themselves in India.

A government-appointed committee of experts (COE) in its report on Regulating Audit Firms and the Networks last year also held out similar views, concluding that branding with international networks would increase the competitiveness of Indian audit firms. Indian companies may benefit from using Indian audit firms that are members of international networks with a brand name.

The COE has recommended that the National Financial Reporting Authority (NFRA) and the ICAI make appropriate changes to respective laws and regulations, including Regulation 190, and the Code of Ethics, 2009.