Covering developments on policy responses, policy implementation and policy distortions on a quarterly basis. Comments are welcome.

PolicyWatch

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INSIDE THIS ISSUE

HIGHLIGHTS

"The reformer has enemies in all those who profit by the old order and only lukewarm defenders in all those who would profit by the new." **Machiavelli** in *The Prince*

Policy Induced Competition Distortions in India

Effective competition is the instrument for attaining economic growth through enhanced innovation, efficiency and productivity as well as ensuring social gains by overall poverty reduction and greater consumer welfare. Competition is stymied by factors such as anti-competitive practices of enterprises as well as policies and regulations that lead to anti-competitive outcomes.

Of the two types, the latter may prove to be more challenging especially for two main reasons. Firstly, in such policies the distortive component may be accompanied with some justifications which are difficult to assess and are also often not transparently determined. A second challenge is that there is no mechanism or a comprehensive policy in the existing competition regime of India which ensures that policies are formulated in a manner that their anti-competitive outcomes are minimised, if not removed.

The distortions caused by government policies and regulations may be broadly seen to be emanating from various policies and praxis in the areas of trade, procurement, labour, investment, subsidies etc. that are sometimes seen to favour public players and distort competitive neutrality. Also, there are instances that favour the private over the public sector as well. Due to the anti-competitive outcomes in the formulation and implementation of many such government policies, there is a need to scrutinise and assess them on the touchstone of competition and the impediments they are likely to cause to market processes.

Often social, environmental, defence or security objectives can override economic interests in terms of determining public or national interest. Intervention in markets to achieve such objectives are often appropriate and imperative. It is necessary, however, that such deviations are justified and implemented in a transparent manner and the objectives clearly spelt out.

Revisiting the need for a framework by which government policy induced distortions may be addressed through a holistic national competition policy, could be a suitable way forward. Such a policy statement would help harmonise government policies and regulations at all levels, foster competitive neutrality, launch competition assessment mechanisms for government policies and regulations as well as ensure that deviations from competition principles to serve social and environmental objectives are no

tified and publicly justified. The Competition Assessment Framework developed by DFID and the Competition Assessment Toolkit by OECD serve as effective reference tools especially for developing countries.

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• COMMUNICATION •

Telcos to Recover Dues

The Department of Telecom (DoT) is going after telecom companies to recover dues of ₹1,632 crore in the form of licence fee not paid over the past 10 years. There are more than 20 companies which have not paid the dues over the years of which ₹1,311 crore is pending for about eight years.

The DoT is going after these dues as its revenues from licence fee have declined due to fall in the overall revenues earned by the operators. While the licence fee collected during second quarter of 2009-10 was ₹2,592 crore, the collection during second quarter of 2010-11 was ₹2,602 crore – an increase of 0.39 percent but when compared to the collections made during the first quarter of 2010-11, there is a nominal decrease of 0.62 percent. *(BL, 08.04.11)*

Tracking a Lost Cell Easier

The government is studying the feasibility of giving value added service providers access to information related to the location of a cellphone as a part of the National Telecom Policy 2011.

The service has the potential to locate lost cellphones and tracking people anywhere in the country by simply feeding the mobile number in a web application even if the handset is not global positioning system enabled. The government is contemplating how much information related to location of a cellphone can be given out to public keeping in mind privacy issues. *(ToI, 18.04.11)*

New Tariff for DTH Operators

In a move that will ensure that the cost of cable channels will continue to remain affordable for consumers even after shifting from analogue to digital services, the Supreme Court ordered a new tariff formula for all digital addressable platforms.

The apex court has fixed 42 percent of non-CAS tariffs as the new benchmark for all future commercial agreements between broadcasters, direct-to-home (DTH) firms and MSOs offering digital cable services.

This means that DTH, digital cable, and IPTV operators will only pay the broadcasters up to 42 percent of the tariff fixed in the analogue cable market. This is important because the government has recently outlined December 31, 2014 as the cut-off date for shifting to digital and addressable cable services. *(FE, 19.04.11)*

Roaming Charges to End

The DoT is considering a radical change in its policies that could mean the end of "roaming charges" that customers pay when they travel and, as a result, move to telecom networks other than their own. The plan, in its infancy, could face significant operational hurdles and may never see light of day.

DoT's move is prompted by both a desire to simplify the governance of the sector and recognition of advances in telecom equipment. The Department is discussing bringing down the number of circles from 22 to four-five or even one. If it happens, it will be part of New Telecom Policy 2011, which is expected to change policies governing the sector. *(LiveMint, 24.06.11)*

Broadband@₹99 for Villagers

Rural folks living in six lakh remote villages across the country will soon get high speed broadband services for just ₹99 a month. Villagers would not have to pay any upfront cost for taking a connection and also get the consumer premise equipment free of cost. This is being made possible because the DoT has finalised a scheme whereby telecom operators will be given money to roll out wireless broadband network in villages.

The DoT has decided on four tariff plans, the cheapest one being ₹99 a month with 500 Mb of free download. For higher data usage, consumers can opt for Rs 400 a month bundled with 10 GB free download. For Government institutions, there is an unlimited download plan for ₹800 a month. *(BL, 28.04.11)*

A Spectrum Management Body

Noting the growing commercial needs and demand for additional spectrum (airwaves) by both telecom operators and broadcasters, the government will soon transform the wireless planning and coordination (WPC) wing of the Telecom Ministry into an independent agency.

As an independent body, WPC will have to work closely with the Defence Ministry to identify and segregate the commercial and non-commercial categories of airwaves. The move would immensely benefit players across radio broadcasting and telecom as they would always know about the spectrum allocated to them by the government. *(FE, 07.06.11)*

Policy on Mobile Governance

The Department of Information Technology has published a draft policy on mobile governance that aims to enable government departments to provide services, including payment of utility bills and filing of tax returns, from mobile phones.

A platform called Mobile Service Delivery Gateway will be set up, on which all ministries and departments will be able to start their services. The Department expects to develop the gateway by September 2011 and link the projects that have already been digitised, such as filing of income-tax, by December 2011.

The policy will also lay down the framework for a common payment gateway and make sure that all government departments follow the same standards. The IT department has also proposed to set up an innovation fund to provide funds to third-party developers to build software applications on the gateway. *(BL, 05.04.11 & FE, 12.04.11)*

• TRANSPORT •

EGoM Cuts Highway Target

After a reality check on the past performance of the Road Ministry, an empowered group of ministers curtailed the target for highway construction to 7,300 km in 2011-12. The new target is 33 percent lower than the goal of 11,000 km set by former Road Minister Kamal Nath for the current fiscal.

This reduced target is in line with new minister CP Joshi's focus on quality of road construction, rather than quantity. However, he said the Ministry is 'making efforts for building 20 km of roads a day', which was the daily target fixed by Nath. As on December 31, 2010, 9.09 km of highways a day were being constructed.

The Ministry managed to build 5,070 km of national highways in 2010-11, while it awarded projects of over 8,000 km. In 2009-10, only 2,673 km of highways were created. *(FE, 08.04.11)*

Technocrat to Head NHAI

The Ministry of Road, Transport and Highways proposed a change in the eligibility criteria for the post of chairman of National Highways Authority of India (NHAI). The Ministry wants to bring in a technocrat instead of a bureaucrat at the helm of NHAI. The logic behind is said to be that road construction being a technical job, will be better understood by a technocrat.

The search committee has been looking for a suitable candidate since 2010, and during this period the eligibility rules have been changed twice. If the suggested change is implemented, hopes of many IAS officers may be dashed. *(FE, 19.04.11)*

Safeguards in Road Bidding

The Ministry of Road, Transport and Highways wants longer defect-liability period and better safeguards to be added in the new Engineering Procurement Contract (EPC) model of bidding. The Planning Commission is preparing a new model concession agreement for EPC projects.

The defect liability period makes the contractor liable for any fault only for a year, after the road is complete. Whereas, in a build, operate and transfer the developer has to maintain the road for 18 years after it is built. The new EPC model also currently does not have more safeguards to check the developer from increasing the cost of the project and building poor quality roads. *(BS, 14.05.11)*

Airport Development Fee Quashed

Air passengers got a big relief with the Supreme Court quashing the levy of airport development fee on embarking passengers in Delhi and Mumbai airports. While the Mumbai airport collects ₹100 from a domestic passenger and ₹600 from an international passenger, the Delhi airport is collecting ₹200 from a domestic passenger and ₹1,300 from an international passenger.

The Court said that no development fee could be levied or collected from the embarking passengers at major airports unless the Airports Economic Regulatory Authority determined the rates of such development fee. The Bench directed DIAL and MIAL to give an account to the Airports Authority of the development fees. The Airports Authority would ensure that the development fees levied and collected was used for development purposes. *(TH, 27.04.11)*

Road Laying Cost Higher

Toll-road based infrastructure developers feel that the diesel price hike would raise road laying cost by two to three percent. On an average, per kilometre cost of highway roads work out to ₹13-14 crore. This, they felt, would have a sizable impact on large road projects where margins were tight.

Even though it is not as significant compared to hikes in steel or cement, infra companies would have to contend with the indirect cost rise in material transportation, besides margin pressures going forward. Though toll rates, liked to wholesale price index will also move up, the impact of the current diesel price hike and its bearing on toll rates will not be felt till September 2012. *(BL, 27.06.11)*

Port Expansion Plans May Sink

Less than two years after the government settled on a model concession agreement for public-private partnerships (PPPs) in port projects, the Planning Commission and the Shipping Ministry commenced talks to alter the framework that has failed to enthuse investors. The dialogue on amending ports' PPP policy comes after private investors backed out of a project to build a new container terminal at the Mangalore Port.

The project will now have to be funded and implemented by the Centre – a sharp U-turn from the government's intent to push all new port projects in PPP mode. Till recently, PPPs in port projects were done on the basis of model concession agreement for roads sector, which was clearly not feasible. *(ET, 02.06.11)*

Fallout of Diesel Price Hike

The Indian Railways will find its fuel expenses widening by about nine percent (₹720 crore). This is a result of the government's decision to increase diesel prices by ₹3 a litre. The Railways' annual consumption of high speed diesel is about 2.4 billion litres (2009-2010). At ₹3 per litre hike, its annual fuel bill is likely to go up by about ₹720 crore.

Road freight rates have already started ballooning by around 9-10 percent on key routes. This is both because of increased fuel costs and a rise in other operating expenses, such as insurance, toll, vehicle interest rates and driver expenses. *(BL, 27.06.11)*

• OIL & GAS •

IOC in Losses

State-owned Indian Oil Corporation (IOC) is losing ₹297 crore per day on selling diesel, domestic LPG and kerosene at government-controlled rates. Diesel prices were last revised in June 2010. After that the government has not allowed oil companies to raise fuel prices in line with imported cost to keep inflation under check.

The Economic Times

IOC along with public sector firms Hindustan Petroleum and Bharat Petroleum are also projected to lose huge amounts in revenues on selling diesel, domestic LPG and kerosene below their imported cost. The revenue loss, termed as under-recovery by oil firms, will be the highest-ever. Finance Minister Pranab Mukherjee has not agreed to cut customs and excise duty on crude and product this time to protect his projected fiscal deficit.

(FE, 15.05.11 & ET, 21.04.11)

New Infra Index Series

The government is set to have a new infrastructure index series in order to asses the weight of core industries on industrial output. The new series would be marked by a change in the base year from 1993-94 to 2004-05 and the addition of two more sectors – fertiliser and natural gas – to the present set of six industries captured in the index.

The move is also in line with the new wholesale price index series introduced in September 2010 which shifted the base year from 1993-94 to 2004-05 and expanded the commodity basket from the previous 435 items to 676 to capture the change in consumption pattern. *(FE, 02.05.11)*

LPG@₹700 Post Decontrol

The government is likely to deregulate price of LPG soon. This will result in doubling the price of a 14.2 kg cylinder to ₹700. The poor will, however, receive cash subsidy in their bank accounts the moment they purchase the cooking fuel using a smart (debit) card. The number of subsidised cylinders would be restricted to six or seven a year per consumer. Although direct cash transfer of subsidy for both LPG and kerosene was announced in the Budget, it will happen first in the case of LPG.

The government is going ahead with the LPG price deregulation, without waiting for the proposed unique identification numbers to be allocated to all consumers. The secretary said that transferring cash directly will ensure that richer consumers and commercial users such as hotels and restaurants do not enjoy the subsidy, which is meant for the underprivileged. *(FE, 08.05.11)*

PNGRB Gets Nod on CNG

The Petroleum and Natural Gas Regulatory Board (PNGRB) can finally start processing applications for compressed natural gas licenses, according to a Supreme Court order. The board could not issue a single city gas distribution license in its four-year existence as the government had not notified a section of the PNGRB Act that gave the multi-member board powers to issue the authorisations.

The Union government notified Section 16 of the PNGRB Act in July, enabling the board to process the applications. The Supreme Court directed that a multi-member board would be in charge of processing the applications for licenses. The board, however, cannot process applications for areas such as Ghaziabad, where licenses have already been issued by the Union government.

(LiveMint, 13.05.11)

Chawla Suggests Reforms

A high-level government panel recommended market-determined pricing of natural gas and coal at the consumer's end. This implies that the practice of subsidising these natural resources has to be dispensed with.

In its draft report, the Ashok Chawla committee on allocation of natural resources flayed the use of gas as fuel for power plants. It argued that for optimal use of this hydrocarbon, it needs to be used mainly for transportation and cooking, rather than as an industrial feedstock.

The panel's opinion runs counter to the trend in the power industry where upcoming large projects in the private sector including ultra-mega power plants are mostly gas-based. The committee argued against a gas pooling arrangement and called for rapid development of pipeline infrastructure so that new gas producers can sell in the market.

(FE, 31.05.11)

Govt to Act Against RIL

With the Directorate-General of Hydrocarbons already probing the sudden decline in gas output from the KG-D6 fields operated by Reliance Industries Limited (RIL), the Petroleum and Natural Gas Ministry gets ready to take tough action against the Mukesh Ambani-owned company for not adhering to the Field Development Plan.

Under contractual terms, RIL had to drill 22 wells by of April 2011. However, it has drilled only 18 and did not complete the required number on the plea that as gas output was declining, there was no need to drill further. In 2007, allegations of gold-platting were also levelled against RIL.

(TH, 12.06.11)

Oil Contracts Favour Pvt. Players

The Comptroller and Auditor-General (CAG) identified the production-sharing contract (PSC) structure for oil and gas as the original sin which allowed private companies such as Reliance Industries Ltd. to gain "undue benefit" at the government's expense.

The CAG called for complete structural changes in the present PSCs for the management of hydrocarbon exploration and production involving the private sector.The Indian PSC today is based on a scaled formula for profit-sharing between the government and private contractors. The slabs for profit-sharing are so designed that the more capital-intensive the project the lower the government's share of profit petroleum. *(TH, 15.06.11)*

• POWER •

Pvt. Power Meets Peak Demand

Thanks to new generation capacity addition coming on stream, led by a big boost in private project commissioning, a new record has been achieved in meeting peak demand in 2011.

Amid soaring temperatures that touched a nine-year record on May 12, 2011, the peak demand met was nearly 10 percent higher compared to the same day in 2010. Correspondingly, peak shortages were down 36 percent on an all-India basis and sharply lower on a year-on-year basis across all the five regional grids.

As a result, power cuts have been comparatively lower so far in 2011, though the prospect of consumers being left high and dry due to a massive fuel crunch affecting thermal capacity is a possibility in the coming years. *(BL, 13.05.11)*

Power Slippage under Scrutiny

Frustrated repeated slippages in power capacity addition targets, the Prime Minister's Office decided to institute a special monitoring mechanism headed by the Cabinet secretary. The new set-up will not only review the progress on power projects on a monthly basis but will also identify and rectify delays and have powers to fix responsibility and take strict action for lapses.

This is yet another effort to discipline the sector which has become notorious for missing targets. While the cabinet secretariat will oversee general progress on projects, it will mainly take up cases reporting delays to identify the causes and take remedial actions so that projects are completed as per new timelines. *(BS, 13.05.11)*

Wind Energy: The Only Option

According to Steve Sawyer, Secretary-General, Global Wind Energy Council, a comprehensive renewable energy law, adequate transmission infrastructure, long-term renewable energy generation targets and a centralised regulatory authority are some imperatives for the sustained growth of wind energy sector in India.

With the Centre setting a target of generating 15 percent of total energy from renewable sources, as of now wind energy is the only option while solar power could emerge as an alternative in the future. Policymakers need a clear understanding of the wind energy potential in India to adequately plan for its growth. The industry needs a supportive environment as infrastructure constraints could limit growth. *(BL, 07.04.11)*

Cement Sector Growth Low

The Indian cement industry has hit its lowest growth in over a decade. Manufacturers have failed to match their expectations of 9-10 percent growth in financial year 2010-2011, ending with less than five percent. It is the first time since the industry entered its boom time during mid-2005 that cement makers' high trajectory growth slipped to almost half of what experts had anticipated.

Industry analysts and company officials blame it on persistent poor demand for the building commodity throughout the year. According to analysts, the high base effect coupled up with an extended monsoon and no major infrastructure projects taking off after the CommonWealth Games did not let demand rise. *(BS, 20.04.11)*

Cut in Energy Subsidies

One of India's top policymakers called for a dramatic cut in energy subsidies to expose the population to real fuel prices and reduce pressure on the country's fiscal deficit. Montek Singh Ahluwalia, Deputy Chairman, Planning Commission and closest aide to Manmohan Singh, the Prime Minister, urged the Indian government to take "hard decisions" to pass on rising energy prices to consumers.

He said the Congress party-led government had to convince itself that it could run a fast-growth economy with high energy prices, and break with pricing policies that have used cheap power to spur growth, which reached 8.6 percent in 2010. *(FT, 15.06.11)*

NTPC to Sell Extra Power

In a boost to National Thermal Power Corporation (NTPC), state governments have lifted the ban on diversion of the company's surplus power to other states. At a joint meeting of the regional power committees recently, the states unanimously agreed to forego their right to unused power.

NTPC reported a net profit of over ₹8,886 crore in 2010-11, a flat growth over the previous year. The figure would have been higher if it had the freedom to sell the surplus power from its major plants in states like Chattisgarh, UP and Madhya Pradesh to other states within the same electricity supply region.

Power from NTPC's generating stations is allocated among states of a region on the basis of the Gadgil formula, which takes cognisance of each state's electricity consumption as also its share in the central revenues. *(FE, 10.04.11)*

Coal Shortage Hits Power Capacity

Coal supply shortage has forced the government to plan a capacity addition of only 7,675 MW for the year 2011-12, which is the last year of ongoing 11th Five-Year Plan. With this target, the capacity addition for the 11th Plan will be little over 42,000 MW, as against a target of 62,374 MW.

During 2010-11, Coal India Ltd (CIL) had committed 335 mt of coal, but the actual supply stood at 302 mt. Even the plants commissioned during 2009-10 would operate at lower PLF and the plants commissioned in 2010-11 would not operate at all as they have no coal supply. This has forced to keep an achievable target of 7,675 Mw for 2010 of the 11th Plan period. *(BS & FE, 13.05.11)*

• MIXED BAG •

RBI to Monitor 12 Banks

The Reserve Bank of India (RBI) has formed a conglomerate cell within its supervisory set-up to keep a constant vigil on 12 large domestic and foreign banks. This is to prevent any systemic fallout in case one of them falters.

The cell will assess the risks that non-banking activities – insurance, asset/wealth management, broking, investment banking, housing finance, and primary dealership – could pose to the parent bank. It will also keep a watchful eye to prevent regulatory arbitrage. This cell will also actively monitor these banks' exposure to financial markets to pick up possible smoke signals. *(BL, 18.04.11)*

Banks Hit on Pension Payout

State-run banks will take a hit of ₹4,000 crore this fiscal with the banking regulator directing these lenders to provide for the pension liabilities of their retired staffers in the balance sheet for FY10-11.

RBI's decision is bound to reflect in the profitability of these banks this fiscal. Banks had made out a case to RBI to amortise the pension liabilities over the next five years to ease the strain on their books. But the regulator does not appear to be convinced by their argument and conveyed to the Indian Banks' Association that lenders would have to set aside funds for their pension liabilities in one shot rather than spreading it out. *(ET, 20.04.11)*

New Policy to Tackle Inflation

Despite corrective measures, rising inflation remains a "matter of concern" for the RBI. The country's apex bank is likely to come out with new steps to tackle inflation in its annual monetary policy review. Inflation in March stood at 8.98 percent, almost one percentage point higher than the RBI's prediction.

Speaking on the sidelines of an interactive session organised by the RBI, Shyamala Gopinath, Deputy Governor, RBI said: "Inflation remains a matter of concern and we need to evaluate and underline the inflationary pressures." The current inflationary pressure has been a result of a spill-over in inflation from the food to the non-food manufacturing sector. *(BL, 18.04.11)*

IRDA to Look Into Regulation

India's Insurance Regulatory and Development Authority (IRDA) is planning to commission a study to calculate the cost of its decisions on insurers and the subsequent impact on the cost of insurance policies. In the past year, insurance companies have had to incur higher costs as IRDA asked for higher disclosure requirements, brought in large regulatory changes in products, and tightened distribution norms.

The regulatory burden can be broadly classified into three categories – cost incurred for complying with regulation, burden due to regulation making some businesses unprofitable and impact on profitability due to changes. Although the industry may consider the last component as a cost burden, it may not be regarded as such by the regulator. *(LiveMint, 24.04.11)*

FSLRC to Rewrite Laws

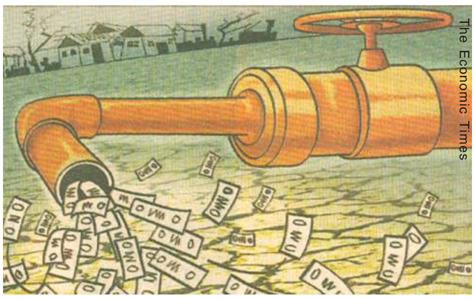
The Financial Sector Legislative Reforms Commission (FSLRC) has created working groups for specific areas in the sector. Working groups have been created for different areas, including securities, insurance and pensions and banking. FSLRC is also appointing consultants, legal advisors and experts in finance and economics to assist each working group.

The commission has drawn a time-table, complete with milestones for completing its job within the stipulated period of two years. The five-six working groups would report to the commission.

The reports, would than be discussed with stakeholders and finalised by the commission after taking into account the responses of stakeholders. The commission would examine the architecture of the legislative and regulatory system governing the country's financial sector. *(BS, 12.05.11)*

Save Water Get Tax Breaks

In an effort to promote judicious use of water, the government is planning to offer incentives, such as tax breaks, to big industrial users if they are able to reduce wastage of water. The incentives may feature in the new National Water Policy, which is likely to be introduced in 2012.


The Economic Times

Industrial wastage of water has emerged as a big concern amid a growing realisation of an imminent water crisis. The new policy will encourage sustainable use of water by reducing wastage and promoting recycling. The incentives could be in the form of tax relief's for industries which are proactive in sustainable river water usage.

The incentives will be based on the conservation and recycling results against the current levels of water consumption. It is not the use of water but its wastage which is the concern. *(ET, 19.04.11)*

Banks going Rural

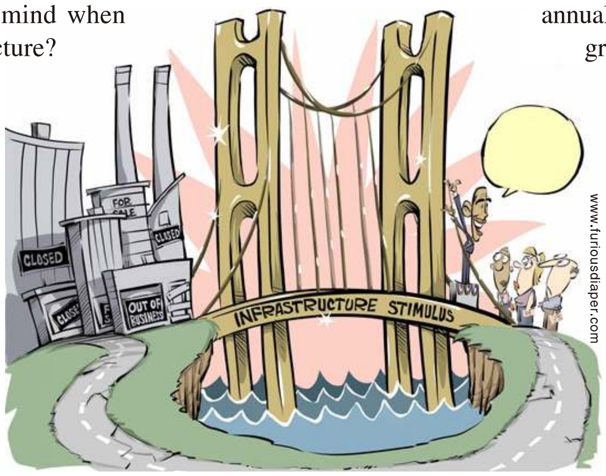
Indian banks are going rural in a big way. Apart from covering un-banked areas where the banks are learning to provide basic services through the business correspondent model, they are planning to open 1,500 branches in 2011-12.

SBI, the country's largest bank, is planning to open about 500 branches in rural areas in 2011-12. These branches are mostly into retail banking, agriculture and SME financing. To achieve these goals, banks are planning to recruit exclusive officials for rural branches and develop suitable technological platforms for their operations in these areas and achieve financial inclusion. *(FE, 15.05.11)*

What Colour Infrastructure?

– Vinayak Chatterjee*

What colours come to mind when you think of infrastructure? Possibly, the black of coal and roads, or the grey of power-plant smoke and ash, or the drab ochre of concrete. Green is possibly the farthest removed; yet that is the direction in which infrastructure development has to head.



Urban densification, mass transport and nuclear energy are the green way forward

How does infrastructure move to green? Three types of movements are possible: One, move to less carbon-consuming production methods; for example switching from hydrocarbons to nuclear power; two, move to replace lost carbons, like afforestation; and three, move to reduce the amount of carbon emitted by better planning; for example, more mass transportation over personal vehicles.

The maximum impact of "green" strategies can be seen in three sectors – urban, transportation and energy.

In urban planning, Dinesh Mohan, Indian Institute of Technology, Delhi, points out that "a great deal of discussion in recent years is around policies that will help us reduce personal transport use". The most common solutions proposed are: (i) high-density cities with a very dense core; (ii) land-use planning promoting mixed use; (iii) short-trip distances; and (iv) transit-oriented development.

Road transport is the largest contributor to emissions. Unfortunately for India, road transport has emerged as the dominant segment and the share of the railways is shrinking. The share of inland water transport and coastal shipping is insignificant.

The railways are a relatively benign mode of transport compared to road transport when considered in terms of energy intensity and emission. The Asian Institute of Transport Development conducted a comparative assessment of rail and road transport in India from perspectives of social and environmental sustainability.

According to the US Department of Energy, between 2001 and 2025, India's carbon emissions will grow by 3 percent annually, twice the predicted emissions growth in the US, making India the third largest air polluter after the US and China by 2015 itself.

India currently draws the bulk of its electricity from thermal sources and 55 percent is met by coal. Hydro power comes a distant second at about 25 percent, and then renewable sources provide another small share of the electricity at about 15 percent. Nuclear reactors provide only three percent of the total electricity generation.

The problems with coal-dependence are well documented. India is also the seventh-largest net importer of oil in the world and depends on imports for 68 percent of its oil consumption. The third source of thermal power generation is natural gas. Given the limited domestic availability of natural gas *vis-à-vis* demand, it will have to be sourced from outside through elaborate and long-distance pipelines and LNG shipments.

Efforts to harness viable renewable energy resources continue to increase its share from sources such as wind, biomass and solar. However, none of these has presented itself as being suitable, intrinsically or economically, for large-scale power generation where continuous, reliable power supply is needed and can only complement the addition of new generation capacities.

At a Planning Commission meeting chaired by the Prime Minister on April 22, 2011 to give shape to the 12th Plan, Jairam Ramesh set the cat among the policy-cum-growth pigeons. His view was that the plan panel's ambitious goal to add 100,000 Mw to India's power generation capacity during the 12th Plan period (2012-17) was "ecologically impossible", considering that 90 percent of the proposed target was coal-based. Not only would this lead to a large increase in greenhouse gases but also involve extensive mining over vast areas of forest and tribal land.

Clearly, the requirement is to fast-track civilian nuclear expansion while maintaining the highest standards of nuclear safety and security. Here our Prime Minister has certainly got it right!

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* *Chairman, Feedback Ventures. Abridged from an article that appeared in the* Business Standard*, on May 16, 2011.*

Tackle Fuel Prices as National Issue

– B S Raghavan*

www.ydyc-cdn02.ydyc.org

India's political parties should cultivate enough maturity not to exploit every emerging issue as a political issue to pander to their political constituencies or expand their political base. They should regard themselves as parties in waiting which could very well be running the governments when the wheel of political fortune turns in their favour

This general observation applies with all the greater force to the management of fuel prices. It is a paramount national issue requiring all political parties to join hands in finding a collective solution, instead of resorting to their customary unseemly tactics of indulging in political mud-slinging. They will be causing immense harm to the national interest if they continue politicking for narrow partisan ends on such an issue of overwhelmingly grave importance.

But that is what all political parties are doing, including those who are members or supporters, of the United Progressive Alliance (UPA) government.

They have been unable to resist the conditioned reflex of instigating people to take to the streets and demonising the government as anti-people, out to make lives miserable for them.

The intractable crisis of energy management, vulnerable to the ravages of a highly volatile causative factor of hydrocarbons at the core, is not the creation of just the present government. It has been in the making during all previous governments of different political complexions. In a sense, its dimensions and implications were known to all political parties that have been constituents of past governments.

Offer of Cooperation

It was, therefore, incumbent on them to come up with a constructive offer of cooperation in dealing with the problem, by proposing a viable plan of action of their own, which could then be discussed with a view to arriving at a consensus. To do nothing of the sort, but only to indulge in destructive criticism in a sanctimonious "holier-than-thou" attitude speaks ill of the political culture prevailing in the country.

Even now, it is not late. The protesting political parties have access to enough talented professionals, on whose experience, analytical capabilities and insights they can draw to prepare a workable fuel prices management strategy and forward it for consideration by the government. The government too owes it to all the stakeholders – political parties, economic players and the civil society – to involve them in decision-making on such vital matters, instead of acting unilaterally.

It is clear, indeed, it has been clear for as far back as one could go, that there has to be a holistic approach based on precise, long-term calculations to the management of fuel prices, and that it will not do to merely jack them up now and again in an *ad hoc* manner in order to keep the wolf from the door or in line with the adage "Sufficient unto the day the evil thereof".

Conjuring up formulas for "equitable" sharing of the burden among the Central and state governments, oil companies and consumer interests or tinkering with Customs and excise duties are also nothing more than exercises in futility, considering the Garganutuan character of the crisis.

Just note the fundamental facts: India consumed over 138 million tonnes of fuel in 2009-10, as against the nation's domestic oil production of about 34 million tonnes that year. It imports three-fourth of its oil needs and one-third of its gas requirement.

Demand and supply

The demand in the next 10 years will increase by over 40 percent, whereas the increase in supply from the maturing domestic oilfields is expected to be around 12 percent. To make matters worse, oil and gas today are not seen as mere commodities to be traded freely but are tending to become political weapons in the hands of some countries.

To work one's way through this maze is a challenge fit enough for the best minds of the country. But it has to be met if all the hopes centering round its emergence as an economic power are not to end up in smoke.

* *Columnist, The Hindu Business Line. The article appeared in* The Hindu Business Line, *on June 27, 2011.*

12th Plan to See Growth

The Planning Commission will target an average real gross domestic product (GDP) expansion of 9-9.5 percent for the 12th Five Year Plan (2012-17), up more than a percentage point from the current Plan.

The 12th Plan would focus primarily on three areas: farm productivity and logistics of foods; management of water resources; and health & education. It would lay emphasis on expansion of physical infrastructure with added focus on PPP projects and address financing issues for massive investment needed for infrastructure sector by way of innovative financing instruments. *(FE, 19.04.11)*

Panel Pushes Contract Farming

The panel appointed by the Union Agriculture Ministry to suggest reforms in marketing of farm produce will suggest that states governments reduce the security deposit for the contract farming. It will also ask for changes in the Agricultural Produce Marketing Committee law to incorporate private players in providing infrastructure in this regard.

The committee is also exploring the feasibility of involving private companies for post-harvest infrastructure for perishables, especially cold chains and logistics, on a PPP model. *(BS, 27.04.11)*

Impact of GDP on Ecology

The government will conduct an assessment of the impact of GDP growth on ecology using a green accounting system. It will set up an expert group to evaluate the impact of economic growth on environment as part of its efforts to bring in institutional reforms and improve environmental governance.

This expert group will provide a roadmap for green national accounts. By 2015, GDP would be reported after taking into account environmental costs.

This assumes significance as Union Environment Minister Jairam Ramesh questioned the country's nine percent growth reports, contending that if the impact on ecology had been taken into consideration, the real growth would have been only around six percent. *(FE, 10.05.11)*

Manufacturing Policy on Anvil

Union Commerce Secretary Rahul Khullar said that the Indo-European Union Free Trade Agreement (FTA) is likely to be concluded by the end of 2011, after another round of talks in May 2011.

The FTA would not be confined to merely trade in goods, but would encompass services, investment, sanitary and phytosanitary measures, technical barriers to trade, public procurement and a gamut of issues.

The policy would be designed to attract Greenfield investments from abroad in mega investment zones and also get the latest technologies. It will also help increase the share of manufacturing sector in the economy. *(TH, 18.04.11)*

NEAMA to Monitor Environment

The Union Government is setting up a National Environmental Appraisal and Monitoring Authority (NEAMA) which will be a professional, science-based autonomous entity tasked with environmental appraisals and monitoring of compliance conditions. Once appraised by NEAMA, projects would be sent with a recommendation to the Ministry of Environment & Forests for approval.

NEAMA will be a full-time entity of professionals tasked with environmental appraisals on ongoing basis, instead of the current system of appraisals done by environmental appraisal committees that are *ad hoc* and meet about once a month. *(BL, 03.05.11)*

• FDI WATCH •

Govt to Allow FDI In LLPs

The government is set to bring limited liability partnership (LLP) firms in line with other companies as far as FDI rules are concerned. At the same time, there may be limits on downstream investment as the government does not want them to turn into new investment vehicles. The Union Cabinet is expected to align the FDI regime in these firms with those prevailing for the sector.

LLP is a hybrid structure that combines the elements of a partnership firm and a company and ensures that liability of the partners is limited. In the absence of the tax sops now, the conversion has slowed down but with FDI permitted in this segment, activity is also expected to pick up. *(ToI, 11.05.11)*

FDI in Retail Faces Stiff Riders

Multinational retailers such as Walmart, Carrefour, Tesco may soon be allowed to open stores in India subject to stringent investment norms, sourcing conditions, and cap on the number of outlets in big cities.

The Department of Industrial Policy and Promotion is likely to move a proposal seeking cabinet approval for 51 percent FDI in multi-brand retail subject to a minimum investment of US$100mn. India, at present, allows 51 percent FDI in single-brand retail and 100 percent in wholesale cash-and-carry. *(ET, 02.06.11)*

New IIP Index Launched

The government has launched a new Index of Industrial Production (IIP), which seeks to offer a better gauge of the country's industrial activity. The new index has a revised base of 2004-05. The old index, which had a base of 1993-94, had been criticised for excessive volatility and needed repeated revisions due to an outdated basket of items and limited data points.

The Economic Times

In the new series, the basic construction and methodology remain the same while the items basket has been updated to better reflect production trends. The weighting diagram of the three primary sectors has also changed to capture the changed economic scenario. The new index also tracks recession better. *(ET, 11.06.11)*

Get Retail Regulation Right

– Suparna Karmakar*

The Economic Times

With the introduction of FDI and efficiencies of organised retail, it is hoped that the pro-active traditional retailers in India will also adopt some of the best practices by consolidation and collectivisation of purchases and integration with logistics operators for addressing the price and quality concerns of consumers

The policy on foreign investment in Indian retail has been placed in the context of moderating inflation by the Government of India's Chief Economic Advisor. It is hoped that organised storage and transport chains will help cut nearly 40 percent transport and distribution losses in the present farm-to-fork supply chains, one of the factors pushing up food prices to high and unsustainable levels.

This proposal of opening up the Indian retail distribution sector to foreign multi-brand players with deep pockets is welcome, and will surely be lauded by most of the stakeholders. Allowing FDI will not only bring the much-needed financial capital into the sector, it will also bring in new technologies for storage and transport management. That, in turn, will lead to efficiencies that will presumably translate into lower prices and better quality for consumers.

Notwithstanding the fears and political dogma, the prognosis of the traditional retail sector's ability to hold its own against corporate players in the organised sector has been good. Experience shows that rather than decimating the traditional retail shops, competition from the organised sector in the past few years has, in fact, spurred the traditional retailers into upgrading to modern formats with convenient and better organised displays, ICT-enabled storage and procurement management, and electronic billing counters.

It has been argued for long that in the absence of a single market within India and non-passage of the 2003 Model Act that seeks to amend the Agricultural Produce Market Committee laws, markets will remain oligopolistic leading to higher prices than is economically justifiable. The sourcing conditions of at least 30 percent procurement from small and medium enterprises will help push up the prices, which will then be passed on to consumers.

The other problem emanates from the entry restrictions that will be effected by the restriction on the number of outlets and limits to access in cities with designated population sizes, done ostensibly to protect the traditional retailers in places with low population density. While the exact impact of this policy in the Indian market is yet to be established, international experience of this popular entry regulation has been disappointing.

Econometric research on employment effects of such planning regulations in France, Italy, UK and US shows that these regulations have had a sizable negative impact on employment growth, especially in small retail shops, in addition to the productivity and efficiency losses that all the countries have faced after the introduction of the entry regulations.

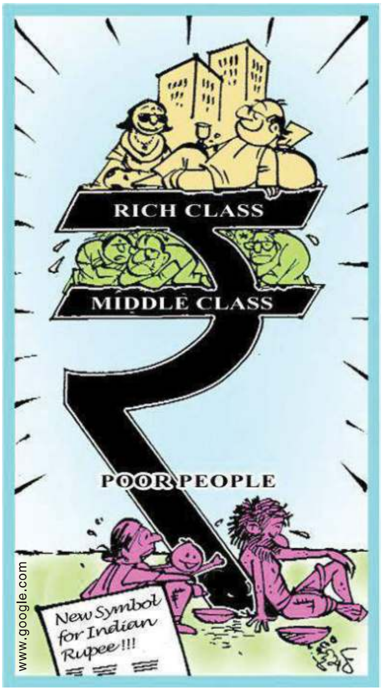
Particularly illuminating is the experience in the UK, where such regulations changed the store strategies adopted by the organised sector. In the UK, planning reforms resulted in imposing sub-optimal store characteristics on both consumers and firms. In semi-urban and rural India, the new wave of e-tailing indicates that traditional retailers are in any case facing competition from direct selling companies/online retailers, which have started to use the cash-on-delivery model for branded products in several lifestyle categories.

Hence, while adopting stringent conditions on entry barriers through zoning regulations or caps, policy makers need to be conversant with the inadvertent harm that such policies may cause to the intended beneficiaries in the longer term. The short-run effects of a policy change may be politically motivating, but the longer-run effects are often more harmful.

* *Senior Fellow, CUTS Institute for Regulation & Competition; and Research Adviser, CUTS. Abridged from an article that appeared in the* Business Standard*, on June 16, 2011.*

ABC of New Indian Economy

– Haseeb A Drabu*



The current scale of corruption worsens income distribution. And in that it reduces the overall welfare of the system

In the last 20 years, the Indian economy has changed unrecognisably. The classic undergraduate textbook one liner, "Indian economy is a gamble on the monsoons" which accurately described the economy at that point of time, is hardly relevant now. Nor does the famous "Hindu rate of growth" coined by Raj Krishna describe its growth dynamic anymore. At that time a growth of 3.5 percent evoked spiritual and material contentment. Today, twice that rate qualifies as a recession! There is need for more relevant descriptors.

One way to do it is through words that crop up every now and then in economic discussions and decision making. No longer do we find poverty alleviation, income redistribution, farm and factory productivity, which were the linchpin of debates and decision-making in 1970s and 1980s being used any more.

Here is an attempt at a new lexicon for the Indian economy.

A: *Aam aadmi* – With nearly 1.2 billion of them, every sixth person in the world is an *aam aadmi* (common man). Over 12 five-year plans and 60 odd budgets, the *aam aadmi*, instead of becoming older has, in fact, become younger (see D). It is quite another matter that the plans and budgets have had nothing to do with it. About one-fourth of *aam aadmi*, lives on ₹27 per month, less than a rupee per day. His access to basic amenities has improved even as his entitlements have not kept pace. The paradox of *aam aadmi* is that he is better off compared with himself, but much worse off compared with others!

B: Black money – India tops the list for black money in the entire world with an estimated ₹1.5tr in Swiss banks. It may be argued, somewhat simplistically, that if this black money is "brought back" and distributed across the population, the per capita income of *aam aadmi* will double. More attention needs to be paid to the "flow" of black money more than the existing "stock" of black money.

C: Corruption – An ever-increasing part of black money in India is generated through corruption of the ruling class that includes politicians and bureaucrats. In the licence control *raj* of yesteryears, corruption was simple; generated by discretionary controls and shortages. Now corruption is not about quicks and queues; it is about systemic disruptions. The scale, size and spread of corruption in the earlier era would, if anything, have helped income distribution in the economy; the current scale of it actually worsens income distribution. And in that it reduces the overall welfare of the system.

D: Demographic dividend – What for many years used to be seen as a major handicap for India's economic prosperity has suddenly become a major advantage. Population, which was seen as a drag and one of the biggest problems for policymakers, not so long ago, is now being seen as the biggest advantage. With a median age of 25 and 11 million workers per year expected to come over the next two decades, the India story revolves around reaping of the "demographic dividend" of the overwhelming working population with the dependency ratio of 0.4, the lowest in the world by a long way.

E: Entrepreneurship – Entrepreneurship is to the new economic system what democracy is to the political system. The state as the single largest investor has been replaced by millions of entrepreneurs across the length and breadth of the country. Employing more than 60 million people, the unsung and unknown builders of the new economic story contribute more than the highly fancied corporate India. The opportunity-based entrepreneurship that has been unleashed in the last 25 years is by far the biggest gain from the change in policy regime.

* *Economist. Abridged from an article that appeared in* The Mint*, on June 13, 2011.*

Learning a Top Priority

Everybody wants his/her child to get the best education but only six percent would like their children to choose teaching as a profession, and even less (just three percent) would prefer their child to be a lecturer or professor, a survey conducted by Aviva Life Insurance Company suggests.

According to the survey, while 81 percent parents were more concerned about their child's education, 57 percent were anxious about work or career, 56 percent on health and medical care, and 31 percent on good lifestyle for the child. Also, on an average, 39 percent parents felt that education inculcates values while only five percent felt that it improved knowledge. *(BL, 01.04.11)*

UN Report Hails NREGA

The Congress-led UPA-II was hailed for embracing an inclusive scheme like National Rural Employment Guarantee Act (NREGA). The UN released a Global Assessment Report, praising NREGA and asked other nations to emulate the programme that has helped empower millions of marginalised.

NREGA's "effective decentralised planning and implementation" and its benefits reaching out to millions of poor across the country through "proactive disclosures and mandatory social audits of all projects" are mentioned in the report. However, the report called for more transparent approach to be adopted by the government. *(ToI, 11.05.11)*

Indian States as Poor as African

India's poorest States have per capita wealth comparable to some of the most war-torn and impoverished African countries, according to a new analysis. The current affairs and business magazine The Economist assessed the GDP, adjusted for local purchasing power, on a per capita basis for 32 Indian states and Union territories and compared them to nations around the world.

GDP per person in eight Indian states was found to be less than US$2,000. Bihar has a GDP per person of US$1,019, a dollar below Eritrea, which has suffered decades of conflict with neighbour Ethiopia. Manipur, in the far east, was equivalent to Lesotho, slightly behind central Madhya Pradesh, which compared to Benin in west Africa, a country blighted by under-development and corruption. *(BL, 23.06.11)*

India above China in Efficiency

The latest IMD World Competitiveness Yearbook 2011 shows that while the US has returned to the top position in global competitiveness rankings, India has slipped from No 31 in 2010 to No 32 in 2011. However, what's more striking is that India is ranked higher than China in terms of both business and government efficiency.

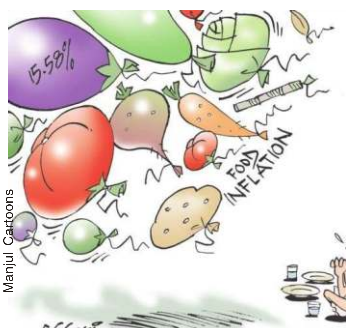
While the report ranked India in the 29th position in government efficiency, China was ranked lower in the 33rd rung. And in the case of business efficiency, India was ranked at a respectable 22nd position, marginally ahead of the 25th position held by China. Competitive ranking, however, does not always have a significant impact on global FDI flows. *(FE, 18.05.11)*

Broadband Connectivity Low

Notwithstanding the huge growth in mobile subscription, India is among the worst performing countries when it comes to connectivity and broadband speeds according to two new studies. India is ranked a poor 21 among 25 developing countries in terms of connectivity according to a new global report commissioned by Nokia Siemens Networks.

Another global report on state of Internet by Akamai Technologies says that India suffered a 9.1 percent decrease in average Internet connection speeds in 2010 to 0.8 Mbps, compared to 2009. The adoption of "high broadband" in India is at 0.4 percent and dropped 30 percent in 2010. *(BL, 06.05.11)*

Food Prices Could Push Millions Into Poverty



Resurgent food prices, which rose by 10 percent on average in many regional economies in Asia in 2011, can push an additional 64 million people into extreme poverty, an Asian Development Bank report says. The study, entitled, 'Global Food Price Inflation and Developing Asia', finds that a 10 percent rise in domestic food prices could push an additional 64 million people, out of 3.3 billion people living in the continent, into extreme poverty, based on the US$1.25 a day poverty line.

The report said the fast and persistent rise in the cost of many Asian food staples since the middle of 2010, coupled with crude oil reaching a 31-month high in March, are a serious setback for the region. Dampening factors behind the double-digit increases include the weak US dollar, high oil prices and subsequent export bans by several key food producing nations. *(BS, 26.04.11)*

Health Research in India Poor

Expressing concern over the scarcity of research on the routine health-information system in both reports and published papers, which is crucial to track the response of the health system to the health needs of the population, a paper on "Research to achieve healthcare for all in India" suggested that major national organisations of health research in India come together to provide effective stewardship.

The paper suggests that these organisations collaboratively develop mechanisms that enable agreement on tangible mid-term and long-term targets for health research in the country, create a plan of action and methods to track the progress in research utilisation to achieve healthcare for all. *(TH, 04.04.11)*

Companies can Register in 24hrs

The Union Ministry of Corporate Affairs will soon launch a completely digitised service that will allow anyone with all relevant documents and approvals to complete the process of registering a company in one day.

The offices of Registrar of Companies appointed under Section 609 of the Companies Act, have the primary responsibility of registering companies floated in different states and Union territories and ensuring that they comply with statutory requirement under the Act. The Ministry has also decided to streamline the functioning of its oversight mechanism. The new move will make compliance of corporate laws more transparent and easy. *(BS, 04.06.11)*

E-Governance Still Far From Villages

After four years and several missed deadlines, the project to set up 1.26 lakh common service centres (CSCs) across the countryside is plodding along, due to lukewarm interest from the private sector and poor access to internet and electricity.

CSCs are technology-enabled kiosks serving clusters of five-six villages aimed to bring e-governance to the masses. Over a year after the auction of broadband wireless access spectrum no mobile operator has finalised plans for their rollout, without which e-governance projects like CSCs face a bleak future. The scheme has not taken off due to the Department of Information Technology's slow pace in setting up and operating CSCs. *(FE, 10.05.11)*

Oracle India Riding High

Operating in India for more than 20 years, first through a distributorship and thereafter through its own subsidiary since 1993, Oracle has emerged as a major partner for e-governance initiatives of Central and state government bodies in India.

It has grabbed new customers across the government and private sector and the customer tally now stands at 7,000-plus. Oracle has seven development and solution centres in India. This includes an e-governance centre, a retail centre of excellence, as well as three global development centres at Bangalore, Hyderabad and Noida that focus on developing next-gen Oracle products.

(FE, 09.05.11)

Passport at Doorsteps in 3 days

The government is all set to issue regular passports in three days and *tatkal* ones the same day. Sources opined that 77 such centres will come up across the country by the end of 2011. These centres will ensure issuance of tatkal passports to applicants within hours.

The Passport Seva Project aims to issue passports in three days as against the current 45 days. Based on a public-private partnership model, it aims to provide passport-related services to citizens in a speedy, convenient and transparent manner.

In the new system, soon after the application is submitted, the verification list will be forwarded to the district police chief. The same day, it will be segregated station wise and forwarded to the respective police stations.

(ToI, 27.05.11)

Civil Society to Fight Corruption

The Comptroller and Auditor General of India (CAG), Vinod Rai, urged civil society to take onto itself the responsibility of cleansing the quality of governance in the country. Asserting that the country must debunk the oft repeated phenomenon of a 'silent majority', Rai said that it is this majority which will have to take courage and challenge the wrongdoers in the government.

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The CAG advocated a major paradigm shift in which the responsibility of the government must be that of enacting law. The citizens, civil society groups, opinion leaders and media must ensure the enforcement of these legislations. *(BL, 08.04.11)*

Undue Benefits to RIL

In a blow to Mukesh Ambani and Manmohan Singh the CAG indicted the Petroleum and Natural Gas Ministry for allowing "irregularities and bending rules" to "oblige" RIL in the Krishna Godavari basin gas fields, leading to a massive and as yet "unquantifiable" loss to the national exchequer.

The CAG exposes the "close nexus" between RIL and the "bureaucrats" working in the Petroleum Ministry as well as its Directorate General of Hydrocarbons. This allowed Reliance to retain its entire offshore acreage, rather than surrendering those areas where it had not found oil or gas so that the government could invite fresh bids from other companies. The unvalidated cost inflation also allowed RIL to get away with paying less royalty to the government. *(TH, 14.06.11)*

Sewage Network Faulty

The sewage network in the Bangalore Metropolitan Region has come in for criticism from the CAG of India. It said Bangalore generated 1,000 million litres per day (MLD) of waste water from 800 sq km area in the city and the existing sewage network covered only 317 sq km.

The CAG findings also revealed that the performance of the 17 sewage treatment plants also fell short of its total capacity. The Bangalore Water Supply and Sewerage Board said the present sewage system was laid 30 years ago and not functioning properly owing to silt accumulation or choking up of intermediate sewer stretches and crown corrosion. *(BL, 13.04.11)*

RTI Act Over Court Rules

The Central Information Commission (CIC) ruled that in a conflict between the Right to Information (RTI) Act and the internal rules of a Public Authority, the RTI Act must prevail. It would prevail even if the internal rules pertain to the Supreme Court. CIC Shailesh Gandhi passed this order in a case, in which information on certain judicial records was sought from the Supreme Court under the RTI Act.

He held that the Supreme Court could not cite internal rules to deny information if it had been sought under the RTI Act. Further, that information could be denied only if the information sought was prohibited under the RTI Act itself. *(TH, 13.05.11)*

Tatkal Service for Ad Complains

Advertisers can now rest assured that complaints made to the Advertising Standards Council of India will not take ages to get resolved. The advertising body is putting in place a fast-track mechanism to resolve disputes between advertisers. The process, will help resolve the disputes in 10 days from the current 45.

The *tatkal* (fast-track) system, among other things, will stress on a face-to-face meeting between the complainant and the advertiser against whom the complaint has been made. This will help speed the process. Besides serving as a quicker mode of resolution of disputes, the system is also likely to save advertisers the trouble of moving courts in pursuit of speedy redressal. *(BS, 16.05.11)*

Skill Enhancing Mission

The government launched the National Rural Livelihoods Mission (NRLM) to enhance the skill of rural manual workers. The mission would allow the self-help groups (SHGs) to access the training and subsidised bank loans for consolidating business activities. Through NRLM, the government intends to extend a subsidised loans of more than ₹9,000 crore to SHGs.

The support of the Rural Development Ministry for NRLM is part of the government's plan to push an estimated 7 crore BPL families above the poverty line by scaling up an existing scheme called *Swaranjayanti Gram Swarozgar Yojana* on a 'mission mode' basis by imparting technical skills to rural people. *(FE, 01.06.11)*

Rural Starvation ₹15 Per Day

An urban Indian spending a penny more than ₹578 a month roughly ₹20 a day on all his basic needs cannot be termed poor and would not receive social benefits and subsidies given by the Centre to BPL citizens. The government's eligibility criterion for the rural poor is even more stringent. If a villager spends more than ₹15 a day he is not poor.

Critics have called it the starvation line a spending level below which people would be rendered destitute. Based on these consumption levels, the commission has declared that only 41.8 percent of the rural population is poor and a mere 25.7 percent of the urban Indians need food, shelter and social benefits from the government. *(ToI, 11.05.11)*

Hike in Daily Wages

Unskilled workers will soon be legally entitled to a minimum daily wage of ₹115 with states agreeing to endorse the Centre's proposal to make the National Floor Level Minimum Wage statutory. The move will potentially benefit 360 million workers across the country, most of whom are engaged in agriculture and related activities. It will also make the wages consistent with those paid under the government's flagship rural jobs scheme, the MNREGA.

States such as Maharashtra, Andhra Pradesh, Orissa, Manipur are among the worst performers. Once statutory, the national floor level shall become binding on all states and they will have to ensure that unskilled workers are paid the minimum wages fixed by the Centre. *(ET, 28.05.11)*

Expert Voice

A Roadmap for Reforms

Prime Minister Manmohan Singh laid down the United Progressive Alliance government's roadmap for financial sector reforms and infrastructure development and assured corporate honchos of a transparent and corruption-free environment to tackle the challenges facing the economy with confidence and without any fear or apprehensions.

www.media.economist.com

Singh listed the steps taken relating to enunciation of public procurement standards, formulation of a public procurement policy, review and abolition of discretionary powers enjoyed by ministers, and introduction of an open and competitive system for the use of natural resources.

The PM's candid statement was evidently in response to an 'Open letter' to political leaders by leading corporates, in which they expressed serious concern over a series of scams leading to "governance deficit." *(TH, 02.04.11)*

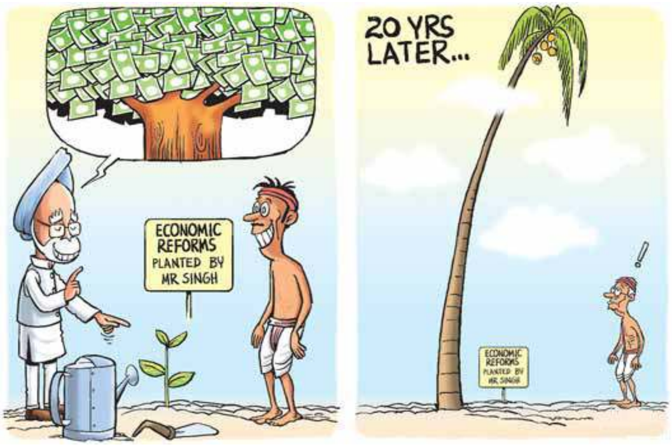
Swift Action for Corruption

While acknowledging that the prevailing state of affairs will not be tolerated by the people, Singh pledged swift and exemplary action to deal with corruption, and unveiled a number of steps. He said the government hoped to introduce during the monsoon session of Parliament the Lokpal Bill, on which a committee of Ministers and representatives of civil society was working.

Unveiling a multi-pronged approach, the Prime Minister said the aim was to strengthen the legislative framework, revamp administrative practices and procedures and fast-track a systemic response to fight the scourge. Observing that two Bills on judicial accountability and protection of whistle-blowers had already been introduced in Parliament, Singh said the government would soon ratify the UN Convention on Corruption. *(TH, 21.04.11)*

The Great Letdown

– Shekhar Gupta*



Manjul Cartoons

UPA 2 got a mandate from an aspirational, impatient India. How its lack of conviction is frittering this away

There are parallels in the mandates that Rajiv Gandhi's Congress won in December 1984, and Sonia Gandhi's UPA in May 2009. In both cases an aspirational electorate brought back an incumbent to power on a promise of optimistic change.

Rajiv Gandhi was undone by his party's old guard, who he had taken on frontally a bit too early in the day. He had not yet prepared his party, or public opinion, for the break from the past that he articulated so bravely in his speech at the Bombay AICC session (in 1985). The move downhill began just as his government entered its third year, and gathered momentum on way to the 1989 elections.

UPA 2 began its decline even before it was two. For one, it had brought along its Bofors from UPA 1, the telecom scam. But to call the telecom scam primarily responsible for UPA 2's predicament would be to oversimplify the case.

Rajiv Gandhi's politics started going downhill with his pandering to the Muslim Right on the Shah Bano judgment that alienated moderate Muslims within his own party, liberals among his voters, and gave the Hindu Right a cause. From then to Bofors, and the *shilanyas* at Ayodhya to please the devout Hindus instead, it was one long series of political blunders with no redemption or recovery. UPA 2's blunders are of a different nature, and a direct result of fundamentally flawed politics.

This government was voted back to power by a resurgent India making a bold and widely hailed move from the politics of grievance to the politics of aspiration. But it forgot all about that aspirational young India and slipped back into its own, old, povertarian, everything-is-wrong-where-are-we-headed discourse. Not a step was taken on economic reforms. The return of this depredatory governance fed directly into the alienation sparked by the government's inability to take the telecom scam head-on. The others that followed Commonwealth Games and Adarsh, only fed that rising anger.

In 2009, the UPA won almost every single city in a rapidly urbanising India. Yet, rather than reform urban governance, it sat silently as one urban agency after the other became more corrupt, more whimsical and more cruelly authoritarian, and most in cities under its own governments. An aspirational society is an impatient society. Even more so when it is so young, and getting younger.

Nobody in the Congress or the UPA has been talking to this India, whether in cities or villages. This has been the quietest, the shyest government in India's history, and nobody can govern this country from the trenches. Because in a democracy, politicians must speak with people, to sell their ideas, plans, explain their mistakes, promise redress, and so on. But here, Sonia and Rahul rarely, if ever, speak in public. They almost never speak to the media or make an intervention in Parliament and rarer still on behalf of the government. The party behaves as if this government has been outsourced to bureaucrats. The prime minister too speaks rarely.

In the name of civil society, the National Advisory Council was not only given the powers to draft legislation but also to attack the government and its policies relentlessly. That is why the Congress now sounds so hollow when it questions the demand that "civil society" draft the new Lokpal legislation. If Sonia's civil society can do it, why not Anna's? And please stop giving us sanctimonious lectures on Parliament's sovereignty over law-making.

If Sonia, Manmohan Singh and, most importantly, Rahul still want to reverse the slide, and not write off 2014 as well, they will have to totally reboot their politics. And remember not to repeat the mistakes Rajiv made in his government's second half, though the spectacle the Congress created at the PAC, unfortunately, reminded you so much of Shankaranand's shameful JPC on Bofors.

* *Editor-in-chief, The Indian Express. Abridged from an article that appeared in* The Financial Express*, on May 05, 2011.*

IN FEATURE

The Trials of Tribunals

– M J Antony*

The nation has seen candle light vigils demanding tough laws with more teeth to prevent economic corruption. Parliament has created several tribunals to ease pressure on overcrowded courts. However, there is hardly any such quasi-judicial body that has not descended into legal quicksand immediately after its birth. Administrative tribunals, company law tribunals, the Competition Commission have all been enmeshed in constitutional challenges, delaying their establishment for years.

Even after carrying out amendments suggested by the Supreme Court to cure the blemishes in the laws, the tribulations of the tribunals do not end. Appointments of presidents and members are entangled in multi-level politics leading to a second or third round of litigation. Starving the tribunals of basic infrastructure facilities is equally serious.

Passing legislation is easy. The challenge is to make them work

The latest example pending before the Supreme Court is the state of affairs in debt recovery tribunals (DRTs). These bodies were set up to tackle soaring non-performing assets. But the machinery to do the job is severely handicapped by sloth and apathy. Several bar associations have moved petitions before high courts and even gone on strike to highlight the plight of the DRTs.

Instead of complying with the directions, the Central government approached the Supreme Court in one case, *Union of India vs DRT Bar Association*. This appeal against the orders of the Punjab and Haryana High Court was pending before the Supreme Court since 2010.

One of the grim revelations during the proceedings was that officers of lending institutions are appointed as members of the tribunals. Recovery officers of banks, oil companies and even Defence Ministry officers have been deputed to the tribunal. The facilities in these tribunals are another story. In one tribunal, the court was told that there was no stenographer to take dictation. The judges remarked, “Perhaps there was no paper either.”

In early 2011, the Karnataka High Court expressed its displeasure over the delay in appointing a presiding officer there. A presiding officer from Chennai was visiting DRT in Bangalore for two days a week, after the previous officer was suspended. The court asked the government to appoint a full-time officer. When the government lawyer said that an advertisement had been placed, the judges wryly remarked that it would take 60 days to get a reply, 100 days to scrutinise it and 200 days more to appoint the officer. Definitely, the government owes the tribunals a better deal.

* *Columnist,* Business Standard. *Abridged from an article that appeared in* the Business Standard, *on April 13, 2011.*

NEWS BRIEFS

Regulating the Housing Sector

A law to regulate the housing sector in the country is being formulated. The regulator will make certain that all the developers and real estate companies are registered with a government body. It will also ask the companies to publish all the details regarding project clearances from municipal bodies before taking bookings from the customers. The government aims to create a regulator who will ensure transparency in the business practices of realty companies. *(BL, 12.05.11)*

New Land Acquisition Bill

The Centre is preparing an amended Land Acquisition Bill to be introduced in the Parliament. Though the government did pass the bill during the final phase of the 14^{th} Lok Sabha, in February, 2009, it could not be passed in the upper house and lapsed upon dissolution of the Lower House. The new law will not only provide better compensation but also look into rehabilitation and related issues. The Minister did not rule out the option of enacting a Ordinance on this issue. *(ET,13.05.11)*

Labour Law Reforms on Cards

The UPA government has finally put reforms of India's obsolete labour laws on its policy agenda. All 43 central labour laws are now under the scrutiny of a working group on labour laws and regulations chaired by Union Labour Secretary Prabhat Chaturvedi. The group will consider which of these laws must be repealed altogether or changed to keep pace with India's new industrial realities. New strategies for better implementation and enforcement of labour laws would also be considered. *(ET, 31.05.11)*

Anti-graft Law for Foreign Nationals

India is looking to enact a new anti-graft law focused on foreign nationals. If legislated, foreign nationals indulging in any bribery for business contracts in India could be prosecuted and face punishment of up to seven years here. The proposed law is a consequence of the ratification of the UN Convention against corruption. The existing anti-graft laws, especially the Prevention of Corruption Act and Prevention of Money Laundering Act, do not specifically cover foreign nationals. *(BL, 13.06.11)*

Guidelines for Clinical Trials

The Drug Controller General of India has made it mandatory for pharma companies and clinical research organisation in the country to submit information on serious adverse reactions during clinical trials within 14 days of occurrence in a standardised format.

The drug controller has asked the drug firms to clearly mention whether a specific adverse effect is related to the clinical trials, whether it has resulted in fatality of the volunteer and whether compensation for the injury or death has been provided. It is also now compulsory for these firms to keep the informed consent of the human volunteer in a written format.

(FE, 14.05.11)

Drugs under Price Control

The government plans to bring medicines made from 289 essential bulk drugs, constituting nearly a third of the country's ₹58,000-crore drug market under price control. At present, about 1,500 medicines that use 74 bulk drugs are sold at prices fixed by the government.

In 2003, the Supreme Court (SC) had directed the government to increase the number of bulk drugs under its control. Subsequently, the government had set up a panel of experts to draw up a revised list of National List of Essential Medicines to decide which drugs to bring under price control.

The government announced a revised list of 348 essential bulk drugs and 654 medicines made by using these drugs. The revised list added 43 new drugs, including cancer and chronic drugs, while leaving out 47 drugs from the old list of 354 essential bulk drugs prepared in 2003.

(ET, 30.06.11)

Is the Drug Fake?

As domestic drug makers grapple with fakes of their generic exports spoiling their global gameplan, US company Sproxil has landed with a mobile-based solution. Sproxil Inc's CEO, Ashifi Gogo, said their mobile product authentication software was meant for pharma companies. Users of the drug texted the unique code number on the packet to the manufacturer as a free SMS and got a reply with an 'OK' assurance.

The service was launched in Africa in 2010. It had since sold millions of anti-counterfeit labels for a dozen MNC products that include GSK's antibiotic; Merck's anti-diabetic and Johnson & Johnson's anti-fungal.

(BL, 21.06.11)

Generic Medicines in Demand

Health authorities in Andhra Pradesh have asked government doctors in the State to prescribe only generic drugs and avoid the practice of writing brand names in the prescription. The move is aimed at helping patients avail themselves of free drugs for a wide range of ailments in government hospitals.

It is also expected to bring down, for the government, the cost of procuring the drugs. Prescribing branded drugs is a common practice among doctors in government hospitals in the State. However, as these are usually not available in the free drug stores in government hospitals, patients are forced to pay large sums of money to procure the prescribed drug from private drug stores.

(TH, 06.06.11)

Banned Drugs on Sale

The Drugs Controller General of India said several prohibited drugs were found to be on sale when it conducted raids at different places, including hospitals in Delhi and Bhiwadi in Rajasthan. The raid covered 134 drugs sales outlets, of which 85 were found to be selling banned drugs.

Among the banned drugs found were Rosiglitazone, Gatifloxacin and Tegaserod and their formulations. These drugs were prohibited by the government under the Drugs and Cosmetics Act, 1940, in public interest, as their continued use was likely to involve certain risks to the consumers.

(TH, 18.06.11)

Free Medicines Soon

In an effort to ensure availability of free medicines at government hospitals, the Medical and Health Department will issue tenders to purchase the medicines soon. Free medicines would be made available at government hospitals associated with medical colleges, district hospitals, satellite hospitals, community health centres, primary health centres and at sub centres.

Also, the department is developing software which would connect all the stores of medicines at state and district level via online, for which it will install computers at stores and distribution centres. The department is not leaving any stone unturned to properly implement the project in the state.

(ToI, 13.06.11)

Health Research Policy Finalised

The Economic Times

To overcome the weaknesses of the publicly funded health structures that restricted research in priority health areas, the Union Health and Family Planning Ministry has finalised the National Health Research Policy.

The policy is aimed at ensuring that the results of health research are translated into action. It will foster inter-sectoral coordination in health research including all departments within the government, private sector and the academia to promote innovation and ensure effective translation to encourage indigenous production of diagnostics, vaccine, therapeutics and medical devices.

The policy envisages creation of an overarching National Health Research Management Forum having representation from all stakeholders and will function from the Department of Health Research that has drafted the new proposed policy.

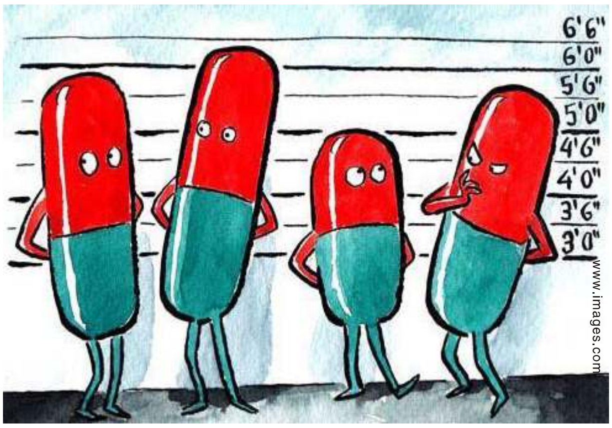
(TH, 04.04.11)

The Push and Pull in Generic Drugs

– Biswajit Dhar*

On the one hand is the crucial process of drug discovery; on the other, the need to make medicines affordable

Once again, the US' annual assessment of how effective the intellectual property laws of its trading partners are has stirred the debate over the propriety of the exercise. That the US, itself a member of several international treaties on intellectual property rights, should examine and demand revisions in the laws of other countries, as mandated by Special 301 section of its Trade Act of 1988, obviously raises the hackles of the latter.



Each of these countries has intellectual property laws that are consistent with current international treaties, and whose implementation is monitored by two multilateral institutions – the World Intellectual Property Organisation and the World Trade Organisation.

In the two decades or more since this practice started, India and China have consistently found themselves in the "Priority Watch List", which includes countries whose intellectual property laws, according to the US, are the most "ineffective". While China has often been "named" for not making its Copyright Act more effective, India has been repeatedly named for not providing stronger patent protection.

In naming India, the US has raised concerns regarding provisions in the country's patent law, which prohibit grant of patents on pharmaceutical products that constitute only minor improvements on existing variants.

The US' contention, reflected in its Trade Representative's report, is that by denying patent protection to these products, India is not "providing incentives to potentially beneficial innovations, such as temperature-stable forms of a drug or new means of drug delivery".

There is thus a difficult choice to be made on the one hand is the larger social good, to be achieved by creating conditions that would help make medicines more affordable; on the other are private incentives for the pharmaceutical firms that can provide innovative products.

Thomas Pogge and Aidan Hollis of Yale University have provided a possible solution a Health Impact Fund (HIF) to be created through contributions made by countries. The money from the fund will be used to make a stream of payments to pharmaceutical firms based on the efficacy of their products to reduce the disease burden. In return, the firms would agree to sell their products at an administered price near the average cost of production and distribution.

From a broader perspective, there is certainly a case for greater corporate social responsibility in a sector like pharmaceuticals, particularly at a time when a large number of people across the world find modern medicines beyond their means. However, the global pharmaceutical industry has thrown up cases over the years where dominant firms have sought to retain their monopoly control over the market even after patents have lapsed.

For a number of years, the US Federal Trade Commission (FTC) has been trying to remedy a situation where manufacturers of branded pharmaceutical products have restricted the entry of generic producers to the market even after patents on the former's products have expired. FTC has been especially gunning cases of collusive arrangements between the big brands and their potential generic rivals, in which the latter agree to defer the introduction of lower-cost medicines to the consumers.

When it comes to giving the underprivileged the access to affordable medicines, social concerns and private incentives seem to face an irreconcilable frontier. A more intensive public engagement among all the stakeholders could provide the way through.

* *Director General, Research and Information System for Developing Countries, New Delhi. Abridged from an article that appeared in* The Mint*, on May 10, 2011.*

Inflation to Settle Down to 6%

Prime Minister's economic panel said that average inflation this fiscal may ease to six from about nine percent at present. Wholesale price inflation in March rose to 8.98 percent, higher than Reserve Bank's projection.

"I think the inflation will come down in April. What happened in March was quite unexpected... but the food price inflation is coming down. The wheat production is very good. Therefore, I expect the food prices to come down further in April and that should help in the overall headline inflation coming down," Rangarajan said.

On the impact of rising crude oil prices on inflation, he said, that has been shielded so far as retail prices have not been adjusted to international crude prices, particularly with respect to diesel. *(ET, 20.04.11)*

National Policy for River Water

Magsaysay award-winning water conservationist Rajendra Singh, said that the Ministry of Environment & Forests (MoEF) had become 'pollutant protection ministry'. "The work of the MoEF should be the protection and conservation of forests and the environment. Instead, it has become pollutant protection ministry. There is continuous corruption and violence against our rivers. To stop it, we need a policy that will protect the river flood plane and river land. We also need to establish the principles of river and sewer separation," he said.

"Clearly, the present programmes such as the National River Conservation Plan and the Ganga Action Plan are short-sighted and inadequate. We urgently need a national river policy drafted on the basis of the 'common and equal right to river water' principle. We have already submitted a draft policy to the MoEF and the Ministry of Water Resources. Both the ministers have assured us of positive action," Singh said. *(TH, 30.05.11)*

Infra, Governance Key to Growth

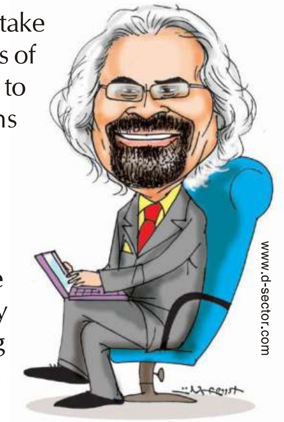
The Finance Ministry's Chief Economic Adviser, Kaushik Basu, says India may achieve double-digit economic growth after five-six years, if some reforms are set in motion. India, he said, had the ability to grow by 10 percent yearly.

"It is not impossible if over the next five or six years we can boost our infrastructure and improve governance. Fortunately, today, both of these seem within the realm of the possible," he said.

Given that the world is just coming out of a once-in-50-years kind of economic downturn, if India can sustain growth at above nine over the next few years, this will be an outstanding performance by any standard," he said. *(BS, 25.04.11)*

Innovation Key to Solve Problems

India needs to channel the power of innovation to solve the problems of millions of its poor and offer them solutions that are sustainable and affordable, technology guru Sam Pitroda says. Often referred to as the man responsible for India's communication revolution, the policymaker says that the Indian government was looking to take the benefits of innovation to all sections of society.



"The world over the best brains have been busy in solving problems of the rich who really don't have problems to solve so the poor's problems don't get the right kind of talent," said Pitroda. "I want to focus on the bottom of the pyramid, i.e. to help poor people for sustainability, affordability and scalability," he said. *(ET, 02.05.11)*

Virtual Varsity for Tech Education

The Centre is planning to establish a virtual university that will impart training on diverse technical areas to the undergraduate and postgraduate students as well as the newly recruited teachers through flexible, credit-based correspondence courses.

The proposed Virtual Technical University (VTU) will offer programmes in the fields of science, technology, management, architecture, pharmacy and other areas of applied knowledge. The university will use video courses, web-based learning material and live lectures using satellite and internet-based technologies.

The VTU will have a repository of video courses created by experts in the field, a website that will host learning material while live lectures will be delivered using satellite and Internet technologies.

It was envisaged that VTU shall have at least 300 courses for the school of engineering sciences and engage a large pool of talented faculty from IITs, NITs, IISc and other institutions and retired faculty. *(FE, 16.05.11)*

10 States Notified RTE Rules

One year after the Right to Education (RTE) Act came into effect; only 10 States have notified the rules till now. These are Andhra Pradesh, Arunachal Pradesh, Himachal Pradesh, Manipur, Orissa, Sikkim, Chhattisgarh, Madhya Pradesh, Rajasthan and Mizoram.

Civil society groups in the field of education, such as the RTE Forum, however, expressed dismay at the progress of the RTE Act and blamed lack of political will and coordination among states and the Centre, coupled with the issues like shortage of schools and teachers, as the reasons for poor implementation.

While the Centre and States are yet to reach a consensus on funding, activists say the availability of teachers is what holds the key to the Act's success in the long run. There is still a massive shortfall of about 14 lakh teachers. Only 2.74 classrooms have been provided till now against 14.25 lakh planned within three years. *(BL, 01.04.11)*

Fare Hike Sparks Heat

The probe by Competition Commission of India (CCI) into the spike in air fares during the Air India strike is turning into a controversy as the move was undertaken following a reference made by the Corporate Affairs Ministry in public interest.

A section of the airline industry is questioning the governments move to refer the case to the CCI, the free-market regulator, under Section 19, along with Section 55 of the Competition Act. The airlines may question the use of the provisions that have been used as Section 55, they said, limits the governments mandate to references related to policy matters alone.

Under Section 19, CCI can probe agreements and use of dominant market position either *suo motu* or on receipt of information from any person or the government. *(ToI, 12.05.11)*

Big M&As Need CCI Nod

All high-value merger and acquisitions (M&As) with combined turnover of ₹4,500 crore or more will require approval of CCI from June 01, 2011 with an object to safeguard interests of consumers and promote industrial growth.

Under the regulations, if the joint asset and turnover of the merging entities exceed ₹1,500 crore and ₹4,500 crore respectively, the companies will have to seek approval of the CCI. In case the asset and turnover of the target company exceed ₹250 crore and ₹750 crore respectively, the merger would come under the purview of CCI.

The regulations follow the notification of Section 5 and 6 of the Competition Commission Act, 2002, dealing with mergers and acquisition (M&A) in March 2011 by the government.

(http://www.thestatesman.net, 11.05.11)

NSE Guilty of Violation

The CCI has issued a show-cause notice to the NSE asking why a penalty should not be imposed for its unfair trade practices in connection with currency derivatives trading. The Commission found NSE guilty of violating Section 4 of the Competition Act, which is abuse of dominant position.

The CCI sent the show-cause notice to NSE before deciding on the quantum of fine to be slapped on it. Under the law, companies can be fined up to 10 percent of their three-year average profit.

The report said that NSE used its dominant position and original monopoly in equity, Future and Options and Wholesale Debt Market to protect its position in the currency derivative market. *(BL, 13.05.11)*

CCI to Adopt Takeover Code

Taking note of the conflict between the Competition Act and SEBI Takeover Code; the Capital markets watchdog SEBI has sought alignment. SEBI has reportedly written to both the Ministry of Corporate Affairs and the CCI to address the issues and prevent confusion in stakeholders. For instance, SEBI takeover norms for listed companies make it mandatory for an acquirer, who has trigged an open offer under SEBI Rules, to inform the regulator within four days.

On the other hand, under the Act, the acquirer has up to 30 days to inform CCI about the details of the proposed acquisition. SEBI is hopeful of suitable changes taking place in the merger regulations before they come in to effect. *(ET, 26.04.11)*

Apple under CCI Scanner

The CCI found a defaulter in Apple, the manufacturer of the iPad and the iPhone. Apple's sales practices are being questioned by the committee, and Apple has been reprimanded for practicing unfair competition in the Indian market.

According to the report prepared by the committee, Apple's movements in a market, as competitive as India are seemingly unfair, in the sense that, its products are being made available only through a few, handpicked service providers, in addition to their own signature stores. Apple now has been booked by the CCI under Section 4 of the Competition Act 2002.

(www.tech2.in.com, 21.06.11)

End to Multiplex Saga

The CCI passed an order, drawing to close the Multiplex saga which had plagued the production & distribution sector of the film industry. The film fraternity acknowledges, the crucial role played by CCI, on the resolution of this important issue concerning the entertainment industry.

This dispute was essentially in the nature of a difference of opinion within the industry family comprising of producers, distributors and multiplexes, which required the timely intervention of a third party arbitrator in bringing together the differing factions of the family.

All the concerned stakeholders of the film industry are of the view that this significant verdict will now hopefully lay the foundation to build the momentum for all core sectors to operate in harmony and solace for the years to come.

(www.bollywoodtrade.com, 31.05.11)

DTH Not Indulged in UTPs

In a breather to warring DTH operators like Tata Sky, Reliance Big TV, ZEE's DishTV and Bharti's Airtel, the CCI has said they have not indulged in unfair trade practices by denying nearly 20 millions users an option to change operator.

CCI closed the case against DTH operators, ruling that they have not violated sections 3 and 4 of the Competition Act 2002, which pertain to abuse of dominant market position and anti-competitive agreement, respectively.

In 2009, a consumer organisation had filed a complaint with the CCI alleging that DTH operators were limiting competition by not offering interoperability of their set-top boxes. *(Mint, 05.04.11)*

Merging Business with Competition Law

– Satvik Varma*

The Competition Commission of India (CCI) finally notified the regulations… due to come into force on June 01, 2011, regulate all acquisition of shares, voting rights, control, merger and amalgamation (collectively Combinations), which cause or are likely to cause an appreciable adverse effect on competition in India (AAEC).

As the preamble to the Act states, the role of CCI is to "promote and sustain competition in markets" and "to ensure freedom of trade carried on by other participants in markets, in India"

To evaluate the AAEC, monetary thresholds have been prescribed by the Competition Act, 2002 (Act). Hence, starting June, all Combinations that create assets of ₹1,500 crore or turnover of ₹4,500 crore will require approval of CCI and such obligation vests pre-dominantly on the acquirer but in cases of mergers and amalgamations, jointly on the parties. Approval is also required where the assets of a group, consisting of two or more enterprises which exercise 26 percent or more of the voting rights or have the ability to appoint more than 50 percent of the directors of the other enterprise, exceeds ₹6,000 crore or the turnover exceeds ₹18,000 crore post the acquisition.

Notably, the merger regulations only cover the acquisition of an enterprise and, strictly speaking, do not cover joint ventures since enterprise has been defined under the Act as being "engaged in any activity". A newly created joint venture is also not going to meet the monetary thresholds but matters would be different where an existing venture or a going concern is being acquired. A clarification from CCI on this matter would be both helpful and is prudent.

Additionally, the Act provides CCI the power to inquire into Combinations that take place outside India if they have or are likely to have an AAEC or cross the prescribed monetary thresholds. However, the merger regulations exempt acquisitions that take place entirely outside India with 'insignificant' nexus and effects on markets in India.

Remarkably, the merger regulations are a vast improvement from the draft regulations issued earlier this year. But some issues continuously raised during the consultative process still seem to be missing. And while CCI's intention to minimise impediments to business can't be questioned, one wonders why the merger regulations contain no provision for pre-merger consultations for which the industry chambers were pleading. Such a provision would undoubtedly have helped during the nascent stages of implementation of these regulations.

Another area of concern is the time it can take to obtain approval of CCI. The merger regulations prescribe that CCI shall form its *prima facie* opinion within a period of 30 days from receipt of notice seeking its approval. However, where CCI feels that it requires additional time for forming its *prima facie* opinion, it can direct the parties to furnish additional information or make suitable amendments to its proposed Combination. The time taken to furnish such additional information gets excluded from the overall time of 210 days the Act prescribes. But where CCI is of the prima facie opinion that a Combination will have an AAEC, it can direct the parties to publish details of their proposed Combination, with the view to bringing the proposed Combination to the knowledge or information of the public or any person affected or likely to be affected by such Combination. Hence, under all circumstances, CCI will be well advised to use its discretionary powers judiciously and with the sole objective of promoting economic democracy.

In the final analysis, the time has come to put behind all the controversies that have followed the introduction of competition legislation in India. One needs to accept that any new legislation or regulations are bound to encounter initial hiccups. One hopes that in its implementation of the merger regulations, CCI does not adopt a 'protecting the turf approach' but instead continues to promote market efficiency and consumer welfare by judiciously merging commercial considerations with the ethos of competition law.

* *Founder of Independent Law Chambers, Advocates & Corporate Counsel, New Delhi. Abridged from an article that appeared in the* Financial Express *on May 24, 2011.*

Political Economy of Future Reform

– Swaminathan S Anklesaria Aiyar*

Economic reform can be trusted to move in the right direction but at a slow pace and in fits and starts

Many foreign observers ask, why is the pace of economic reform in India so slow and halting? One answer is that having achieved miracle GDP growth of 8.5 percent, politicians have little incentive to reduce corruption, misgovernance or unwarranted economic controls. If it ain't broke, why fix it?

Politicians may in tough times opt for reforms as a way out of a mess. But in an economic boom they focus on using the revenue boom to shower handouts on votebanks – employment programmes, subsidised grain, free electricity and canal water for farmers and so on. Such handouts fritter away funds that could better be deployed in building infrastructure, improving governance and social services.

Besides, coalition politics hampers radical change. In 2004-09, the UPA survived only with outside support from the Left Front. Several reformist bills were introduced by UPA-I but the Left blocked these bills. It vetoed legislation to end the public sector monopoly on coal mining. And, of course, it demanded and got a huge increase in social and rural spending programmes. Of these, the most useful was *Bharat Nirman.*

The 2009 election brought the UPA coalition back to power, slightly short of a majority. It formed a government with the support of minor parties, and no longer needed the left. Yet expectations that UPA-II would surge forward with reforms proved ill-founded.

Actually, it remains unproven whether the credit goes to rapid growth or increased welfare spending. The labour component of the employment guarantee scheme comes to just 0.3 percent of GDP, and work under this scheme accounts for only one percent of total rural person-days of work

UPA-II lacks a majority in the Rajya Sabha. It can try to buy off regional parties to get their votes for controversial bills, but such support would be unpredictable and unreliable. Finance minister Pranab Mukherjee says most legislation can go forward only with a multi-party consensus.

BJP support is essential for the biggest reform bill of all – a Constitutional Amendment to abolish the current mélange of taxes levied by the central and state governments, replacing it by a goods and services tax. This bill could truly modernise Indian tax administration. But the BJP has recently raised fresh objections that look political rather than technical. Thus, politics complicates economic reform.

The Congress has been rewarded for its patience. The BJP supported a long-pending Pensions Bill which will, among other things, allow private players into pension funds, which in turn will be allowed to invest in equities. In return, the Congress put off a bill creating an Academy of Scientific and Innovative Research, which the BJP objects to. This cooperation between political foes reflects the institutional strength of democracy in India.

The bottom line is that future reform will be slow, but will still move in the right direction. Corruption has become a big issue, thanks to middle class outrage stoked by the media, and it seems all parties may agree to legislation that limits the scope for ministerial discretion in awarding government contracts or selling government property. This will be very positive for economic reform.

Nobody should think that lack of a parliamentary majority, notably in the Rajya Sabha, is the only reason for slow reform. No new legislation is required to decontrol oil prices, fertiliser prices, end free power and water for farmers, or to discipline teachers and health workers who are notorious for absenteeism. No legislation is required to allow foreign direct investment in retailing, or to liberalise rigid labour laws that inhibit the growth of labour-intensive industries.

Yet UPA-II has shown no inclination to move forward on any of these issues. It is a populist first and reformer only second. This, combined with its lack of a majority in the Raja Sabha, means that future reform will typically be hesitant, episodic, and often half-hearted. It will justify this on the ground that policies that have already achieved 8.5 percent GDP growth cannot require urgent or major change.

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* *Consulting Editor, Economic Times. Abridged from an article that appeared in* The Economic Times, *on April 13, 2011.*

A Milestone Reached, An Agenda Unfinished

– Hari Shankar Singhania*

We are presently celebrating 20 years of economic reforms. It is time for us to review how far we have progressed and the way forward. After two decades of gradual but slow economic reforms, the Indian economy has come a long way, and is now destined to be the world's third largest economy in the next two decades.

After 20 years of reform, areas that still need attention are infrastructure, labour reforms, land acquisition, environment clearances, an integrated domestic market and a second green revolution

To begin with, "reforms" started unshackling the Indian economy from excessive controls – the 'licensing raj'. This was followed by gradual introduction of liberal policies towards integrating our economy with the global economy. At this stage, we can rightfully claim satisfaction for our achievements, but should accept the fact that a lot still needs to be done in taking India to the forefront.

Soon after the reforms were introduced, a number of top Indian industrialists got together in 1993 to apply their minds to think of steps that were still necessary to bring more meaning to the reform process, and to accelerate its pace. They whole-heartedly "welcomed" the initiative taken and stressed that this was necessary to "secure faster growth which alone will generate employment, increase exports and give substance to social objectives" as well as "integrate the Indian economy with the global".

After detailed deliberations a note was prepared, which was presented to the then Finance Minister, Dr Manmohan Singh. The note, while welcoming competition in the domestic market and liberalisation of foreign direct investment, urged the government to strengthen Indian enterprises "to enable them to play their rightful role in the industrial development of the country".

The note also mentioned that "Indian industry needs a conducive environment that allows it to raise resources competitively, and which addresses itself to the issue of stake-holding, so that there is an additional incentive for growth and capital formation". Most of the suggestions were accepted and implemented, albeit slowly.

Indian entrepreneurs have been working relentlessly over the years against all odds towards achieving the aim of making the Indian economy stronger and ushering in a welfare society.

Going ahead, we have to take the reform process forward, faster and boldly. Some areas which still need urgent attention are:

- Rapid improvement in infrastructure – economic and social. Inadequate economic or physical infrastructure such as power, ports, roads, railways, urban development and housing is impeding industrial development and competitiveness. Availability of required energy and coal need special attention. For India to take advantage of its young population, we need to accelerate social infrastructure such as education, healthcare and skill development. All these would require greater public-private partnerships.

- Labour reforms – for achieving higher productivity, commensurate with the needs of adopting modern technology.

- Removing obstacles in the way of rapid growth – such as environment clearance, land acquisition, procedural delays, needs to be given top priority, so as to facilitate higher investments;

- Integrating a fragmented domestic market into a truly common Indian market. For instance, the Goods and Services Tax needs to be immediately implemented.

- A second green revolution has to be brought in on an urgent basis. The government has to put in more resources in the agriculture sector route. This could include, among other things, encouraging supporting activities like research and development for higher farm productivity, better seeds, warehousing, cold chain and retailing.

Corruption is yet another evil, which has come to the fore through recent agitations. I do hope that we can pursue the initiatives taken to minimise, if not fully eradicate, corruption

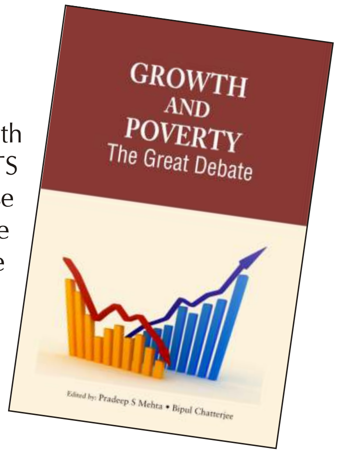
India has a bright future and we will have to have a vision as well as the resolve to move ahead in eradicating poverty and inequality in our society. "Inclusive growth" should be our prime aim. Both the words "growth" and "inclusiveness" have equal importance. I am confident we can do it!

* *President, J K Organisation, New Delhi. Abridged from an article that appeared in the* Business Standard, *on April 14, 2011.*

PUBLICATIONS

Growth and Poverty: The Great Debate

Pradeep S Mehta & Bipul Chatterjee



This volume is a collection of views on the debate on relationship between growth and poverty which happened over an Internet-based platform hosted by CUTS International. Many renowned experts from across the world participated with a diverse set of methodically reasoned opinions. This discussion has helped to bring to the fore certain striking aspects of the growth-poverty relationship in India but some of the issues discussed are equally relevant for the developing world as a whole.

It could be observed that almost all experts accept the overarching importance of growth – the forceful assertion by Professor Jagdish Bhagwati which sparked the debate. It has addressed a contrarian contention that attention on growth promotion policies is not absolutely vital for developing countries with high initial levels of poverty. Such perceptions tend to overlook certain positive aspects of growth.

This volume firmly establishes the importance of growth in social development. Its publication is timely as there is a reactionary murmur about growth in some political quarters in India.

http://cuts-international.org/Book_Growth_and_Poverty.htm

CUTS International, 2011, ₹500/US$25, ISBN: 978-81-8257-149-5

ReguLetter

The April-June 2011 issue of newsletter, ReguLetter encapsulates National Vs Regional Competition Regime in the WAEMU in its cover story. The eight West African Economic and Monetary Union (WAEMU) member states viz., Benin, Burkina Faso, Côte d'Ivoire, Guinea-Bissau, Mali, Niger, Senegal and Togo are characterised by various institutional, economic and region-specific factors that seem to play a significant role in determining the efficiency of their national competition regimes. Most of these countries have struggled to evolve well-functioning competition enforcement agencies and take actions against anti-competitive practices that harm the economy and consumers.

A special article by Jeffrey D Sachs says that corporate crimes are the greatest in rich countries, those with the best rules and regulations. In an interview captured in the newsletter, Frederic Jenny, Judge, French Supreme Court says that policies on industry, trade, competition, investments, and state-owned enterprises are linked, and it is their combination that determines the real level of competition in a country.

This newsletter can be accessed at: http://www.cuts-ccier.org/reguletter.htm

FORTHCOMING PUBLICATION

Unholy Alliances in Healthcare

A number of state governments claim to be providing medicines for free to consumers getting treated in public healthcare institutions. So, why is it that they still have to buy drugs from private sources? CUTS has endeavoured to find answers to this in the project entitled, Collusive Behaviour in Health Delivery in India: Need for Effective Regulation (referred to as COHED). Analysis of information gathered from the states of Assam and Chhattisgarh during the implementation of this project point towards the possibility of collusive practices between various actors in public hospitals/health system aimed at restricting the availability of medicines for consumers.

This report tries to identify feasible solutions and strategies for addressing concerns emanating from collusive practices in healthcare delivery in the two states of Assam and Chhattisgarh – and would form the basis for a extensive (national) advocacy and certain ground actions in them. The ultimate goal is to contribute to the process of evolving consumer-friendly healthcare systems in the country.

SOURCES

BL: The Hindu Business Line; **BS:** Business Standard; **ET:** The Economic Times;
FE: Financial Express; **FT:** Financial Times; **TH:** The Hindu; **ToI:** Times of India

The news/stories in this Newsletter are compressed from several newspapers. The sources given are to be used as a reference for further information and do not indicate the literal transcript of a particular news/story.