PolicyWatch

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

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CUTS International

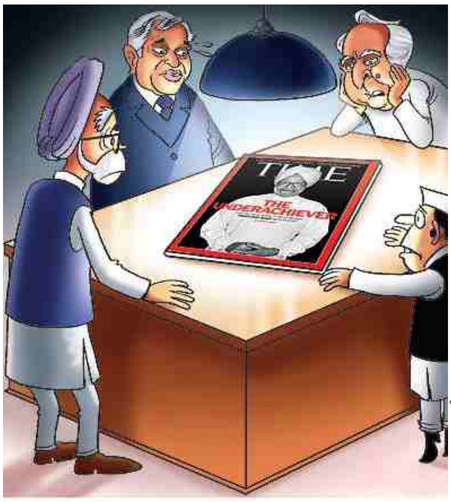
INSIDE THIS ISSUE

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*

Action for India's Renewal

The world is in turmoil and so is India, but for different reasons. The common denominator is that bad governance everywhere is the main reason for the apocalypse. In India, we have an elected government, but rudderless, and an opposition that is suffering from sclerosis. There is severe polity paralysis and policy stasis, sprinkled with a dose of profligacy. While many politicians are busy in making money in partnership with civil servants and businessmen, most of our people are suffering from the adversity. Not all politicians or civil servants or businessmen are crooked, so it would be unfair to use a paintbrush.



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Our growth rates are plunging and it does not need any explanation – much is being said in the media. The outcomes will lead to a big dip in our economy and the poor will suffer the most. Both crony capitalism and political patronage are responsible for the decline. All social welfare schemes such as MGNREGA or the public distribution system are but milch cows for the grassroots polity.

The rot begins from the top, which Rajeev Chandrasekhar, MP and former President, FICCI argued convincingly in an electronic debate run by CUTS FunCompForum. The buck stops at the PM, and he cannot claim innocence. Among other specific laws, the Indian Penal Code, 1860, *inter alia* covers acts of both commission and omission by public servants, which includes ministers. There are just two general exceptions to the code: if a police officer arrests someone in the process of committing a crime without a warrant, or if the person is a child below the age of seven years.

None of the misdemeanours have been committed by seven-year-olds, but by mature people, many of whom have sworn an oath to uphold the Constitution. Alas, some have been arrested but convictions are yet to happen, while most go around without any fear. To deal with corruption, the RTI Act and the Aadhaar scheme are proving helpful. All new initiatives will face hurdles but one need not be sceptic about them.

14 eminent citizens wrote twice to the PM and others in January and October 2011 on the seriousness of the corruption pandemic with suggestions to deal with the issues and restoration of trust. *The Economic Times* carried a month-long debate, Agenda for Renewal, and several eminent people contributed to it. It is time to revisit the debate so that a healthy peaceful campaign can be run in the country, to enable us to get out of this morass and restore trust before it is too late.

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• COMMUNICATION •

Scrap Roaming Charges

The Cabinet approved a new telecom policy that seeks to do away with roaming charges across the country and simplifies the licencing policy, Telecom Minister Kapil Sibal said. He said the new policy aims at free roaming facility throughout the country.

Sibal said the new policy seeks to provide a predictable and stable policy regime for a period of nearly 10 years. The new policy called National Telecom Policy-2012 will replace the more than decade old legislation.

The policy will be operationalised by bringing out detailed guidelines, as may be considered appropriate, from time to time. It will enable smooth implementation of policies for providing an efficient telecommunication infrastructure taking into account the primary objective of maximising public good by empowering the people of India.

(HT, 31.05.12)

Govt Eyes Spectrum of Old Cos.

The government is considering taking back only a part of the spectrum allocated to old telecom players and giving chance to other operators to buy them at the auction. The government has approved the Trai's proposal of reframing, under which old operators namely Bharti Airtel, Vodafone and Idea Cellular, may have to surrender airwaves allocated to them in 900 Mhz band (premium frequency band used for 2G services) on expiry of their licences.

These companies will have the option to repurchase these airwaves through auction proposed in the first half of 2013. Meanwhile, in a move to bring uniformity in the sector, the government has decided to charge eight percent of gross revenue as licence fee from all telecom firms across all categories and services from 2013-14.

(BT, 25.06.12)

Digitalisation of Cable TV

The TRAI is unhappy at the Information and Broadcasting (I&B) Ministry's statement on postponement of digitalisation of cable TV services in metros from July to November 2012. It said these regulations had to come into force before digitalisation of cable services can be achieved.

A senior TRAI official opined that implementation of TRAI regulations had been postponed, the Ministry had unintentionally opened the doors for delay in enforcement of even those regulations which were the basis of digitalisation.

TRAI's clarification pointed to the "contradiction" in the I&B Ministry's statement by saying the implementation of regulations could not be postponed as they had already come into force from the date of publication in the official gazette".

(BS, 22.06.12)

SMS Spam is Back

Unsolicited text messages selling everything from cheap holidays to homes are once again making a mockery of the government's bid to restrict spam on mobile phones. TRAI, in September 2011, allowed cellular operators to charge five paise for every promotional short text message sent on their networks to deter advertisers from defying an earlier ban.

Telemarketing companies that are not registered with the TRAI are using new mobile phone SIM cards and internet portals that offer bulk messaging services to beat curbs imposed by the regulator. Being outside the ambit of TRAI's regulations, these companies are not liable to pay telecom service providers a termination charge for every short text message sent in bulk.

(ET, 07.06.12)

New Telecom Security Policy

India is working on a policy on telecom security that seeks to walk the fine line between an individual's privacy, the needs of law enforcers, and the concerns of telecom equipment makers and service providers.

The first draft of the national telecom security policy says the government will enact laws to enable enforcement and security agencies to get legal access to information on a real-time basis. The government will also provide tools and train the agencies so that they are better able to analyse the data travelling on telecom networks.

At the same time, the systems, processes and regulations should ensure "that privacy of individual is not transgressed without valid reasons provided in the law and development needs of the country are not hampered".

(Mint, 14.05.12)

TRAI Regulates TV Ads Despite Opposition

The country's leading sports and general broadcasters are set to take legal recourse against sector regulator Telecom Regulatory Authority of India's (TRAI) move to streamline advertisements on television channels. The most affected will be sports channels like Set Max, ESPN and STAR India (now having India cricket rights), TEN Sports and others who cannot carry ads after the fall of wicket, a four or six scored or any other non-regular breaks during the match.

For general broadcasters, TRAI has capped the duration of ads to 12 minutes per hour and also made it mandatory to carry only 'full-screen' ads. Also, broadcasters will need to maintain a gap of 15 minutes between the end of one session of TV ads and the beginning of the next session.

The TRAI laid down regulations capping the duration of advertisements across various genres of television channels as part of maintaining quality of service in viewing. These regulations have been issued by TRAI under the title 'Standards of Quality of Service (Duration of Advertisements in Television Channels) Regulations, 2012'.

(FE, 14.05.12)

• TRANSPORT •

PPPs for Airport Modernisation

The Civil Aviation Ministry may revert to the so-called public-private partnership (PPP) model to modernise 35 non-metro airports and a few large ones in cities. The government had been forced to abandon the avenue previously in the face of stiff resistance by airport employees.

The Airports Authority of India (AAI), a public sector undertaking that runs most airports, undertook the modernisation of Chennai and Kolkata airports on its own as employees resisted private firms entering the space. Modernisation plans for Udaipur and Amritsar airports had to be abandoned because of this.

Many of India's airports need to be modernised to cope with increased passenger traffic as economic growth draws investors keen on emerging markets to smaller towns in the country. *(Mint, 25.04.12)*

All at Sea over Tariff Guidelines

Tariff regulators are created to safeguard consumers' interests by eliminating monopoly. They are also supposed to ensure that service providers or industry participants get a reasonable return on investments.

Tariff Authority for Major Ports (TAMP) was set up with the same objectives. Its mandate is to ensure a level playing field to all stakeholders at the government-owned Major Ports.Unfortunately, TAMP has come to a situation where its orders on tariff revision are not implemented on time by port operators. This raises the question on whether such an authority can ensure fair play.

The TAMP guidelines imply that if the terminals do well, they will have to bring down their rates. The idea is that if the terminals make more money, they will have to share it with their customers (port users). *(BL, 23.04.12)*

Ombudsman in Place

An Ombudsman to sort out air travellers' woes will soon be appointed, first in Delhi and later in other cities. The Civil Aviation Ministry held three meetings with representatives of Air Passengers Association of India, Directorate-General of Civil Aviation (DGCA), Consumers Association of India and Jaago Re in Delhi to formulate guidelines for the grievance redressal mechanism.

The Ministry has already approved the plan and legislation for the same is likely to be tabled soon. Issues that an Ombudsman can look into include long immigration queue, staff shortage and lack of infrastructure and other facilities. Similar grievance redressal system exists in the banking and insurance sectors. *(BL, 05.04.12)*

Rail Projects behind Schedule

Delay in execution of a number of key Railway projects has resulted in cost overruns of more than 100 percent. While freight operation information system, approved in March 1983 at an estimated cost of ₹520 crore, is running behind schedule by 204 months, construction of the Lanjigarh-Junagarh new line has been on for 120 months.

The cost overrun of these two unfinished projects is ₹114 crore and ₹127 crore respectively. Out of 562 projects that the Ministry monitored, 132 belonged to the Railway sector. The total original cost of implementation of these 132 projects is to the tune of ₹65,054.70 crore and their anticipated completion cost is ₹134,133.50 crore which reflects a cost overrun of more than 106 percent.

Railways officials said the major reason for delay is the non-availability of adequate funds for large number of new lines, gauge conversion and doubling projects. *(ET, 09.04.12)*

AI, Jet Cut Agent Fee

Air India and Jet Airways have cut travel agents' commission to one percent from the existing three percent, as the airlines struggle with high debt and losses. Travel agents have opposed the cost-saving measure and urged the airlines to defer the move, which comes into effect from July 16, 2012.

At present, Air India spends about ₹1,000 crore annually on distribution, which includes agent commission and fees for use of reservation systems and global distribution systems that hold ticket inventories. This is about six percent of the Air India's annual expense. Over 80 percent of the airline's tickets are sold through offline agents and portals. Both Air India and Jet Airways are trying to increase web sales to reduce distribution costs.

Jet Airways spent ₹1,261 crore on ticket distribution and sales in 2010-11 and this accounted for 10 percent of its expenditure. *(BS, 15.06.12)*

Airport User Fees is Illegal

The Airports Economic Regulatory Authority (AERA) recently approved an increase of 346 percent in airport charges. The decision was taken to please the Delhi International Airport Limited (DIAL), which has been lobbying for an increase in the user development fee (UDF).


Economics Times

The DIAL is still disappointed, as it was expecting a much higher increase in the UDF. The decision will adversely impact thousands of passengers. The United Progressive Alliance government, setting aside objections raised in Parliament against the decision to allow a private airport to collect UDF, supported the cause of DIAL. *(BL, 30.04.12)*

• OIL & GAS •

Regulator for Oil & Gas

The Indian government may appoint a regulator to help it determine the price of natural gas that is supplied by oil and gas explorers, such as Reliance Industries Ltd (RIL), to power and fertiliser firms.

An empowered group of ministers (eGoM) looking into the issue of allocating gas to fertiliser, power and some other companies has directed the Oil Ministry to "suggest an appropriate regulatory authority to aid and advise eGoM on the issue".

The suggestion follows a plea by RIL in 2010 to increase the price of gas midway through its five-year supply contracts with consumers on the grounds that the price it is charging is at a discount to global prices. *(Mint, 29.03.12)*

PNGRB Entitled to Fix Tariffs

The Petroleum and Natural Gas Regulatory Board (PNGRB) is empowered to frame regulations for the interest of the general public and oil and gas companies are bound to follow them.

Under the PNGRB Act, the Board is entitled to frame the regulation for the interest of the general public, the senior law officer told the bench of acting chief justice AK Sikri and justice Rajiv Sahai Endlaw.

The bench was hearing Indraprastha Gas Limited's (IGL) plea against the order of the PNGRB, which has slashed network tariff and CNG compression charge and asked IGL to refund the excess amount charged by it from consumers since 2008.

IGL took the ground that the regulator lacked the power to fix network tariff and compression charge for PNG and CNG, which in any case, cannot be exercised with 'retrospective' effect. *(FE, 23.05.12)*

Gas Burns a Bigger Hole

Electricity produced using imported gas is more expensive than using imported coal.

Tariff figures would be typically around ₹4.5 a unit for generation of power using imported coal as compared to a level of ₹7.5 to 8 a unit in case of using liquefied natural gas (LNG).

The power sector, which is suffering because of high fuel costs and supply constraints, says that it would prefer to fire plants using coal from Indonesia or Australia for another decade, at least till natural gas prices drop.

On the face of it, the high costs of gas may be a damper for several companies, but subsequent to the duty exemption on gas imports by the power developers for projects, some have decided to source it themselves.

Power industry experts say that the anticipated trend in the next three years would perhaps retain the balance in favour of imported coal-based generation when compared with CNG. *(BL, 10.06.12)*

Fuel Prices Frozen for Babus

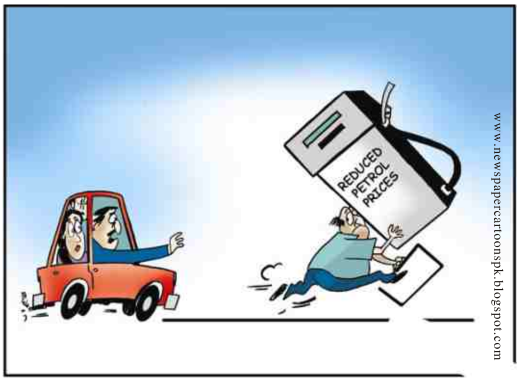
This certainly will not help swallow the bitter petrol-hike pill. Petrol prices have tripled for the common man in the last 13 years but the country's top civil servants have not had to deal with a fuel hike since 1999. Senior government officials pay a measly ₹700 every month to use their air-conditioned official cars for private purposes.

If government officials had to pay for the fuel from their pockets now, ₹700 would take them no further than 70-100 km, depending on what chauffeur-driven car they use. This charge was introduced in 1994 to legalise personal use of staff cars by secretary-level officers.

Incidentally, the concessional charge was fixed in the context of a secretary-rank officer getting a monthly salary of ₹26,000. By now, the fixed scale has increased three-fold to ₹80,000. *(HT, 26.05.12)*

Petrol Prices Down

Oil companies have cut petrol prices by ₹2.46 per litre, starting midnight. The cut is based on global crude prices and the exchange rate of the rupee vs the dollar.



The reduction in price varies from ₹2.46 per litre to ₹3.22 per litre, depending upon local taxes in different states.

Petrol now costs ₹67.78 a litre in Delhi and ₹73.35 per litre in Mumbai. In other metros, Kolkata will pay ₹72.24 per litre and Chennai will pay ₹72.27 per litre. Hyderabad and Bangalore saw the maximum reduction in petrol prices ₹3.22 per litre.

On May 23, 2012 India saw its steepest ever price hike of ₹6.28 plus local taxes. This is the second reduction in petrol prices since that hike. On June 03, 2012 oil companies announced a reduction of ₹1.68 per litre in petrol prices, excluding taxes. *(NDTV, 29.06.12)*

Subsidy Burden on Diesel

Indian oil refiners' under-recoveries on subsidised fuel sales at current prices are estimated to increase 29.3 percent to ₹1,91,433 crore in 2012-13.

The estimate is based on the refinery gate price of diesel, PDS kerosene and domestic LPG as of May 01, 2012. These estimates were disclosed by the Oil Minister, Jaipal Reddy, in his reply to a Parliament question.

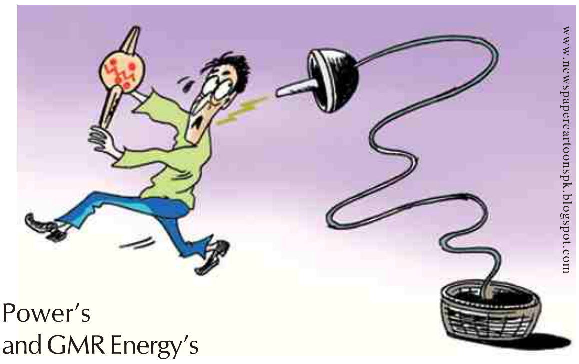
Diesel is expected to account for over half (57 per cent) of the total under-recovery this fiscal, based on the subsidy of ₹13.91 per litre afforded by the oil marketing companies as of May 01, 2012.

Domestic LPG will constitute 26.5 percent of the burden and PDS kerosene the remaining 57 percent. *(BL, 26.05.12)*

• POWER •

Power Cos to Hike Tariff

As many as 18 upcoming power projects with an aggregate capacity of over 25,000 MW might be forced to violate their tariff commitments and seek a much higher price from consumers. This is because the Coal Ministry has rejected a request from the developers of these projects for assured coal linkages and they might have no other option but to resort to the open market for fuel.



The projects to be affected include Essar Power's Mahan, Adani's Tiroda and GMR Energy's Kamalanga stations. With no "tapering coal linkage" in sight, the developers of these projects would not have the option of getting coal at (lower) notified prices from Coal India (CIL) until production commences at their captive mines. These projects are expected to be commissioned at various points of time during the XIIth Plan period (2012-17).

(FE, 14.05.12)

Power Purchase Norms

Looking to bringing in more transparency, the Power Ministry is expected to introduce competitive bidding guidelines for short-term procurement of electricity in May 2012.

The guidelines would be applicable for power being procured for a period of less than one year. The new norms would help bringing transparency as well as standardise the whole process of short term power procurement.

Among others, the draft norms suggested that the minimum time-frame of 10 days should be given for completion of the bidding process. Excluding renewable sources and captive power plants, the total electricity generated in February stood at 70,999.60 million units.

(ET, 25.04.12)

India Targets Saving Electricity

Under pressure from the international community to cut emissions and support the fight against climate change, India is focusing on implementation of energy efficiency measures in a big way.

The country has targeted to save as much as 12,000 mw of electricity by increasing energy efficiency standards of power equipment and appliances and buildings during the current XIIth Five-Year Plan (April 2012-March 2017).

The Bureau of Energy Efficiency, a statutory body under the Union Power Ministry, raised energy efficiency standards for split air-conditioners by eight percent. The move comes in the wake of the upcoming freeze of hydro-chlorofloro-carbons under the Montreal Compact on Environment in 2013. *(FE, 03.05.12)*

Amendments to Electricity Act

The Power Ministry proposed a slew of amendments to the Electricity Act, 2003, in a bid to remove anomalies in its implementation. The Ministry has proposed amendments to Section 11 to curb its alleged misuse by state governments and prohibit the sale of surplus power from generating units to entities outside a state.

It has proposed an appropriate government may specify that a generating company shall, in extraordinary circumstances, operate and maintain any generating station in accordance with the direction of that government.

While the Ministry has also proposed an amendment to Section 61(1), the Forum of Regulators said amendments in Sections 62 and 63 would introduce more clarity.

(BS, 03.05.12)

Free of Power Cuts

Faced with severe power shutdowns in the last decade, Maharashtra has introduced a differential system of load shedding from April 24, 2012 paving the way for uninterrupted electricity in those areas that report less distribution and commercial losses.

The State generates approximately 10,000 MW of power, and the demand is 15,000 MW. The power utility has entered into long-term, short-term and medium-term power purchase agreements with private companies, and also has increased supply from the central grid.

The State could buy power to meet the shortfall, but decided against this, and instead introduced increased load shedding in places where people did not pay up their power bills, and stole power.

In urban areas, where distribution and commercial losses are more than 34 percent, and in rural areas where losses are more than 37 percent, load shedding is enforced. *(TH, 13.05.12)*

Power Restructuring Plan Soon

The government plans to arrest deterioration in the financial health of state electricity boards by announcing a new restructuring package over the next two months. The plan, which would be based on the recommendations of the group headed by Planning Commission member BK Chaturvedi, would aim at eliminating accumulated losses of over ₹1.50 lakh crore due to the ever-increasing gap between discoms' revenue and expenditure.

According to the plan formulated by Chaturvedi panel, state governments will absorb 50 percent of the debt of discoms and convert them into state government bonds. The other 50 percent will have to be restructured by commercial banks by extending the tenure for repayment and a possible moratorium on interest.

(FE, 23.05.12)

• MIXED BAG •

Guidelines on Basel III

The Reserve Bank of India (RBI) has formulated an action plan to adopt the Basel III norms and issued final guidelines on Basel III Capital Regulations to all scheduled commercial banks on May 02, 2012. RBI further informed that draft guidelines on Basel III – Liquidity Regulations have been issued for public comments.

Basel III – Capital Regulations will be implemented during January 01, 2013 in a phased manner. In order to allow banks to prepare and plan themselves and also to minimise any unintended consequences arising out of higher capital requirements, banks have been given a long phase-in period during which the Basel III guidelines would be implemented.

Capital ratios and deductions from Common Equity will be fully phased-in and implemented as on March 31, 2018. Thus, the Basel III norms will be made fully applicable with effect from March 31, 2018.

(www.casansaar.com, 22.05.12)

GAAR on Backburner for 1 Year

The government deferred implementation of the controversial General Anti-Avoidance Rules (GAAR) to check tax evasion by one year and included some safeguards, a move aimed at pacifying angry investors and reviving the investment climate.

The changes raised the anxiety level of foreign investors, rattled financial markets and forced some hedge funds to pull out. If foreign investors forced the Minister's hand in reworking GAAR, protests from jewellers and the real estate sector made him drop provisions that had not gone down well with these two segments. *(ToI, 08.05.12)*

Shareholders to Sack Auditors

Shareholders of listed firms may get real authority to terminate the services of statutory auditors who they find errant or complacent, if the government accepts a key recommendation of the Parliamentary Standing Committee vetting the Companies Bill, 2011.

The Standing Committee has recommended such need-based rotation of auditors at shareholders' instance as a mandatory provision to be included in the Bill. The idea is to strengthen the independence of audit firms. The government intends to push for the Bill's passage in the monsoon session.

As per the Bill, in the case of listed companies, an individual as auditor cannot have a term of more than five consecutive years. As for audit firms, the maximum tenure is proposed to be fixed at two terms of five consecutive years each.

(FE, 14.06.12)

Investment Options for NRIs

The Securities and Exchange Board of India (Sebi) is planning to make clarifications in the Qualified Foreign Investor (QFI) framework that will enable non-resident Indians (NRIs) to make investments, according to people familiar with the development.

This will be an additional avenue available for the Indian diaspora. The idea is to tap new NRIs who may be looking at investing in Indian stock markets. However, if those who already have investments through existing provisions want to shift to the QFI route, they may have to close existing accounts.

According to the QFI framework, only investors from Financial Action Task Force (FATF)-compliant nations were allowed to invest through this route. The is an inter-governmental body established to combat money-laundering, terrorist financing and other such threats to the international financial system. *(BS, 28.05.12)*

PSBs to get Tough on Defaulters

Concerned at the spurt in bad loans of public sector banks (PSBs), the Union Finance Ministry asked them to clearly turn down requests for more loans or facilities from wilful defaulters and to also bar promoters of these companies from getting institutional finance to float new ventures for five years.

To check fresh slippages in recovery of dues, banks have been advised to devise a strategy for minimising non-performing assets (NPAs) and diversifying their portfolio by sticking to the limits prescribed for individual borrowers, as well as industries or sectors.

A system will be put in place for regular review of credit quality to identify problems areas at an early stage. Gross NPAs of all PSBs stood at 3.1 percent of their total advances in March 2012, against 2.31 percent at the end of March 2011.

(BS, 11.06.12)

Single Premium Costs More

The Insurance Regulatory and Development Authority (IRDA) is concerned about the growth of group single-premium policies. Even as the life insurance business in general has slowed down, the group single-premium policies segment is witnessing growth.

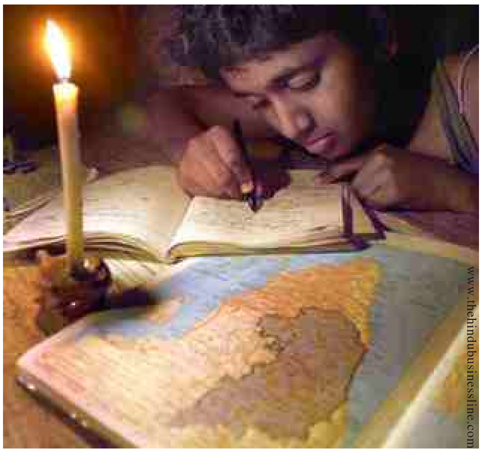
As per the regulator's data, the group single-premium collected by private life insurers and Life Insurance Corporation in 2011-12 was ₹5,023 crore and ₹28,200 crore, respectively, against ₹3,467 crore and ₹22,889 crore in the year-ago period. The same trend has been continuing in April 2012, the first month of the new fiscal.

In most cases, the person insured does not know what he is being offered and also receives poor service. The reasons for the growth of group insurance policies are varied. *(BL, 12.06.12)*

Make Open Access in Power a Reality

– A A Khan*

Power sector reforms commenced in 1991-92, with private players being invited for capacity addition in generation. With the enactment of Electricity Act, 2003 (the Act), generation was de-licensed and trading recognised as a distinct licensed activity.



Intra-state power sharing, in particular, is still subject to all kinds of restrictions

Open access, a framework for development of power market and for promoting competition, is mandated to allow freedom for consumers (suppliers) to choose suppliers (consumers). It basically means that the buyer has the freedom of selecting the seller, and *vice-versa*.

Open access to the inter-state transmission network (i.e. inter-state open access) was available from the very beginning of the Act coming into effect. The charges for transmission capacity and quantum of power transmitted over it are easily discernable for effecting payments.

Open access to the distribution network (i.e. intra-state transmission), owned by Discoms, however, was to be implemented in phases on payment of open access charges and charges for cross-subsidy and additional subsidy if any, which were to be progressively reduced to within 20 percent of the average cost of power by 2010-11.

Intra-state Trade

Open access is available for power purchase or sale by utilities or distribution licencees. However, when it relates to generators and consumers, only some of the States have permitted limited open access.

Lack of open access in intra-State transmission has stifled the development of the power market, jeopardising competition. The competition is only feasible if players in the power market are permitted access to both intra and inter-state transmission networks on payment of reasonable charges.

Lack of open access has also restricted transfer of power from surplus to deficit regions and failed to optimise procurement costs.

Resistance From States

The irony is that open access has not been allowed to succeed for various reasons, such as apprehension of the State utilities about flight of industrial consumers from their net; non-availability of surplus power at reasonable rates; irrational open access charges; non-availability of open access infrastructure of metering; and segregation of consumers' lines, among other factors.

Even though the cross-subsidy surcharge on open access transactions is mandated under Section 39 and 42 of the Act, erecting a high tariff barrier deters customers from purchasing supplies from outside the jurisdiction of Discoms and runs counter to the tariff envisaged in the National Electricity Policy and Tariff Policy.

The National Electricity Policy states that the cross-subsidy surcharge should not be so onerous that it becomes difficult for customers to procure competitive power from the market. This de-motivates the generators to sell power through the power trading mechanism, and forces some of them to sell power below market rates. It vitiates the very spirit of the Act.

Ground Realities

It is a welcome step but needs to be implemented at the State regulators/State distribution companies' level. A standard, consumer-friendly open access regulation with balanced cross-subsidy computation should be formulated through a forum of regulators and adopted uniformly by all states regulators.

Taking the holistic view of the various provisions of the Act, open access cannot be legally denied, if requested by consumers. Sans open access, industries are either forced to opt for captive generation or depend on unreliable power supply from Discoms.

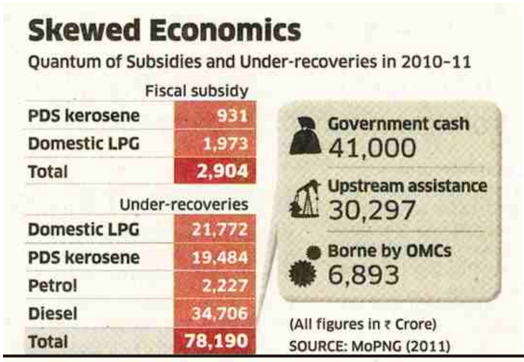
Discoms have to match consumers' expectations by supplying the reliable power or allow open access. It can't just build a tariff barrier by levying any surcharge to prevent possible migration of consumers.

With increasing size and depth of the market, new products are bound to hedge the risks for the buyers and suppliers, and these could be in the form of options and futures. Also, for making transparent open access regulations, there is a need for segregating the wires and content business in the distribution segment too. To help facilitate a successful open-access regime, Discoms are to create infrastructure and remove last mile connectivity problems for consumers.

* *Former CMD, Power Trading Corporation. Abridged from an article that appeared in the* Hindu Business Line *on May 11, 2012.*

Eliminate Petroproduct Subsidies

– RK Pachauri*



Firm decision will improve the health of OMCs, government finances and rural citizens who use kerosene

Global oil prices have been high in recent years even as our oil imports keep rising. Plunging value of the rupee adds to this import burden. Government's decision to raise petrol prices is merely the thin end of the wedge, revealing an aspect of irrational pricing that has afflicted the country for much too long.

Meanwhile, the daunting challenge of bringing down our fiscal deficit looms large. Against this background, the burden of government subsidies has been discussed extensively, but little done to arrest the increasing trend of pricing distortions in the country.

By far the most important challenge in these relates to the energy sector. It is for this reason that The Energy and Resources Institute (Teri) has brought out A Citizen's Guide to Subsidies in India.

Let us look at prices of petroleum products. In 2010-11, the figures estimated for subsidies on petroleum products were staggering, and are getting worse.

The accompanying graphic shows the break-up of these subsidies and their volumes. Three petroleum products are sold at far less than international market prices with the government providing a fiscal subsidy. However, this subsidy provides only part of the difference between the cost price and the selling price of these petroleum products which are calculated as the difference between the cost price and the regulated price at which the petroleum products are sold by OMCs to retailers after accounting for subsidies paid by the government.

The argument for providing subsidies on LPG is totally irrational, given that LPG is largely the preferred domestic fuel used by the rich and the middle classes, and that too mainly in urban areas.

With kerosene, the perverse nature of subsidies is highlighted by the fact that every reliable survey has found 40-50 percent of the subsidised kerosene produced going into adulteration of other petroleum products.

The political argument for subsidies on kerosene advanced by those favouring *status quo* is that kerosene is the poor man's fuel for lighting in a large part of rural India. It is unfortunate but true that almost 400 million people in India have no access to electricity, and kerosene is used by a large number of them for lighting.

But if a subsidy is justified for that very reason, which in itself is highly questionable, why is it that a country as advanced in electronics and smart technologies cannot come up with a system of smart cards that could target subsidies only for those below the poverty line and do away with subsidised kerosene in the open market?

Policies such as subsidising kerosene have become holy cows that politicians are afraid to touch, and which undesirable elements, such as those in the business of adulteration, are delighted to benefit from.

Subsidies on diesel also result in growing distortions. First, the move towards passenger diesel vehicles, often the most expensive brands, is only subsidising the rich.

At the macro-level, rational pricing of diesel would certainly make railway freight and passenger options relatively attractive.

It is, of course, true that the Indian Railways has for long shown a lack of vision in expanding and modernising its services. Its shortcomings only compound the incentive that diesel subsidies provide for a shift to greater road transportation even as air pollution in our cities and highways is becoming worse.

Overall, the total value of under-recoveries on petroleum products and the manner in which these have changed in recent years are shown in the accompanying graphic.The spurt in values during 2008-09 was the result of a sudden spike in global oil prices during that period. A similar spike in future cannot be ruled out even as our dependence on oil imports keeps growing rapidly.

The problem with oil subsidies is also leading to haemorrhage of the OMCs that would otherwise be expected to generate healthy surpluses to facilitate improving their infrastructure and, thereby, reducing the cost of marketing for the benefit of the consumer.

Successive governments have failed to bite the bullet, ironically, even as the administered pricing mechanism was officially dismantled in 2002. When will disastrous politics in this area give way to sensible economics?

* *Director-General, TERI & Chairman, Inter governmental Panel on Climate Change. Abridged from an article that appeared in the* Economic Times*, on June 12, 2012*

Govt Notifies Sugar Exports

The government notified the decision allowing free export of sugar, a move that will help industry ship surplus sweetener and clear cane payment arrears to farmers that have mounted to over ₹10,000 crore.

The Food Ministry issued the notification after an inter-ministerial meeting, chaired by Prime Minister Manmohan Singh, decided to eliminate ceiling on sugar exports by putting it under the Open General Licence (OGL).

According to the notification, effective from May 11, 2012 there would be no quantitative restrictions on sugar exports and producers are not required to obtain export release order from the food ministry under OGL in the 2011-12 marketing year (October-September) till further orders. *(FE, 15.05.12)*

India to Revisit Investment Pacts

The government is examining investment treaties signed with other countries individually and as part of larger free trade agreements to identify prickly clauses that may lead to disputes in future.

The move comes days after the British telecom operator Vodafone served a notice on the government, saying the proposed changes in tax laws would violate India's bilateral investment promotion agreement with The Netherlands.

The re-negotiation of existing pacts, however, is not going to be easy as India will have to concede in some areas to persuade the partner country to agree to changes that it wants in the investment treaties. *(ET, 26.04.12)*

FII Investment in Commodity

Foreign investment in commodity exchanges will become easier now. Also, import of second-hand capital goods will become tougher, according to the foreign investment norms. The updated 'Consolidated Foreign Direct Investment Policy Document' has also changed the norms for non-banking finance companies (NBFCs) and foreign institutional investors (FIIs).

At present, there is a composite foreign investment cap of 49 percent (FDI limit of 26 percent and FII ceiling of 23 percent) in commodity exchanges, which requires Government/Foreign Investment Promotion Board (FIPB) approval. Now, FIPB nod will be required only for the FDI component, not for FII investment. *(BL, 10.04.12)*

New Steel Policy on Anvil

The proposed new steel policy envisages a 10 percent growth in output to meet the country's projected demand of 200 million tonnes by 2020. The new policy will focus on removing infrastructure bottlenecks, improving technology.

Currently, the Indian steel sector is growing at a compounded growth of five percent. Steel production is around 72 million tonnes, broadly in line with the domestic demand. However, the demand is set to accelerate and touch 200 million tonnes by 2020. *(BL, 30.04.12)*

Mamata Govt Scraps SEZ Policy

Mamata Banerjee-led West Bengal government scrapped the Special Economic Zone (SEZ) policy of the erstwhile Left Front government.

Partha Chatterjee, State Commerce and Industries Minister reiterated the government's no SEZ stand but said that the State was willing to help Infosys in all possible ways. Infosys has reportedly kept its decision to set up a campus in the State on hold after the State government refused to grant it SEZ status.

The State government has given a proposal to the Union Commerce Minister, Anand Sharma which is supposed to help Infosys get financial benefits without the SEZ tag. *(BL, 24.05.12)*

Bharti Acquires Qualcomm

Bharti Airtel acquired a 49 percent stake in Qualcomm's broadband wireless access (BWA) business in India for US$165mn. Under the agreement, Bharti Airtel made an initial investment of about US$165mn to acquire 49 percent interest in Qualcomm Asia Pacific's India entities that hold BWA licences in Delhi, Mumbai, Haryana and Kerala.

The present deal has been made partly by way of acquisition of 26 percent equity interest held by Global Holding Corporation and Tulip Telecom and the balance by way of subscription of fresh equity in those entities

This partnership will combine the strength of Bharti's national telecom footprint and Qualcomm's technological leadership in the LTE TDD space. With a broadband ready network across India, Bharti is well positioned to lead the next phase of Indian's telecom revolution. *(BS, 24.04.12)*

Tighter Norms for FDI

The government is prescribing tighter rules for foreign direct investment (FDI) in real estate which will bar a foreign company from repatriating funds even after the mandatory three-year lock-in period in an Indian company.

The new norms will make it mandatory for foreign companies to complete at least 50 percent of the project within five years from the date of project conception. This comes after the Department of Economic Affairs, under the Finance Ministry, asked the Department of Industrial Policy and Promotion (DIPP) to clearly spell out the modalities in the FDI policy clearly linking all the conditions governing FDI in real estate.

The government has noted that in both the proposals there is policy confusion on linking of conditions and riders in the FDI policy in real estate. The government now wants to address this aspect at the earliest. *(FE, 16.05.12)*

Crossing the Lakshman Rekha on Service Tax

– Sushil Kumar Modi*

Centre's move to tax services that are within the exclusive domain of states infringes on constitutional propriety

The 2012-13 Budget has proposed a major shift in the taxation of services. Right now, only those services that are notified as such are being taxed and no other service is taxed. With the implementation of the so-called negative list, only those services that are listed will be exempted while all the other services will be subjected to tax.

The Finance Act, 1994, introduced the concept of taxation of services. Initially, only three services were taxed and the number has since swelled to 119. This levy is expected to yield about ₹95,000 crore during 2011-12.

It is expected to rise to ₹1,24,000 crore in 2012-13 on the back of the proposed two percent rate hike coupled with an expansion of the tax base consequent to the implementation of the negative list.

The estimated revenue, though impressive, is still not what one would expect, given the size of the service sector. And an important reason for this relatively low yield is the positive list-based approach to taxation of services; the base is just not comprehensive enough.

While the negative list-based approach to taxation is conceptually and internationally accepted way of taxation, there are certain misgivings regarding the content of and the manner in which the negative list is being proposed to be introduced.

The entire issue of taxation of services through a negative list was examined in detail by the Empowered Committee of State Finance Ministers (EC) and the views of the committee were communicated to the Centre. The EC had endorsed the idea of taxation through a negative list, preferably with effect from April 01, 2012, in order to gain experience before Goods and Services Tax (GST) implementation as also to get a peek at the incremental base that may accrue and assess the tax potential of the sector. However, the EC impressed upon the Centre the need to respect the *Lakshman Rekha* drawn in the Constitution.


Economic Times

It is this constitutional propriety that lies at the heart of the issue and which underlays the views of the EC, as communicated to the central government. Accordingly, activities or objects that have been enumerated in the State List of the Seventh Schedule should form part of the negative list, at least till the advent of GST, whereby and where under the states, too, would be empowered to tax services.

The EC had also sent a list of activities which, despite being enumerated in the state list, either (a) are currently being taxed as "service" by the Centre or (b) were proposed to be construed as "service", according to the Revised Concept Paper circulated by the Union government; both the above categories of activities should be put in the negative list in view of the fact that they represent areas that lie beyond the legislative competence of the Union.

The proposed mechanism of taxation through a negative list creates another level of complication through the proposal for exemption of certain services. The Union government proposes to exempt 34 categories of services which shall be in addition to the negative list comprising 17 broad category of services; such exemption is proposed to be effected through notification issued under Section 93 of the Finance Act, 1994.

Such services are of a predominantly social or cultural nature, aimed generally at welfare of the people at large. The objective of such a move may be laudable, but the way in which such an objective is sought to be achieved creates avoidable complications; a negative list and an exemption list do not generally go together.

Such a threat exists till the advent of GST. Under GST, the Centre and the states would have concurrent jurisdiction to tax goods and services and the dispute on competence to tax is set to be resolved. Hence, the appropriate and safe way to overcome the problem of conflicting jurisdictions would have been to define "services" in such a way as to exclude the activities or objects that have been assigned to the states vide List II.

* *Chairman, Empowered Committee of State Finance Ministers. Abridged from an article that appeared in the* Economic Times *on April 02, 2012.*

Poverty of Ideas

– Arvind Panagariya*

Evidence that poverty has declined since India began to liberalise in the 1980s, that the acceleration in growth to 8-9 percent range since the mid-2000s has resulted in accelerated poverty reduction and that these trends hold for each broad social group rather than just the aggregate population is as irrefutable as it gets in social sciences.

In the accompanying graphic, taken from a recent study by Megha Mukim and the author, show the proportion of the population below the conventional poverty lines in rural and urban areas, respectively, in 1983, 1987-88, 1993-94 and 2004-05 among the SC/ST and non-scheduled castes.

The years selected in these figures are those associated with large-scale expenditure surveys conducted by the National Sample Survey Office (NSSO). The NSSO conducts these surveys only approximately once every five years.

The figures show that poverty by conventional measures declined for every social group in both rural and urban areas between every successive pair of surveys shown. No doubt the SC and ST exhibit high rates of poverty than the NS but their status have improved uniformly and steadily.

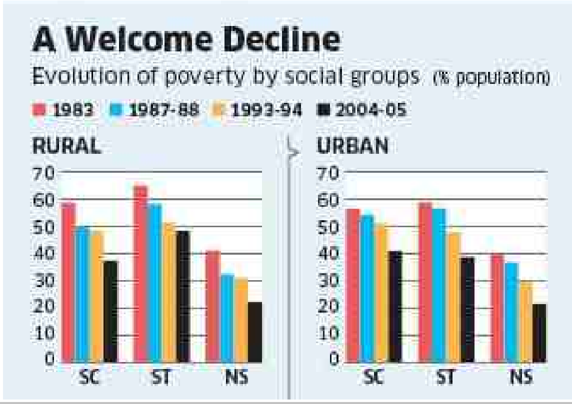
Even the popular narrative, which paints the ST as the victims of development, is thoroughly falsified by the evidence. The Mukim-Panagariya study also documents poverty in individual states and shows that in every one of the 10 largest states for each social group, poverty declined between 1983 and 2004-05.

Evidence from the latest 2009-10 survey, reported in a paper by Sukhdeo Thorat and Amaresh Dubey, reinforces these findings. These authors show that the rate of poverty reduction has accelerated for each social group between 2004-05 and 2009-10 over that between 1993-94 and 2004-05. The acceleration is the greatest among Muslims followed by the ST.

It is curious that despite this unequivocal evidence, the dominant narrative today remains the one that paints a grim picture of the reforms and what they have delivered in terms of poverty alleviation. How do we explain the overshadowing of these positive facts by this negative and largely false narrative? There are at least two complementary explanations.

Wittingly or unwittingly, the United Progressive Alliance (UPA) leadership has aided the proponents of this narrative. Soon after coming to power in 2004, it chose to denounce the reforms and what they had delivered.

If the UPA leadership is thus responsible for bringing the dissatisfied socialists back to the centre stage of the policy debate, the populist media is to be credited with giving them the dominant position. The television media, in particular, has been utterly inept in bringing the basic facts to the public.



Instead of celebrating the fall in poverty numbers, critics within & outside UPA keep carping

Ironically, having fuelled the anti-reform fire, the UPA government now finds itself in retreat against these same critics when trying to convince the public of its genuine achievements.

Nothing illustrates this better than the recent episode in which a Planning Commission report offered entirely accurate and professional evidence of accelerated poverty reduction between 2004-05 and 2009-10. The anti-growth crowd immediately descended on the commission like a brick, falsely accusing it of cooking up the numbers by lowering the poverty line.

Unable or unwilling to challenge the falsehood of the critics, the Prime Minister, who also happens to be the ex-officio chairman of the Planning Commission, quickly withdrew the report and appointed a committee that would presumably advise how best to downgrade genuine achievements made in combating poverty.

If television media is genuinely interested in informed debate, it would ask the anti-reform commentators the following three questions: (a) If you do not like the poverty line chosen by the Planning Commission, what precisely is your poverty line and on what precise grounds have you arrived at it? (b) Can you choose a plausible poverty line and show that according to it poverty has not declined? and (c) If you think the reforms have not helped the poor and the socially disadvantaged, do you have a policy package that would deliver an outcome that benefits these groups more and hurts no one?

* *Professor, Columbia University. Abridged from an article that appeared in the* Economic Times, *on April 18, 2012.*

India to Grow at 7.5% in 2012-13

India is projected to see a faster growth of 7.5 percent this fiscal on the back of higher savings and investment rates, even as most of the Asia-Pacific economies are likely to expand at a slower pace, says a UN report.

The growth estimate in the current fiscal is higher than the estimated 6.9 percent growth in the last fiscal year. The Indian government has projected the economy to expand by 7.6 percent in the current fiscal. The UNESCAP report, however, said that weaknesses of major developed economies pose a major threat to the growth in the Asia-Pacific region, which could come down to 6.5 percent in 2012, from 7 percent in 2011. *(FE, 10.05.12)*

Solar Side Up

In order to capitalise on the groundwork done for creation of a successful solar market through the launch of the Jawahar Lal Nehru National Solar Mission, a recent report suggested that India now needs to adopt greater transparency, benchmarking and monitoring, strategic approaches to finance and technology neutral policies for manufacturing to take the renewable mission forward.

The report published by the Council on Energy, Environment and Water and the Natural Resources Defence Council is of the view that a productive solar manufacturing base is an important part of India's aspirations to become a major global solar player. Investing in solar manufacturing now could provide long-term strategic value for India. But to be a dominant player in the global arena, India needs to make prompt, smart and concerted investments in manufacturing. *(TH, 13.05.12)*

Eating Junk Food Unhealthy

Food items such as potato chips, burgers and noodles almost wipe out one's daily permissible limits of bad fat, salt and sugar in just one serving, says a study that seeks stronger regulations and labeling rules for food products.

The Centre for Science & (CSE), which tested 16 popular brands including Nestle's Maggi noodles, McDonald's, KFC, *Haldiram's Aloo Bhujia* and PepsiCo's Lay's potato chips accused most of these companies of misleading the public through wrong claims and insufficient labelling.

PepsiCo, Nestle, McDonald's and KFC denied the allegation and said their products were free of trans fats, the worst kind of fats. Most junk foods contain very high levels of trans fats, salt and sugar, leading to diseases such as obesity and diabetes. *(ET, 31.03.12)*

Graft in Highways Projects

A report prepared by the World Bank's Institutional Integrity Unit has listed "fraudulent and corrupt" practices by private Indian contractors working on national highway projects funded by it, and sought a thorough investigation into the matter.

Contractors paid bribes and gifts, including gold coins, to "influence the actions" of officials and consultants of the National Highways Authority of India (NHAI), says the report. The report focuses on six areas of "malpractices". *(IE, 21.04.12)*

Indians to go Digital

Nearly 50 percent of people surveyed in India believe that interacting with the government is easy, according to Accenture. That response is higher than the results from six other countries participating in a global "pulse survey" conducted with more than 1,400 people in Australia, France, Germany, Singapore, the US and the UK.

Consumers want increased access to public services and are more inclined to use digital channels, including online and mobile resources, to conduct routine government business. In fact, more than 70 percent of the survey respondents already use the Internet for submitting and tracking government forms and payments and more than half (53 percent) want to use more online channels in the future. *(BL, 03.05.12)*

Young Nation Status Withers

India, which is often seen as the only young country in an ageing economy, may lose its advantage, as the World Health Organisation projected India's 60 years and above population at 300 million by 2050.

The United Nations body said this population was likely to form 17 percent of the Indian population by 2050, up from 7.4 percent at 77 million in 2001. What's more, the population over 65 years is likely to outnumber children below five by 2017 and will be larger than the number of children below 14 by 2050!

Adding that the ageing population is a valuable human capital, Nata Menabde, WHO Representative to India called for a change in the mindset in terms of looking at the older population as a burden. *(BL, 03.04.12)*

Indian Economy in Stagflation

Global financial services firm Moody's said Indian economy is facing stagflation, where growth is slow and inflation high, and cautioned that the Reserve Bank cannot be too aggressive in cutting interest rates.

Moody's said the recent plunge in the rupee is pushing up the price, especially imported goods and commodities priced in US$. Stagflation is a situation when economic growth of a country stagnates while inflation is rising. Moody's Analytics is a part of Moody's Corp that provides expertise in economic and consumer credit analysis, credit research and risk measurement, among others. *(TH, 14.06.12)*

Will the Govt's Business Responsibility Norms Improve Corporate Governance?

– Rijit Sengupta*

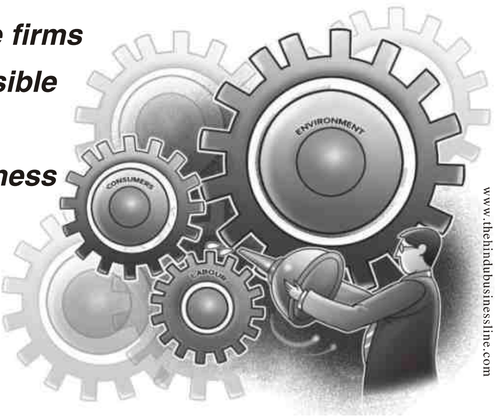
Notwithstanding the Satyam scandal, the number of cases of corporate misdemeanours hitting the headlines in recent times has seen an exponential increase. There are manifold reasons for this. Greed coupled with unethical behaviour is one, for which there is no solution other than strong disincentives. Political demand is the other, particularly as we see currently in our growing economy, which leads to higher demands for rents and crony capitalism.

Vigorous competition is another major driver for such behaviour. Corporations do everything but follow good business behaviour. However, there are still many business houses in India that are widely respected for their value systems, standards and products. This testifies that conducting business in a responsible manner is possible. Alas, there are many bad fishes in the pond.

Issues regarding healthy competition, business ethics, transparency and accountability are beginning to find more space in the public policy discourse in India. Growing public pressure by a burgeoning middle class, improved access to information, splendid court actions, sensational audit exposes and enforcement is leading to greater accountability of market players and the administration. It is quite unlikely that cases involving delinquent firms would escape attention anymore.

The government has also provided a significant fillip to the issue by developing an umbrella instrument: the National Voluntary Guidelines on Social, Environmental and Economic Responsibilities of Business, popularly referred to as the NVGs. The NVGs provide a framework comprising nine principles for defining responsible corporate conduct. According to the NVGs, the level of responsibility of a firm is gauged by assessing effectiveness of its business model (and practice) in minimising adverse impacts on related

The guidelines urge firms to integrate responsible business conduct within its core business model, rather than treating the issue peripherally, as a mere PR function



social, environmental and economic aspects. It lays considerable emphasis on compliance with applicable rules and regulations. It urges firms to integrate responsible business conduct within its core business model, rather than treating the issue peripherally, as a mere public relations function.

The unholy alliances of healthcare providers and pharma companies were recently highlighted by the popular TV programme Satyameva Jayate. It got brickbats from doctors and bouquets from consumers, although pharma companies kept mum. At CUTS, we have been working in this area for long and are currently testing the NVGs in these two critical sectors in India – pharmaceutical and private healthcare – through empirical research in four states. Our findings would contribute towards greater uptake of the NVGs.

NVGs emphasise business responsibilities and are more than corporate social responsibility (CSR), seeking a long-term and sustainable commitment to society. The Parliamentary Standing Committee on Finance recommended that private sector companies should mandatorily allocate two per cent of their average net profits for previous three years towards CSR programmes. However, there was an uproar and the recommendation is unlikely to fly.

The three terms: philanthropy, CSR and business responsibility have been used inter-changeably in recent discussions and related analyses on the subject. These are three different delivery systems used by business to meet its societal expectations.

At one end, there is philanthropy that stems from the idea of altruistic "giving" to society. Business responsibility is at the other end and involves alignments of a firm's methods of doing business by committing to abide by all applicable rules and regulations at the workplace and marketplace, and for the community and the environment. It comes with a commitment from the top management.

Thus, NVGs need to be incorporated in business strategies of firms, and the government should ensure that the concepts are well understood and applied. Only then can business responsibility norms lead to better corporate governance, and corporate citizenship in our country.

* *Director, Consumer Unity & Trust Society (CUTS) International. The article appeared in the* Business Standard *on June 13, 2012.*

25% of Central Schemes Named after Rajiv

At least 25 percent of Central schemes are named after late PM Rajiv Gandhi. Planning Commission data suggests that government runs 58 schemes named after eminent people. Of these, 16 schemes bear Gandhi's name like *Rajiv Awaas Yojana*, *Rajiv Gandhi Udyami Mitra Yojana, Rajiv Gandhi Panchayat Shashaktikaran Abhiyan*, *Rajiv Gandhi Grameen Vidyutikaran Yojana*, *Rajiv Gandhi National Fellowships for ST students* etc.

Eight schemes are named after late PM Indira Gandhi such as *Indira Gandhi Matritva Sahyog Yojana*, *Indira Awaas Yojana, Indira Gandhi National Old Age Pension Scheme*.

There is one institute named after former PM and BJP leader Atal Bihari Vajpayee. And, two schemes were named after BJP stalwart Deen Dayal Upadhyaya of which one *Deen Dayal Hathkargha Yojana* was continued till the 10th Plan.

Schemes are also named after Mahatma Gandhi, Jawaharlal Nehru, Swami Vivekananda, Rabindranath Tagore, Raja Ram Mohan Roy, B R Ambedkar, Zakir Hussain, Lal Bahadur Shastri, Maulana Abdul Kalam Azad, Maharishi Sandipini, Khuda Bakhsh, the minister said.

Babu Jagjivan Ram, Sardar Vallabhbhai Patel, Rani Laxmibai, Kasturba Gandhi, Ghani KhanChoudhary, Sant Longowal, Pandit Dwarka Prasad Mishra, Satyajit Ray too figure in the list.

(ToI, 10.05.12)

CIC Fines Self for Delay in Giving Info

In a first of its kind, the Central Information Commission (CIC) has fined itself asking the public information officer (PIO) to give compensation amounting to ₹3,000 to an applicant for delay in providing information. It has also issued a notice to the former PIO asking for an explanation on the delay.

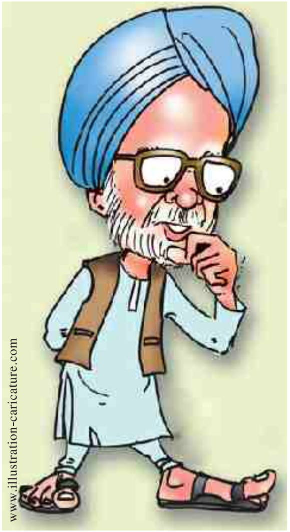
Allahabad resident M Haroon Siddiqui had sought information regarding three "conflicting orders" on IFFCO. Siddiqui had also sought IFFCO's responses on the orders that the PIO refused to give citing exemption under Section 11 of the RTI Act.

Dismissing the argument, Information Commissioner Shailesh Gandhi allowed the appeal reasoning that Section 11 did not give a third party an "unrestrained veto" to refuse disclosing information. In this case the PIO has not even sought the views of the third party within 5 days of receipt of the RTI and has wrongly claimed exemption.

Gandhi recommended the CIC secretary consider recovering the amount from the salary of the person responsible for the delay in providing the information. *(ToI, 14.04.12)*

PM's Bid to Speed up Projects

Faced with a slowing economy, Prime Minister Manmohan Singh set up an investment tracking system to ensure speedy implementation of projects. The move comes a day after official data showed the economy expanded at its slowest pace in nine years in January-March, the fourth quarter of FY12.



According to the latest plan, the National Manufacturing Competitiveness Council will track all public sector projects with an investment of ₹1,000 crore and above. It will submit a quarterly statement of all projects monitored and any issues identified that need resolution, either systemically or individually.

PM stated that major projects will be specially tracked to take them forward on a fast track in order to provide a fresh impetus to the economy.

(FE & BL, 01.06.12)

Revision of MGNREGA Wages

The Centre is keen to resolve differences with rights activists over the remuneration under its flagship rural job guarantee scheme, which can potentially save it from paying 7,000 crore in arrears to states that have higher minimum wages.

Wages under the Mahatma Gandhi National Rural Employment Guarantee Scheme (MGNREGS) have risen for all states after the government made adjustments for price rise in March 2012. But despite the revision, the payout is still below the notified minimum wages in eight states.

The Rural Development Ministry is also amending the MGNREG Act to include a separate wage list for the scheme. The amendment will not only provide statutory status to MGNREGS wage rate but also give the Centre the authority to control the rates with limited interference from states. It will also provide for a periodic revision system for wage rates.

(ET, 09.04.12)

Poverty Decline Rate Doubled

Terming the comments on the below poverty line (BPL) issue as "unprincipled publicity campaign", Deputy Chairman of Planning Commission Montek Singh Ahluwalia said the rate of poverty decline doubled during the rule of the UPA government as compared to the pre-UPA regime.

Many benefits are not linked to poverty line. The most important benefit is Right to Education Act which is not linked to poverty line.

The next most important is NREGA scheme. This is not limited to poverty line below. Third is food security bill. That is not limited to poverty line. As much as 46 percent of the country's people will benefit from this.

According to him, the Planning Commission does not use daily income figures as basis for calculating BPL people. It takes per-family-per-month figures to calculate the figures.

(ToI, 07.04.12)

The Myth of Coalition Compulsions

– Ravi Shanker Kapoor*


Business Standard

It is not the UPA's allies but its populist policies and anti-reforms biases that are thwarting growth in the country

The speed at which political statements of doubtful veracity acquire the aura of gospel truth is astonishing. One such "truth" is: coalition compulsions impede economic reforms. Even Chief Economic Advisor Kaushik Basu believes in it. He recently said, "Thanks to coalitional democracy, there is some slowdown in economic reforms and decision-making."

Finance Minister Pranab Mukherjee expressed similar views: "With a fractured mandate, yes, you can rule. But you have to carry other people with you." That's right, but post-liberalisation, India has never seen a solid mandate for any party; it has been the era of coalitions. In fact, liberalisation itself was carried out by a coalition government. But the then Prime Minister P V Narasimha Rao was keen to open up the economy; the same cannot be said about the ruling United Progressive Alliance (UPA).

Worse, the Congress-led regime has taken a number of steps that militate against the spirit of economic reforms. Consider the case of food security legislation. Commission for Agricultural Costs and Prices Chairman and prominent agricultural economist Ashok Gulati believes that the proposed Bill, cleared by the Cabinet in December last year, has the potential of taking the economy to the "crisis levels of 1991".

The Prime Minister's Economic Advisory Committee, headed by former Reserve Bank Governor C Rangarajan, had serious differences with the Sonia Gandhi-led National Advisory Council (NAC) over the scale of the entitlement project. Agriculture Minister Sharad Pawar, too, was worried over financial implications. The food security legislation is also feared to drive out private companies.

The moral hazard is no less frightening; for the law, if executed, would give a fillip to the process of transforming free citizens into serfs, always looking at askance at the giant feudal lord, the Indian state — for relief, poverty alleviation, employment (the rural jobs scheme), and now even for food. Government size and scope will increase. The raison d'etre of economic reforms was the reversal of this transformation that began during over four decades of socialism; downsizing government and its role was part and parcel of the attempted reversal.

A government cannot expect to disrespect the rule of law and (concomitantly) attract investors. The rule of law is the foundation of economic reforms. The government itself has shaken the foundation, and there is no coalition compulsion involved.

Nor is there any pressure from any allies to keep Air India (AI) running. One need not be an aviation expert or a financial wizard to say the national carrier is beyond redemption. Yet, AI – which loses ₹10 crore every day, has debt worth ₹43,000 crore and accumulated losses in the region of ₹20,000 – recently got a ₹30,000-crore revival package. The government sticks to the socialist dogma of "no privatisation," despite the UPA's dissociation with the Left.

Electoral politics has also had its share of victims. Aiming to win over the local populace by demagoguery, Congress leader Rahul Gandhi torpedoed Vedanta's bid to mine bauxite in the Niyamgiri hills of Orissa. The grand old party may or may not gain in electoral terms, but the state and its people have certainly lost the benefits that might have come to them because of the project.

Apart from ideological and electoral reasons, capricious and erratic governance has also harmed the cause of development. Years after work in Lavasa began, the government realised that the ambitious realty project was responsible for violations.

Yet another example of dirigiste mindset is the grant of first compulsory licence for a pharmaceutical product in March 2012.

It needs to be mentioned that no Congress ally is involved in jeopardising industrialisation in the name of environment protection or affordable medication.

There are many more instances revealing the pro-Left leanings and anti-reforms biases of the UPA. Coalition compulsions have little to do with the big state imperative.

* *Freelance Journalist. Abridged from an article that appeared in the* Business Standard*, on May 03, 2012.*

Comptroller & Activist General?

– A K Bhattacharya

The office of the Comptroller and Auditor General (CAG) is in the news. Hardly a week passes without a new report of the CAG appearing on newspaper front-pages highlighting acts of financial indiscretion leading to either revenue loss for the government or undue revenue gain for some private entities

A CAG report, which is yet to be officially released, alleges that several legislators in the Maharashtra Assembly declared monthly income ranging between ₹2,500 and ₹12,500 to acquire large flats under the government quota in a co-operative housing society in suburban Mumbai. This comes soon after the CAG's indictment of the Maharashtra government for lacking in a mechanism to periodically review the lands allotted to Maharashtra Industrial Development Corporation and other public sector enterprises.

Several other state governments also have come under the CAG's critical gaze. Its report on Himachal Pradesh has noted that the state's financial health had worsened with the rise in liabilities by 46 percent in the last four years. In Andhra Pradesh, the CAG has rapped the state government over the allotment of over 20 acres of prime land to an institute promoted by film-maker Subhash Ghai in alleged violation of rules.

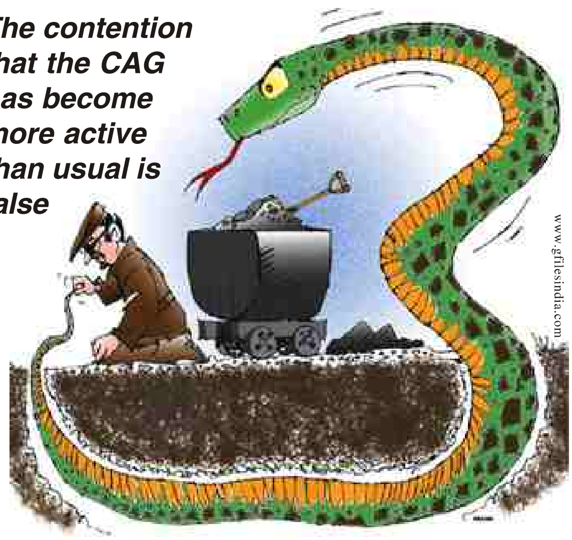
Even Gujarat, which boasts of an administration that is otherwise run efficiently, has not been spared. The CAG has pulled up the Gujarat government-run Gujarat State Petroleum Corporation (GSPC) for financial irregularities and undue favour to select companies such as Reliance Industries Ltd and Adani Enterprises Ltd.

According to its report, GSPC has incurred losses of a little more than ₹5,000 crore during 2006-2011 for exploration activities at its oil and gas block in the Krishna-Godavari (K-G) basin. In Orissa, too, the CAG's report has criticised the state government for the manner in which it allotted land for six major industrial players including Posco India and Vedanta Alumnium.

The biggest of them all was a draft report of the CAG on allocation of coal blocks to private companies on a first-come first-served basis, ignoring advice that the coal ministry could amend its rules to facilitate auction of such natural resources instead of following the time-consuming option for amending the law. The draft report argued that undue revenue gain for the beneficiary private companies could be as high as ₹10 lakh crore.

Has the CAG become more active than usual? Has it crossed its brief by getting into areas of policy formulation

The contention that the CAG has become more active than usual is false



instead of limiting itself to only financial irregularities? Or have the CAG's recent reports created an impression that the Constitution-mandated body is deliberately targeting the United Progressive Alliance (UPA) government?

The fact is that the CAG has been doing its job with as much diligence now as in the past. There has also been no significant increase in the number of annual reports the office of the CAG produces in a year. What has changed is that the media today is more engaged with issues of financial irregularities in government bodies than before and the CAG reports help them bring these issues into sharper focus.

Second, the CAG's engagement with the media has also improved dramatically. Not only does the CAG's office more aggressive in sharing copies of the reports once these are presented to Parliament, it now even holds news conferences to highlight various financial irregularities for which it has pulled up the government. The UPA government may nurture doubts about the CAG's role, but there is no such ambiguity in the minds of those who do the government's auditing.

And those who may be tempted to accuse the CAG of targeting the UPA government should take a look at the reports that became the talking point. It was not just the UPA government at the Centre, which came under attack, state governments of Maharashtra, Gujarat, Andhra Pradesh and Orissa also were rapped for financial irregularities. Surely, then, the CAG is just doing a job that our Constitution makers had mandated it to do.

– *Abridged from an article that appeared in the* Business Standard, *on April 10, 2012.*

Microfinance Bill Introduced

A Bill to regulate microfinance institutions (MFIs) was introduced in the Lok Sabha. The Bill seeks to empower the RBI to specify the maximum limit of the margin and annual percentage rate that can be charged by an MFI.

It also seeks to prohibit MFIs from carrying on the activities of micro-finance services without registration with the RBI. But existing non-banking finance companies registered with the RBI would be allowed to continue such services without registration.

The latest Bill provides for the constitution of a microfinance development council to advise the Central government on policies, schemes and other measures required to be taken in the interest of orderly growth and development of MFIs.

(BL, 22.05.12 & Mint 23.05.12)

Transparent Public Procurement

To make public procurement transparent and corruption-free, the Union Cabinet approved the Public Procurement Bill, 2012, which seeks to regulate government purchases of above ₹50 lakh through a bidding process.

The Bill provides for jail term, ranging from six months to five years, for public servants found guilty of demanding and accepting bribes from bidders of government contracts. The proposed legislation aims at regulating public procurement by all ministries and departments of the Union government, central public sector enterprises, autonomous and statutory bodies controlled by the Centre and other procuring entities.

The Bill also aims at ensuring transparency, fair and equitable treatment of bidders, promoting competition and enhancing efficiency and economy in the procurement process. *(FE, 13.04.12)*

Marriage Registration Approved

The Union Cabinet approved amendment of Registration of Births and Deaths Act 1969 to include registration of marriages. It has also allowed existing administrative mechanisms to carry out registration of marriages and maintain records like is done in the case of deaths and births.

The proposed amendment, in the form of a bill, would be introduced in the second half of the Budget session. The bill is expected to provide legal protection in cases of inter-religious matrimony by bringing marriages under a law for mandatory registration.

(ToI, 13.04.12)

Judicial Bill Cleared

The Lok Sabha cleared the judicial accountability legislation that seeks to set up a credible mechanism to probe complaints of misbehaviour by judges. The Judicial Standards and Accountability Bill, 2010, and Constitutional 114th Amendment Bill, 2010, will help setting new probity standards in higher judiciary.

The bill seeks to establish credible and expedient mechanism for probing into individual complaints for misbehaviour or incapacity of a judge of the Supreme Court or of a High Court. It also provides to regulate the procedure for such investigation and for the presentation of an address by Parliament to President proceeding for removal of a judge and for matters connected with such matters.

According to the bill, any judge, who makes oral comments against other constitutional authorities and individuals, would render h/himself liable for judicial misconduct.

(ToI, 30.03.12)

Land Acquisition to Widen

The Parliament's Standing Committee on Rural Development has recommended a widening of the ambit of the Land Acquisition Bill, 2011, to include highways, nuclear plants, mines and special economic zones (SEZ). Since much of the land acquisition for public purpose under the proposed law expected in mining, power and other infrastructure sectors, these exemptions needed to be removed.

According to sources, land acquisition for public-private partnerships and even acquisition by private parties for public purpose (publicly-used assets) will be brought under the purview of the Bill.

(FE, 16.05.12)

Govt. Trying 'Backdoor Entry'

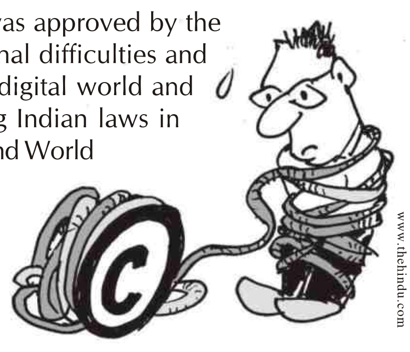
With the Central government unsure of getting the Foreign Educational Institutions (Regulation of Entry and Operations) Bill, 2010, through the Rajya Sabha, the Human Resource Development Ministry is now trying to allow "backdoor" entry to foreign institutions.

The Ministry has asked the University Grants Commission (UGC) to identify possibilities within the existing laws of regulating and allowing the foreign educational institutions. The two possible ways of going about it are allowing these institutions to enter as 'deemed universities' under Section 3 of the University Grants Commission Act, 1956, or as private universities under the State laws.

The UGC is also drafting regulations on twinning programmes and joint degree programmes between the foreign and Indian educational institutions. *(TH, 01.06.12)*

Copyright Amendment Gets Nod

The Copyright Amendment Bill was approved by the Rajya Sabha to remove operational difficulties and address newer issues related to the digital world and internet. The Bill also seeks to bring Indian laws in conformity with international norms and World Intellectual Property Organisation.



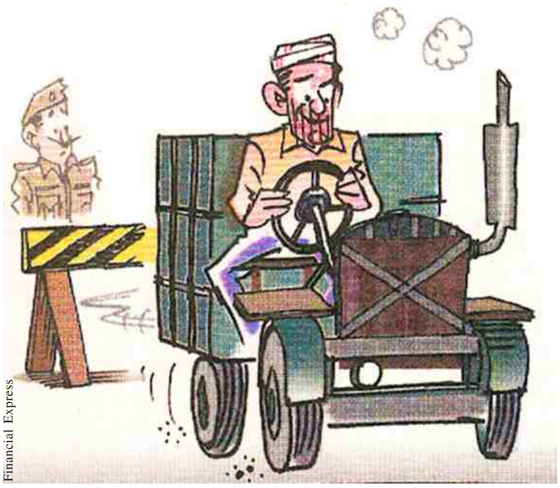
There are seven broad areas that are reflected in the bill. These include right of author and music composer, right to visually impaired, extending compulsory regime to unpublished work, imposition of punitive actions among others.

HRD Minister Kapil Sibal said a clause with a provision of giving royalty to the principal director of a film has been dropped in keeping with the suggestion of the Parliamentary Standing Committee. *(TH, 23.05.12 & ToI, 18.05.12)*

Stranded, Despite a Road Map

– M J Antony

It is time to refurbish the Motor Vehicles Act in view of court suggestions



Financial Express

The number of road deaths in the country has swelled over the years. While 15 people died every hour in 2010 due to road accidents, last year the figure was 17. India is ahead of all other countries in road deaths. It also has a clear lead in the longest response time in securing first aid and medical treatment.

Most deaths are caused by human error. A foreign expert on robotics has claimed that driverless cars could save one million lives across the world in a year. But till that happens, we have to work the existing rules under the Motor Vehicles (MV) Act, which has largely remained untouched for decades despite the motor vehicles boom.

How impervious the authorities are to the mayhem created by inadequate laws can be seen from the fact that the comprehensive suggestions made by the Supreme Court years ago have gathered dust in police and government departments.

The latest instance of the authorities' apathy can be seen from the non-implementation of the orders regarding security name plates. It was meant to ensure public safety and security. For seven years, the court was trying to goad states into enforcing the rule, but even now the implementation of the judgment in *M S Bitta vs Union of India* is tardy. The hurdles started with the corporate war over who would get the contract for new number plates. After that issue was settled, the court had to nudge the authorities at every point to go ahead with the plan.

The court passed a detailed judgment three years ago in the case, *Jai Prakash vs Union of India*. It discussed several problems related to the MV Act, 1988, and the central rules passed under it. Directions were passed in cases of hit and run by unidentified vehicles, the problem of uninsured vehicles, gratuitous passengers and passengers in goods vehicles. The judgment also dealt with procedural delays in the adjudication or settlement of claims.

The court pointed out that the compensation amount awarded by motor accident claims tribunals often does not reach claimants. This was called the second trauma for dependents, after the fatal accident. The court passed directions to police authorities and made suggestions to law makers. Tribunals were asked to implement the beneficial provisions contained in Sections 158(6), 166(4) and 196. These rules lay down a timeline for proceeding with an accident case right from the first information to the award.

Insurance companies, with their team of cynical surveyors and nit-picking lawyers, are a formidable hindrance to reach fair compensation. The court found that the present scheme of third-party insurance was inadequate.

For example, in South Africa and some African countries, road accident funds are created and managed by Road Accident Fund Commissions. This eliminates the need for third-party insurance. A fuel surcharge is collected on the sale of petrol and diesel and credited to such funds. All accident victims are paid compensation from this fund by the commission.

However, what the MV Act provides is long and complex procedures, vitiated by corruption at every stage, and ultimately a schedule of payments that has been ridiculed by the court in several judgments since the 1996 case, *UP State Road Transport Corporation vs Trilok Chandra*.

The court also pointed out that unlike some countries, there was no comprehensive law regarding vehicles, insurance and compensation. Thus, it referred to some vital areas in which intervention by the legislature and/or executive was urgently required. Of course, the court could only order its registry to send copies of the judgment to "(i) Chief Secretaries and Director Generals of Police of all States, and (ii) Registrar-Generals of all High Courts, for compliance with the directions. The suggestions made may be placed before the Central Government by the learned Solicitor". Unfortunately, this was the last we heard on these suggestions.

– *Abridged from an article that appeared in the* Business Standard *on June 13, 2012.*

India to Grow 8-9% for 20 Years

India can grow at between 8 or 9 percent for the next 20 years with a supportive global environment, its Planning Commission's Deputy Chairman Montek Singh Ahluwalia said. He cited several things that the global community do to restore growth in the developing world.

These included an early agreement on the resolution of the sovereign debt problem in the Eurozone and a well-functioning international financial system channelling resources efficiently around the world.

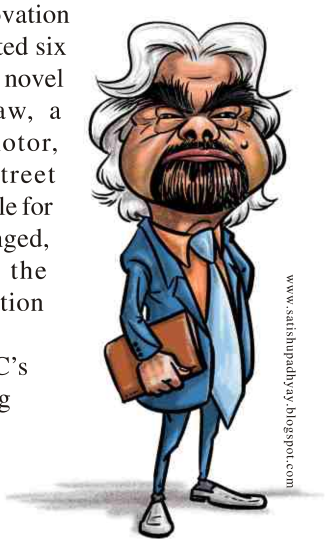
Steps at the national level must be accompanied by a broader based advance in improving global governance, he said seeking more voice and participation for important developing countries in the decision making structures of the international financial system. *(BS, 18.05.12)*

Major Reforms Before 2014

Major economic reforms in India would hit the roadblock and are unlikely to happen before the next Parliamentary elections in 2014, Chief Economic Adviser Kaushik Basu said. He said that relatively less important bills might go through Parliament.

The new government, if in majority, would start with the reforms in a big way because there is a sense that it needs to pick up, Basu added. At the same time, he said there are some reforms that need to go into fast gear and identified the opening up of the retail sector as one key reforms in waiting. India, he said, also needs to address the issue of massive subsidy leakage and that of poor infrastructure. *(ET, 20.04.12)*

Innovation to Reduce Drudgery



The National Innovation Council (NIC) felicitated six winning innovations: a novel design of a rickshaw, a human-powered motor, display unit for street vendors, a low-cost cycle for the physically challenged, devices to reduce the drudgery of construction and sanitation workers

Stating that the NIC's focus was on driving innovation for the common citizen, NIC Chairman, Sam Pitroda, said, "For too long, innovation has focused on the problems of the rich". He said he felt "frustrated" seeing images on television showing workers carrying huge gunny bags or women carrying bricks on their heads. "India has developed great technology, great inventions and great scientists", but "we can't fix simple things for the working class," he said. *(TH, 04.04.12)*

UGC to Regulate Distance Learning

Despite an overarching body being proposed to monitor higher education, there is an ongoing tussle among the regulators with the government still unable to decide upon a regulatory body for distance education.

In fact, a panel formed by the Human Resource Development (HRD) Ministry on the matter suggests that the University Grants Commission (UGC) would handle the task better than Indira Gandhi National Open University (IGNOU), which currently monitors distance learning.

Though the HRD Ministry had proposed a National Commission for Higher Education and Research, which would subsume all other regulators, including IGNOU, the All India Council for Technical Education and Medical Council of India for distance education, it is planning to take away the regulatory powers from IGNOU and hand it over to the UGC instead.

Once the system is in place, the Distance Education Council of India of UGC may start the recognition of ODL institutions as per the newly developed system and enforce norms and standards laid by it in the recognised institutions. *(FE, 04.04.12)*

Regulation of Vocational Education

The government has decided to establish an independent body to regulate and lay down guidelines for developing vocational education in the country. This is expected to end a tussle between the labour and the HRD ministries over control of the government's plan to impart training to 500 million people on key disciplines, including in auto and textiles.

The National Skill Development Authority (NSDA) is likely to be headed by both the Prime Minister's skills adviser and Tata Consultancy Services Ltd's Vice-Chairman S Ramadorai or Planning Commission member Narendra Jhadav.

NSDA will prepare a national skills qualification framework instead of a vocational qualification framework as was suggested by the Labour Ministry or a national vocational education qualification framework as was proposed by the HRD Ministry. *(Mint, 24.05.12)*

Ordinance on Fee Regulatory Commission

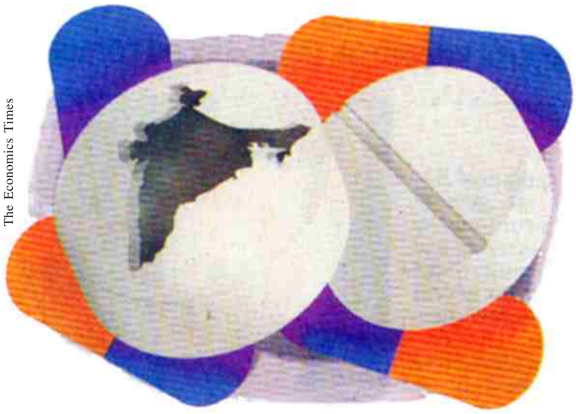
The Rajasthan government is all set to promulgate an ordinance to establish a school fee regulatory commission to ease the burden on parents, who have accused private schools of charging high and irrational amounts.

The measure to constitute a fee regulatory commission will take shape by the end of June 2012, this was stated today by Additional Advocate General (AAG) N A Naquvi before the High Court which was hearing a PIL challenging "exorbitant" fee hike by private schools in every academic year.

The Court directed state government to act sincerely in the matter before the next session of such private schools commences in July 2012. Private education institutions have been contending that the state governments cannot interfere in the affairs of the private schools and their decision to raise the fee. *(BS, 30.05.12)*

A Healthier India

– David Taylor*



Policy needs to resolve conflict between drug price controls, innovation and affordable healthcare

The debate about essential-medicine pricing and access in India illustrates the difficulties inherent in establishing policies that serve conflicting public interests in achieving goals such as caring well and ensuring safety for all, while also pursuing financially-sustainable success in scientific innovation and trade. It highlights problems facing those interested in continuing drug and vaccines development and ensuring that, once marketed, such products contribute effectively to improving public health.

India is now the world's third largest medicines-maker. Yet, despite this, many people have deeply ambiguous feelings about synthetic drugs and the companies that discover and sell them. But as social change continues, legitimate public demand for science-based preventive and curative medicines will continue to rise.

Cost-based pricing?: Resolving such challenges demands economic logic and political courage, alongside world-class science. Against this background, critics of the recent draft National Pharmaceutical Pricing Policy fear an extension of the essential medicines category that will include an ever-widening range of products, coupled with a narrowly-defined, cost-based pricing regimen. The country already has among the lowest medicine prices in the world. Yet, experience shows that low costs are in themselves no guarantee of universal access to quality healthcare.

The response to such concerns by those favouring more restrictive drug price controls is to stress that drug costs are seen by the public to be the greatest barrier to treatment access. What is needed is an affordable and adequate system of healthcare financing that assures both continuing competitive market-driven investment in better therapies and community-wide support for those unfortunate enough to develop conditions like cancer.

More sustainable solutions: The resolution of questions about how countries such as India can most fairly and effectively provide healthcare and medicines must come from within their own unique societies. Given that humanity shares many common problems, there should be benefits to be gained from analysing other regions' experiences and needs. Seen from this perspective, key points to consider in thinking about essential medicines' pricing and supply in the country include:

By international standards, combined public and private spending on medicines in the country is not unexpectedly high, especially when it is remembered that private drug costs often include large markups imposed by suppliers. Yet, publicly-resourced spending on health services as a whole is exceptionally low. So, focusing too exclusively on reducing drug or any other single set of factor costs could well mislead policymakers and distort public debate.

The poorest half to a third of the Indian population lacks reliable access to modern essential medicines. This appears in part to be due to problems like the improper diversion of supplies from public services and/ or inappropriate additional charging. No centrally-imposed medicine pricing approach will address this issue. Global experience shows that when populations need free drug supply, simply driving down prices may benefit those able to pay, but leaves those unable to pay even worse off because it obscures their needs.

To build further successes by contributing more to therapeutic innovation, policymakers will need to concentrate more on permitting an adequate price base for new products while they are exclusively available, and also allowing efficient market mechanisms to minimise the cost of older medicines. Health improvement everywhere is dependent on constructive and honest partnerships between all sections of society, including not only governments and health professionals but also the research-based companies that succeed in bringing new treatments to the world market.

* *Professor, Pharmaceutical & The UCL School of Pharmacy, University of London. Abridged from an article that appeared in the* Economic Times, *on May 10, 2012.*

Jute Mills under Scanner

The CCI sent notices to seven jute mills in West Bengal for alleged violation of competition rules. The alleged violation of the Section 3(3) (a) and Section 3(1) of the Competition Act, 2002 pertain to manipulation and rigging of prices by jute mills, creating an imbalance in the packaging market.

The jute mills will have to answer the notices before June 30, 2012 failing which CCI will take penal action against them. Non-compliance in terms of furnishing of false statements and deliberate omission will also draw stringent action as per provisions of the Competition Act.

The jute industry has an annual installed capacity of producing 2.4 million tonnes (mt) of jute goods, but currently produces only 1.6 mt because of lack of demand.

(BS, 28.06.12)

Motion Pictures face Heat

The Competition Commission of India (CCI) has upheld UTV Software Communications' claim that the Motion Pictures Association (MPA), Delhi, has abused its dominant position by imposing unreasonable conditions that limit production, supply, distribution and exhibition of films in the areas of its operation.

The Commission has also passed a 'cease and desist' order asking MPA to dispense with rules which are anticompetitive. It said that the rules of MPA, which had been set up to promote and assist in the business of production, distribution and exhibition of films in the country, and other associations are anticompetitive and violative of provisions of Section 3(3) (b) of the Competition Act that deals with anti-competitive agreements.

(BL, 10.05.12)

Medical Suppliers Guilty

The CCI found three medical equipment suppliers guilty of manipulating bids and cartelisation while supplying to the All India Institute of Medical Sciences (AIIMS). The antimonopoly watchdog was acting on a complaint by Unissi System, who alleged that there was cartelisation in supply of medical equipment in the tender of Jai Prakash Narain Apex Trauma Centre, AIIMS.

The Commission, during its course of investigation, found that three firms manipulated the process of the tender. Also the Commission found that these three companies were sub-contracting work.

(BL, 26.04.12)

Firms Fined in Bid Rigging

The CCI fined three makers of agricultural chemicals almost US$60mn for colluding to rig public tenders, making this the third cartel it has punished with hefty penalties in 2012.

The CCI fined United Phosphorus US$48mn, Excel Crop Care US$12mn and Sandhya Organics Chemicals US$300,000 for agreeing to coordinate their bids for the provision of aluminium phosphide tablets, a pesticide, to the Food Corporation of India.

Another company, Agrosynth Chemicals, escaped a fine because it did not coordinate its tender bids with its competitors after 2007. The agency is only allowed to prosecute anti-competitive behaviour after 2009, when India's Competition Act came into effect. *(GCR, 25.04.12)*

Matrimony takes Google to CCI

The CCI has launched an investigation against online search engine Google to ascertain whether it has abused its dominant position and indulged in discriminatory trade practices as claimed by Chennai-based Consim India Pvt Ltd, which owns the matrimonial Website, bharatmatrimony.com.

Consumer Unity & Trust Society, a non-profit consumer advocacy group, will lodge a formal complaint on the issue with the anti-trust body. Earlier, CUTS sent a preliminary information report to CCI asking it to take *suo moto* action against Google.

CUTS has in its preliminary report indicated that Google has used its dominant position in online advertising markets, which is in turn impacting the growth of Indian search and advertising space. *(HT, 26.04.12)*

CCI Eyes 'Milk, Tyre Cartels'

After taking action against cement cartelisation, the CCI hinted at action against milk and tyre cartels as well, saying it also has on its radar sectors such as aviation, real estate and pharmaceuticals for possible similar action.

Ashok Chawla, Chairman, CCI said "We have looked at cases in the real estate, aviation, pharmaceutical and other sectors. The cement cartel case is very recent. We have been looking at the tyre sector seriously. A study on the tyre sector is at an advanced stage and action could be announced soon. This is a very dynamic process and it is difficult to say when what starts and where it ends." *(BL, 22.06.12)*

Penalty Imposed on Cement Firms

In a first-of-its-kind order, the CCI has imposed a penalty of over ₹6,000 crore on 11 leading cement producers after finding them guilty of forming cartels to control "prices, production and supply" of cement in the market.

According to the CCI order, it found cement manufacturers violating the provisions of the Competition Act. The CCI issued the order after "investigation by the Director General (CCI) upon information filed by the Builders' Association of India".

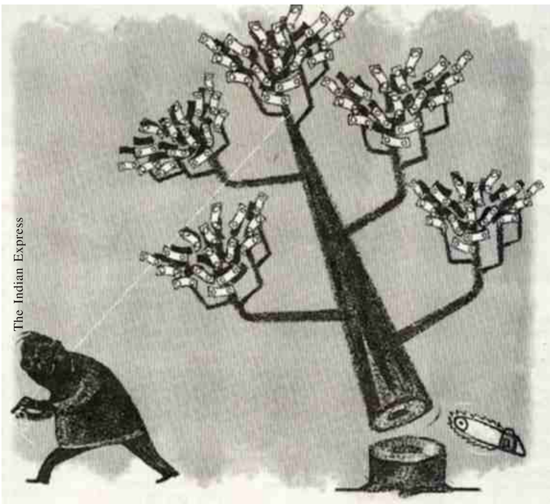
While imposing the penalty, the commission considered the "parallel and coordinated behaviour of cement companies on price, dispatch and supplies in the market". The Commission observed that the act of these cement companies in "limiting and controlling supplies in the market and determining prices through an anticompetitive agreement" was detrimental to the entire economy.

(HT, 24.06.12)

The Regulation Raj

– Jaithirth Rao

A friend of mine told me with some anguish that the recent budget might be the worst in 40 years. The budget is one symptom. He was implying that we had not been witness to an environment which was as hostile to businesses, entrepreneurship and growth as we have suddenly acquired in the last few years. Have problem — let's do a quick fix: that seems to be the approach of our present rulers. We have a fiscal problem in large measure because we were not disciplined in good times and to be fair, in some measure, because post-Lehman, fiscal laxity was seen as a necessity to prevent a recession.



The solution to the problem, as contemplated now, consists of a series of measures to "squeeze" tax revenue from the productive sectors of the economy using arbitrary methods, increasing enormously the discretionary powers of the income-tax department and setting inordinately aggressive targets for tax-collectors.

> ***Our approach seems to be, 'Have problem, do a quick-fix'. We need to learn that ill-conceived fiscal fixes will not work***

India's draconian pre-1991 import controls grew step by step as we tried to "plug" one loophole after another. It started with an innocuous memo from a joint secretary to the RBI, asking that "requests" for foreign exchange be "routed" through the commerce ministry. By the time we finished, we had suffocating agencies like the Joint Chief Controller of Imports and Exports, the Directorate General of Trade and Development, the Director General of Supplies and Disposals whose diabolical and malign role still remains a mystery to most of us and so on. The draconian measures started as "*ad hoc*", short-term fixes for the acute foreign exchange crisis of the mid-50s.

The pattern was similar: Have crisis? Let's fix it by imposing arbitrary restrictive rules; let's increase the discretionary powers of various government departments; let's put a squeeze on productive businesses. No one bothered to look into the fact that the root causes may have been an overvalued exchange rate and a regulatory regime that was unfriendly to businesses and growth.

Controls on textiles and tea were justified each time in words that are eerily similar to the words used today to justify the transfer pricing guidelines, retrospective TDS on implied royalties, retrospective taxation of earlier exempt on-site revenues, and now the ominous General Anti-Avoidance Rule (GAAR). Is it the intention to weaken India's flourishing IT and BPO industries, just as we did with textiles and tea? Is there a pattern here that suggests that we cannot bear to see an industry being successful?

The financial sector is confused. No one knows whether foreign investment is welcome, is tolerated or is positively unwelcome. For different reasons (again the patchwork approach), Vodafone, Cairn, Posco and virtually all FIIs have been given negative signals.

The net gainer may be Singapore's financial market as trading in Indian instruments may move there in order to leverage a more predictable and welcoming environment. The arbitrary behaviour of the government *vis-à-vis* Coal India, ONGC and LIC means that domestic investors too have no choice but to become hesitant and wary. Like night follows day, low investment today spells low growth tomorrow.

We do not learn. Ill-conceived short-term fixes will not work. The singular gift of the present government may be to bequeath a fiscal and BOP situation just like the one prevailing in 1991. The long-term consequences are more frightening. Once industrial licensing and import licensing started, it took 35 years to get rid of them. As the countries of East Asia surged ahead, we programmed our country into poverty.

No one in Parliament is opposing the draconian provisions of this budget or the creation of a generally anti-business environment. Once these silly laws and regulations are in place, getting rid of them will take 35 years. It looks as if we are determined to drive our growth rates to less than 5 per cent. We can forget about eliminating poverty in India in our lifetimes. Perhaps our grandchildren may see a prosperous India. Too bad.

– *Mumbai-based Entrepreneur. Abridged from an article that appeared in the* Indian Express*, on May 05, 2012.*

Dollars, Dissent and Democracy

– Kiran Karnik

Do dollars dictate dissent? Are agendas altered as advised? Government statements related to these questions generated much discussion.

The uproar is over, and Kudankulam will soon be operational. However, many wider issues remain, and these merit consideration. Among these, two significant ones are the role of NGOs or CSOs – and the foreign funding of these.

As a consequence of globalisation, international CSOs or NGOs are now common and play an important role, particularly in areas like environment and human rights. While some may be out of sync with local needs, others may add strength to local requirements. These are consequences of globalisation that we have to live with. In all cases, though, differing viewpoints help debate, which is the essence of real democracy.

Foreign funding of NGOs is circumscribed by many laws and restrictions, with the draconian FCRA imposing severe constraints. Similar funding for companies is far simpler; in many sectors, even 100 percent foreign ownership is permitted. The government implicitly discourages foreign funding to NGOs, but it seeks overseas investment for the corporate sector, including in sensitive areas like defence production, telecom and media.

Foreign-funded NGOs are prohibited from undertaking 'political activity'. This, presumably, includes picketing or demonstrations on such things as reservation for women in Parliament. But there is no such restraint on companies.

The latter are free to engage in policy advocacy and almost all of them do so, often through senior executives stationed in Delhi just for this. The government seems to have overcome its aversion to the 'foreign hand' with regard to the corporate world, but evokes it in the case of NGOs.

It is strange that while the development sector, represented by NGOs, has difficulty in accessing policymakers, commercial or market forces have no such problem. Not only are they free to actively engage in policy advocacy, but they have direct reach to the very top echelons of government, with visiting foreign CEOs getting a ready audience with even the Prime Minister.

Thus, the government saw no wrong when foreign companies, and even a foreign government, campaigned against the nuclear liability Bill, or when they tried to mobilise support from Indian industry associations and media. But when NGOs campaigned with regard to nuclear safety at Kudankulam, the government saw red.

Government has problems with foreign-funded NGOs, but is comfortable with corporate lobbying

Apart from arresting activists in Kudankulam and Ratnagiri, it highlighted foreign funding of the NGOs as an issue. According to media reports, the offices of an NGO have been 'raided' apparently in connection with a 4-lakh foreign grant received some years ago.

Foreign funding is hardly the issue: if anything, NGOs that have to necessarily depend on grassroots constituencies and support are less prone to be influenced by foreign forces than companies.

It is an accepted role of all CSOs to empower people, promote and protect their rights. In doing so, and in challenging the status quo, even those involved in grassroots work in safe fields like education or health, often find themselves at odds with the administration.

Policy advocacy in any field pits NGOs against existing policies. Yet, the attitude of any progressive government, certainly one that professes inclusion and empowerment, must be favourable towards such advocacy and work. Dissent must be debated, not crushed. Not all NGOs are angels, but good ones can help to promote and monitor delivery of essential services and goods at the grassroots level, and provide genuine feedback.

A government keen on this should see NGOs not as enemies, but as potential partners who can be proponents of alternative approaches and policies. Certainly, attempts to involve NGOs in the formulation of the 12th Plan and through the NAC were indicative of positive thinking. Recent pronouncements and actions indicate a reversal. This reversal bodes ill for an equitable, democratic and open society.

Call for a course correction, captain.

– *Independent Policy & Strategy Analyst and on the board of some NGOs, including 'foreign-funded' ones. Abridged from an article that appeared in the* Economic Times, *on April 03, 2012.*

ReguLetter


REGULETTER

Inland Water Transport Sector Susceptible to Anticompetitive Practices

The April-June 2012 issue of ReguLetter encapsulates 'Inland Water Transport Sector Susceptible to Anticompetitive Practices' in its cover story. Bangladesh is a country with rivers crisscrossing the whole country and water transport is a major means of communication. Nigeria and Cambodia are other countries of the world where inland water transport plays an important role. All these countries are without a competition law but in process.

A special feature by Gillian Tett states that the 21st century financial system is simply becoming too complex to depict. Another special article by Penny Shepherd says that there are tremendous opportunities or innovation in the investment industry. An article by Phil Davis there is a plethora of regulatory bodies but they are not coordinating with each other much, yet.

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

Economiquity


ECONOMIQUITY

Indo-Pak Engagement Needs Strategic Depth

The April-June 2012 issue of Economiquity encapsulates an article entitled 'Indo-Pak Engagement Needs Strategic Depth' in its cover story. The mantra of success for both India and Pakistan is simple – collaborate more, both regionally and internationally, so as to have a strategic depth in bilateral economic engagement.

A special article by Noeleen Heyzer states that rapid GDP growth, fiscal room for manoeuvre & increasing economic cooperation make Asian prospects for 2012 bright. Another special article by Jagdish Bhagwati says that if the cataclysmic scenarios implied by neglect of climate change are valid – and extreme estimates, it must be said, could backfire politically by looking implausible or, worse, by producing a "Nero effect" (if Rome is burning, let's party) – Rio+20's lack of action should be regarded as an historic failure.

Besides, back page provides a quick overview of the various operations of the Centre and corresponding outputs/outcomes.

This newsletter can be accessed at: www.economiquity.org/

Forthcoming

Competition and Regulation in India, 2011

CUTS initiated a project entitled, India Competition and Regulation Report (ICRR 2011) to assess the importance and effectiveness of regulatory of regulatory institutions, awareness among consumers and other stakeholder groups in India. It is the third biennial report (2007 and 2009) that maps status of competition across Indian markets and focusses on six emerging sectors, i.e. Microfinance, Natural Gas, Retail, Real Estate (residential), Road Transport (passenger transport) and Telecommunications. Further, it also covers certain general issues, such as political economy of regulation and essential facilities doctrine etc.

This study is an important contribution towards enriching the available literature in the public domain and encouraging a dialogue to promote a healthy and competitive environment as evolving an appropriate regulatory culture is always a learning curve.

The first report, published in 2007 lay down the rationale for a holistic competition policy and law regime in India and also looked at some sectors, such as telecom and electricity in the area of infrastructure and in the equally crucial area of social infrastructure like health care and education, as case studies.

The second report, published in 2009 is an effort to educate the public and the policy community about the effect of these various facets of public policy on competition and regulation. It focuses on the evaluation of quality of regulation in five sectors: power, ports, civil aviation, agricultural markets and higher education.

SOURCES

BL: The Hindu Business Line, **BS:** Business Standard, **BT:** Business Today; **ET:** The Economic Times, **FE:** The Financial Express, **HT:** Hindustan Times, **IE:** Indian Express; **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.