PolicyWatch

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

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INSIDE THIS ISSUE

HIGHLIGHTS

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

Arresting the Pandemic of Corruption

In the epic Mahabharata, when Draupadi was being disrobed, the blind king Dhritarashtra 'watched' it silently and unashamedly. He did not stop Dushashan from this dastardly act, as the crown prince Duryodhan was egging him on. Bhishma Pitamah sat still with deafening silence, and the wise minister Vidur protested when Draupadi shouted in anger.

We see a similar drama unfolding, when the head of government claims total honesty but does not respond to the charge that all this was happening right under his nose. Whether it was the 2G scam or the Commonwealth Games or the cash-for-votes, can the perception of people change that it did not involve the highest authority in the country?

This is why the support for the Anna Hazare movement was spontaneous. People are hoping that the movement will bring about better governance in the country. Corruption has now become a part of our DNA and is now a pandemic. To amplify the systemic issues, the public distribution system is one such glaring example. Research shows that only 10 percent of the benefits accrue to the poor, while leakages are about 43 percent, and the rest goes to the inefficient government system.

Another issue that has been raised in the current debate is whether the Lokpal institution itself cannot be corrupted. One instance in early 1980s can amplify this issue. The peon, when requesting for a leave in a divisional engineer's office, was asked for a bribe of ₹150 to approve it. The peon complained to the Anti-Corruption Bureau, who caught the accounts officer red-handed. He paid a bribe to the bureau officials to get the case squashed. In a perverse sense, this was democratisation of corruption. The peon, otherwise a simple and honest man, started demanding bribes in order to access engineer's office.

Today, the rates of bribe have gone up. In one instance, a patwari shocked an entrepreneur by demanding ₹50,000, instead of the usual ₹5,000, for issuing a *patta* for an authorised conversion of land from farm to commercial use. These two instances point to lack of transparency and accountability in the system and its monitoring. In both the cases, there was no system to check the progress of matter by superiors, and this is systemic.

With the movement now on the Lokpal Bill that has already had a salutary impact on our economy and the governance system, we need to start a similar movement. Only then can we hope to arrest the pandemic of corruption.

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• COMMUNICATION •

VoIP to Get Nod from DoT

The Department of Telecom (DoT) is considering opening up the Internet telephony segment and allowing unrestricted calls by consumers using their Internet connections. In 2008, the Telecom Regulatory Authority of India (TRAI) made a recommendation to allow unrestricted Net telephony to all operators including Internet Service Providers, without imposing any additional entry fee or licence charges.

However, the DoT had rejected the proposal at that time on grounds that it would disturb the level playing field with incumbent mobile operators that have paid ₹1,650 crore as entry fee. But now the DoT is having a rethink since it is reviewing the telecom policy in its entirety.

If unrestricted Net telephony is allowed, it will enable players such as the Mukesh Ambani-promoted Reliance Infotel, which recently bought broadband wireless access spectrum, to offer voice services along with data. Reliance Infotel had bought the spectrum on an ISP licence.

(BL, 21.07.11)

Draft ICT Policy Soon

The Department of Information Technology (DIT) is all set to formalise two key policies – National Communication Policy (ICT)-2011 and National Policy on Electronics – which will not only help bring public utilities under the information technology (IT) net but also make India the hub of electronic manufacturing for entertainment, defence, medical and educational devices.

On the hardware front, some components of the policy will be similar to the recommendations made by the IT task force in 2010, which also suggested making India the electronic manufacturing hub for various sectors.

For the ICT policy, the Department is mulling the use of IT for monitoring programmes related to water wastage, value-added services and other utilities. The draft National ICT Policy will be two pronged and based on 'connected and unified government' and 'empowerment of citizens'.

(FE, 11.07.11)

Integrated Post Service in Place

Faced with the challenge posed by the IT revolution, the Ministry of Communications plans to have integrated postal services in two years. The Union Minister of State for Communications Sachin Pilot disagreed with the view that with the internet revolution spreading, the postal services were losing clientele.

He said IT had progressed very well with 2.6 million getting jobs in the sector. The Speed Post Service had grown popular.

Pilot had ordered that 300 digital satellite phones be made available in border areas where the people did not have access to mobile phones. Only BSNL was offering telephone facility in remote areas. *(TH, 24.08.11)*

Single Permit for Tele Services

The new telecom policy may allow companies to offer all forms of communication services under a single permit. The biggest beneficiary of the move could be Mukesh Ambani-controlled Reliance Industries (RIL), which can offer voice services and become a full-fledged telecom operator.

Currently, telecom companies need separate licences for each type of service such as GSM, CDMA, 3G, broadband wireless (4G), internet, Direct-to-Home and radio amongst others. The new policy will delink spectrum from the licence. It aims to migrate all the different types of licences to a unified one called an End User Service Provider permit, under which one can provide voice, data and broadcast services. *(ET, 26.07.11)*

VAS under TRAI Regulation

The TRAI looks all set to bring the ₹12,000-crore mobile value-added services (VAS) market under its regulation, a long-standing demand of VAS providers. The regulator has issued a consultation paper asking all stakeholders to give their views on a string of questions centred around regulating the VAS industry.

At present, under the on-deck model, mobile phone user can only access the services of VAS providers which the telecom carrier chooses to offer. Since the billing is done by the telecom carrier it retains the lion's share of 60-65 percent revenue.

However, TRAI has explored the option of the off-deck model under which the economics changes favourably towards the VAS providers. Under the off-deck model, the content providers or the VAS providers sell the services directly to the consumers by integrating with multiple operators using a short code assigned to them. *(FE, 22.07.11)*

TRAI Speeds up 4G Auction

The TRAI has identified at least six blocks of 20 MHz spectrum each which can be auctioned to telecom companies for offering 4G services. 4G enables data speeds of 5-12 mbps on mobiles and is many times faster than 3G. The spectrum identified includes the 700 Mhz band as well as the 2.5-2.6 gigahertz band. This means the government will be able to offer 4G spectrum to eight companies, leading to tough competition.

The 4G road map which TRAI is working on envisages allowing voice-over-internet telephony between mobile and landline networks. At present, internet calls are allowed between PC and PC, but without any connectivity to a PSTN network.

Permitting voice-over-internet calls will open a new market, especially for companies such as Reliance Industries, which have bought a pan-India Broadband Wireless Access (BWA) licence but cannot offer voice calls until they tie up with a 2G operator. At present, they can offer only data services.

(BS, 15.07.11)

• TRANSPORT •

Highways Conversion Likely

The plan to convert 10,000 km of state highways into national highways is unlikely to find favour with the Ministry of Finance as the government is facing a paucity of funds. The Department of Expenditure has raised concerns over the additional annual burden of ₹3,500 crore that the Centre is expected to incur if the proposals materialise.

The Ministry of Road Transport and Highways (MoRTH) is currently preparing a list of state highway projects that can be connected to the national highways network and brought under the ambit of the Centre for upgradation, operation and maintenance.

Currently, the government has an annual fund allocation of ₹4,000 crore for maintenance of highways other than those under the National Highways Development Programme. This amount is already ear marked for various roads and an additional ₹3,500 crore will have to come from non-plan funds as plan funds are allocated towards creation of assets.

(FE, 02.09.11)

Panel to Resolve Disputes

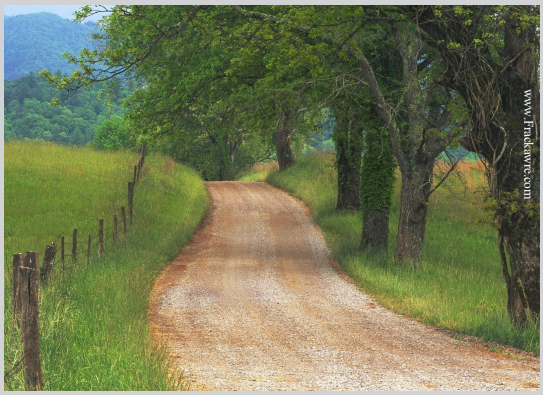
The process to free up about ₹11,000 crore of funds stuck in disputes between National Highways Authority of India (NHAI) and contractors could begin soon. The Highways Ministry will set up a committee headed by a retired High Court Judge to implement the dispute resolution mechanism as decided by the B K Chaturvedi committee.

Many national highway developer share ongoing disputes with NHAI involving the contracts implemented. A total of 1,635 cases are pending in arbitration tribunals and courts – they involve a total amount of about ₹11,000 crore.

There are 536 disputes pending in courts and 1,099 in arbitration tribunals relating to highways development projects. The amount involved in each dispute ranges from less than ₹1 crore to ₹69 crore before the courts; and from less than ₹1 crore to ₹1,514.32 crore in various arbitration tribunals. *(BL, 11.07.11)*

A Roadmap for Rural Connectivity

The government plans to connect all rural areas in the plains with population between 500 and 1,000 and hilly areas, with population between 250 and 500, with motorable roads under the *Pradhanmantri Gram Sadak Yojana* (PMGSY). In its approach paper for the 12th Plan, the government said the broadening of criteria will promote inclusiveness.



Under this, the government has set up a goal to provide connectivity to all villages with a population of at least 1,000 persons (500 in the case of hilly and tribal areas) with an all-weather road by 2012.The problem areas include inadequate institutional arrangements and limited contracting capacity in some of the states. *(BS, 18.09.11)*

AAI Defends JV Deals

The creation of joint ventures by Delhi International Airport Ltd (DIAL) has not impacted its revenue share, says the Airports Authority of India (AAI). It has written a letter saying so to the Civil Aviation Ministry and the Airports Economic Regulatory Authority (AERA).

The clarification comes at a time when questions have been raised on whether the formation of a JV by DIAL led to revenue losses for AAI. Both AERA and the Comptroller and Auditor General (CAG) have raised concerns on the issue.

Delhi airport is owned by a consortium. The GMR Group owns 50.1 percent, AAI owns 26 percent, Fraport AG and Malaysia Airports hold 10 percent each, and India Development Fund owns 3.9 percent. DIAL (run by GMR) is supposed to share 46 percent of total revenue with AAI. *(BS, 27.07.11)*

Pricing Model for Airports

The AERA's decision to adopt the single-till pricing model for fixing airport charges could discourage private developers from bidding aggressively for the proposed Navi Mumbai airport.

Private developers and investors such as GMR, GVK and Kotak Infrastructure are concerned over return on their investment in the face of the regulator using revenues earned from non-aviation activities for cross-subsidising airport tariff.

Under the new mechanism, revenues earned from activities like retail, parking, hotel and cargo are combined with aeronautical revenues and charges are fixed based on this to keep the user charges lower.

(FE, 26.07.11)

Aviation Policy on Cards

Twenty years after India opened its skies to private airlines, a comprehensive policy for the civil aviation sector is on cards. Though the government routinely bails out state-owned Air India, which is in dire straits, it cannot do the same for troubled private airlines that are bruised in a price war amid soaring fuel costs. With leading private airlines recording losses in the April-June 2011, the government feels it is time to take action.

The rationale for a comprehensive policy and a financial cushion was felt due to the sector's increasing linkages with the country's economy. With air travel turning affordable, a large number of small and medium enterprises have structured their businesses in a model where travel is key. *(FE, 14.08.11)*

• OIL & GAS •

Petrol in India Costlier

Diesel consumers in India pay lower prices than their American counterparts. But, petrol due to the high tax component is priced higher in India than in the US. Petrol in India is sold at ₹20.88 a litre higher than in the US, while diesel is cheaper by ₹4.55 a litre.

The Minister of State for Petroleum and Natural Gas, R P N Singh, informed Rajya Sabha, that retail selling prices of Public Distribution System (PDS) kerosene and domestic LPG in India are the lowest compared with the neighbouring countries.

The retail selling price of diesel is comparable with prices in neighbouring countries and much lower than the prices in European countries. For petrol too the prices in India are much lower than prices in several European countries, he added.

(BL, 23.08.11)

Oil Prices Rise Again

The increase in petrol prices by state-owned oil refiners may be followed by another hike by the end of September 2011, increasing inflationary pressures.

Indian Oil Corp. Ltd (IOC) is raising its price by ₹3.14 per litre and Hindustan Petroleum Corp. Ltd (HPCL) by ₹3.16 a litre in Delhi. After the latest increase, petrol will cost ₹66.84 a litre at IOC outlets in Delhi, ₹71.92 in Mumbai, ₹71.28 in Kolkata and ₹70.82 in Chennai.

The refiners last raised petrol prices in May 2011 followed by the government increasing diesel, kerosene and domestic cooking gas prices by ₹3 per litre, ₹2 per litre and ₹50 per cylinder, respectively, on June 24, 2011. While the Congress party-led United Progressive Alliance government decided to free petrol prices from state control in June 2010, refiners still sell diesel at a government-mandated price.

(Mint, 16.09.11)

Diversification Strategy in Place

State-run Navaratna oil explorer Oil India is chalking out an expansion and diversification strategy that could also include an entry into the city gas distribution space.

"We plan to pursue a cautious strategy for our exploration initiative. We are looking for sure-bets, because exploration is a risky activity. Even when it comes to domestic exploration, we intend to bid for the next Nelp auctions very selectively," Oil India Director for Exploration & Development Baikunta Nath Talukdar said.

The company is considering entering the gas transportation market, since it already has expertise in laying pipelines and transporting gas through pipelines. "We would like to market our gas directly to consumers. We may tie-up with a gas marketing company for this," Talukdar said.

(FE, 28.08.11)

Coal India's Wage Costs Rise

State-run mining giant Coal India, which is under pressure from labour unions for a salary hike, could see its wage costs rise by as much as 19 percent this fiscal, investment banking major JP Morgan says.

Four of the five trade unions of Coal India have put up their wage demands to the management, demanding salary hikes ranging from 100 to 500 percent, which is likely to put severe financial pressure on the company.

The current average basic salary of Coal India worker is about ₹8,320 per month. While the Left-backed All-India Trade Union Congress (AITUC) has asked for a revised salary of ₹16,000 per month, the Hind Khadan Mazdur Federation has asked for a minimum revised basic salary of ₹40,000 per month.

(FE, 24.08.11)

Dual Pricing of Diesel

The government is mulling dual pricing of diesel wherein the luxury car owners may have to pay market rate and the sale of subsidised fuel would be restricted only to farmers and transport trucks.

Diesel is the most consumed fuel in the country but is sold at a discount to the cost of production. Diesel subsidy currently is ₹6.82 per litre and on an annualised basis it would amount to ₹52,365 crore out of the total fuel subsidy estimated at ₹114,336 crore in the current fiscal.

The subsidised diesel is the preferred fuel for the transport sector and is also used in irrigation pumps and other agriculture equipments. Luxury cars and SUVs too run on diesel and so do power generators at malls and telecom towers.

It has long been argued that rich should not get subsidised fuel and that subsidised diesel being used to light malls or power telecom towers is a wasteful expenditure.

(FE, 04.08.11)

Market Price for LPG Refills

Soon, all cooking gas consumers in the country will have to pay the market price for refills, and the government will transfer the subsidy amount directly to the bank accounts of the needy. The proposal is part of plans to check diversion of subsidised LPG cylinders for commercial use and ensure that the subsidy reaches only those who deserve it.

The direct transfer of subsidy will be implanted in the second phase of the plan that will utilise the *'Aadhar'*.This will be done by linking biometric details of the beneficiary with their bank accounts.State-run oil-marketing companies will modify their consumer database and supply chain management to link these with the bank accounts of the beneficiaries.

(ToI, 15.08.11)

• POWER •

Consensus on Open Access

The Power Ministry has managed to evolve a consensus on the contentious issues that have so far plagued attempts at opening up the power market in India through open access. Open access allows large users of power to choose their electricity supplier. B K Chaturvedi, Planning Commission member is heading the inter-ministerial committee finalising the blueprint for implementing the open access scheme.

A major issue on which the fate of open access has been hanging fire is whether or not to make it mandatory for a certain portion of the Centre's unallocated quota of power to be sold through open access. This was a recommendation of an earlier task force on open access headed, again, by Chaturvedi. *(BS, 18.09.11)*

Lighting up with Renewables

There is a scramble for energy in India, which has had a negative energy balance since the 1980s. Consider these numbers: India accounted for 3.5 percent of the world commercial energy demand in 2003. The Planning Commission projects that dependence on energy imports could double to 53 percent of commercial energy consumption in 2031-32 from about 25 percent in 2003-04.

The demand for electricity is estimated to grow at the rate of 7 percent per year in India for the coming decade. Note that 84 million households lacked access to electricity in 2000, 57 percent in rural areas. Plus, 49 percent of all households, mostly women and children, have to travel to get their drinking water. Typically, women living in remote rural areas spend an average of three hours just collecting water; almost 50 million women days are lost each year in the process. *(FE, 17.09.11)*

Biomass Power Generation

The government is preparing a national bio-energy mission to boost power generation from biomass, a renewable energy source abundantly available in India. The mission, to be launched during the 12th Five-Year Plan, will offer a policy and regulatory environment to facilitate large-scale capital investments in biomass-fired power stations.

It will also encourage development of rural enterprises. The national mission will aim at improving energy efficiency in traditional biomass consuming industries, seek to develop a bioenergy city project and provide logistics support to biomass processing units. It will also propose a geographic information system (GIS) based National Biomass Resource Atlas to map potential biomass regions in the country.

Nearly 70 percent of the country's population lives in villages with marginal access to electricity. Currently, India has a total installed capacity of 3,000 MW of biomass-based power generation. *(ET, 22.07.11)*

Power Tariffs to go up

Amid rising concerns about the poor financial health of power distribution companies, electricity tariffs are likely to go up in many states, including West Bengal and Karnataka, in coming months.

Power distribution companies (discoms) are estimated to have incurred a whopping loss of ₹70,000 crore last fiscal on account of the mismatch between tariffs and the cost of producing power.

The Central Government is also working on various initiatives to improve the performance of discoms. Furthermore, the government is working on a common rating system for discoms, which would help lenders extend loans only to entities that meet certain criteria.

The Restructured Accelerated Power Development and Reforms Programme (R-APDRP) is also expected to help bring down power transmission and distribution losses to 15 percent from the current level of about 27 percent. *(ET, 19.09.11)*

PowerGrid Net Marginally Up

Central transmission utility PowerGrid Corp said its net profit for the quarter ended June 30, grew marginally to ₹705 crore against ₹703 crore in the same period previous fiscal.

However, the total income of the company rose over 11 percent at ₹2,044.14 crore as against ₹1,837.16 crore in the corresponding period of the previous fiscal, the company informed the Bombay Stock Exchange (BSE). PowerGrid Corp plans to invest ₹55,000 crore for adding 37,000 MW of inter-regional electricity transmission capacity in the country during the 11th Five-Year Plan (2007-12). *(FE, 02.08.11)*

Coal Shortage Looms on Power

At a time when the Power Ministry is struggling to achieve revised capacity addition target for the 11th Plan, a report prepared by Britain-based International Energy Consultancy, Mercados Energy Markets India for Association of Power Producers has warned that continued coal shortages and environment hurdles could lead to 'major default' in loans by private power producers to the tune of ₹1.35-lakh crore.

Already a cloud of uncertainty hangs over the capacity addition target for the 11th Plan target. The target has been revised from 78,000 MW to 62,000 MW but the government is still struggling to achieve that.

Taking forward the concerns of the government, the report notes that the shadow of acute coal shortage is looming large on the power sector. This could lead to a severe risk of stranding of assets and the associated contracts. *(BL, 13.09.11)*

• MIXED BAG •

FinMinMulls Powers for CEIB

The Finance Ministry has decided to empower and modernise the Central Economic Intelligence Bureau (CEIB) and wants it to be the main economic intelligence research and analysis think tank of the government.

A senior finance ministry official told that economic intelligence data from different agencies were piling up and there was a need to quickly empower a central agency for collating and analysing the information for further use, in a manner required under the changing scenario.

He said the revenue department has been asked to review the report of the S S Khan committee on the matter and suggest an implementation module. The Ministry's plan is to strengthen CEIB on the basis of the model prepared by the revenue department based on the Khan committee recommendations expeditiously, so that effective tools could be developed for curbing tax evasion. *(BS, 22.07.11)*

Banks Fined for Violating Norms

At a time when the government is grappling with the black money menace, the RBI has penalised as many as 48 small banks in just six months, for lapses in implementing customer identification norms and various other violations.

On its part, the government has adopted a multi-pronged strategy including setting up of special panels and review of tax treaties with different countries, to curb black money menace. Most of the erring small banks were found violating guidelines issued by the RBI on Know Your Customers (KYC) norms and Anti-Money Laundering (AML) standards.

He said the central bank has been regulating the financial pretty well and strong vigil is good for the sector.

(BS, 10.07.11)

Bank Licences on Back Burner

Companies with ambition of setting up a bank will have to wait longer. The much-hyped grant of new bank licences has been put on the back burner, as the government is not keen to go ahead. RBI had framed draft guidelines for new bank licences and submitted these to the Finance Ministry for its views. The ministry is yet to formally get back to RBI.

Following an announcement by the Finance Minister in the Budget, RBI in 2010 initiated the process for issuing fresh licences by publishing a discussion paper inviting comments from the public. The paper highlighted several issues such as the initial capital requirement, promoter shareholding and whether industrial houses should be allowed to open banks. *(BS, 31.07.11)*

RBI Not to Regulate MFIs

The RBI is not capable of regulating microfinance institutions (MFIs) and needs to get equipped to do the job. The draft Micro Financial Sector (Development & Regulation) Bill, 2011, said RBI will regulate the MFIs and will enjoy the power to frame policies for the sector.

Many believe that the absence of a central regulator for these micro lenders led to their downfall in recent times. Their businesses were growing unhindered without any central regulation, before Andhra Pradesh slapped an ordinance on them to restrict their operation.

Since then, MFIs were gasping for capital and banks virtually stopped lending to them as recoveries came to almost to a halt in the state. Banks are still not lending to them freely.

(ET, 13.08.11)

BSE Gets Nod for SME Exchange

The Securities and Exchange Board of India (SEBI) granted permission to the Bombay Stock Exchange to launch the much awaited Small and Medium Enterprises (SME) Exchange.

BSE Managing Director and CEO Madhu Kannan said the BSE was committed to deliver the best products, services, and asset classes to all stakeholders and look forward to the success of the SME segment. SME have always complained of difficulty in accessing both debt and equity capital.

While the government has taken several measures to ease access to credit, giving them easier access to equity is the next step in that process. The new exchange will be a facilitator in raising funds for SMEs.

(BL, 28.09.11)

Mediclaim Portability Starts in October

Come October and health insurance policyholders, dissatisfied with the service of their insurer, can switch to another company and carry with them their track record and no-claim bonuses.

The Insurance Regulatory Development Authority (IRDA) issued final guidelines which provides insurance companies directions on portability. In terms of the guidelines, a policyholder will have to approach an insurer 45 days before his policy with the old insurer expires, to enable the new company consider his application. The acquiring insurer will verify the claims history from the common database which will have two years of claims experience. Based on the data, the acquirer will decide whether to accept the proposal and the price at which it will do so.

The old insurer will be bound to provide additional data to the new insurer within 7 days of receipt of the application and the new insurer will have to either accept or reject the proposal within 15 days after receipt of data from the old insurer. If the decision is not communicated within a fortnight the new insurer will be bound to accept the proposal. *(ToI, 14.09.11)*

Cairn-Vedanta Deal: When Umpire Turned Batsman

– Raghuvir Srinivasan

The decision to grant conditional approval to the Cairn-Vedanta deal seems to have been influenced by the government's position as owner of ONGC rather than by its larger role as industry regulator

It is just as well that the Cairn-Vedanta deal is finally out of the way. The soap opera has dragged on for too long, 10 months to be precise, and it has done nothing for the reputation of all those concerned with it – ONGC, the Government or Cairn Energy.

Of the three, the government has probably come out the worst from the episode, not just because it has shoved an unpalatable deal down the throat of a reluctant Cairn Energy but also because of the way it went about its job as regulator of the industry ever since the deal was announced in August 2010.

If there is one fundamental problem that the Cairn-Vedanta drama has exposed, it is that of the government being the umpire and also a player in the oil industry. The government, as the dominant shareholder in ONGC, had to protect the interests of the company and also fight for it. As the regulatory authority for the industry, it also had to grant approval to the deal between two private companies. Rather disappointingly, the decision to grant conditional approval seems to have been influenced by the government's position as owner of ONGC rather than by its larger role as industry regulator.

Unfair Conditions

How else can one justify the two rather unfair conditions imposed on Cairn and Vedanta for approval of the deal? The dispute over royalty could have been settled legally and the government could have cleared the deal while simultaneously directing ONGC to proceed against Cairn through the courts. Cairn India, after all, will continue to be a legal entity, albeit with a new owner, in Vedanta and will be answerable for all contracts signed in the past.

The government has simply used its powers as regulator to push through conditions that will benefit ONGC, where it is the dominant shareholder.

If the conditional approval is unpalatable in itself, the delay in granting it makes it worse. "In view of the huge implications, we took time…. We wanted to be fair to the investors without sacrificing the interest of the Government of India," said Jaipal Reddy, Petroleum Minister. What "huge implications" is he talking about? This is, after all, a commercial deal between two companies, where the underlying assets — Rajasthan and other oilfields — will remain in India. It is not as if Cairn or Vedanta are going to deprive the country of the oil and gas from the fields.

Needless Delay

Where was the need for the government, including a Group of Ministers and the Cabinet, to expend so much energy and time on what is a straightforward commercial deal? Surely, our senior, learned Ministers have more important matters to attend to than sit in judgement over the small issue of a dispute on royalty payment between two companies?

That said, Cairn Energy has also not played its cards well. The moment it sensed the government's resistance a couple of months into the deal, it could have renegotiated with Vedanta, the way it did this week, and sacrificed a part of the valuation. The deal was certainly less than fair in terms of the non-compete fee which Cairn Energy stood to gain over other public shareholders.

Yet, with some tactical thinking it could have arrived at such an arrangement much earlier and been richer by US$6.02bn by now. The government's stance may have been unfair but once assumed in public, there was no chance of Cairn having its way on the dispute.

As for ONGC, the less said the better. Company officials are crowing about the financial gain for ONGC from not having to bear the royalty but the fact is that it is not a benefit secured through fair means. One expected better from a US$26bn maharatna company than this.

* *Abridged from an article that appeared in* The Hindu Business Line*, on July 02, 2011.*

• FDI WATCH •

DIPP Lifts FDI Caps

The government's plan to remove sectoral foreign direct investment (FDI) caps below 49 percent would come with a set of riders as it wants to closely scrutinise sensitive sectors like insurance, news media and defence once the liberal regime is in place.

The Department of Industrial Policy and Promotion (DIPP) now wants to make it mandatory for all joint ventures seeking approval to increase foreign investment to 49 percent to have Indian citizens as their MD and CEO. Such firms should also have a government-nominated director on their boards.

The government will also scrutinise the balance sheets and other company statements to ensure there are no changes in ownership structure or control. In case of JVs in the defence sector, if the FDI is to the extent of 49 percent, such companies will have to compulsorily go public. The government will also make laws to restrict such joint ventures from making changes to initial investment agreements. Other conditions could be a minimum lock-in of three years for foreign funds before they can be repatriated. *(FE, 21.07.11 & BL, 01.08.11)*

FDI in Multi-brand Retail

A panel of secretaries set the stage for allowing overseas retailers such as Wal-Mart, Tesco and Carrefour to open stores in the country through majority-owned joint ventures. The proposal will have to be cleared by the Union Cabinet before the rules are notified.

Sources opine that the committee of secretaries headed by Cabinet Secretary A K Seth approved the proposal to permit multi-brand retailers to hold up to 51 percent in Indian companies that would set up retail outlets.

Allowing foreign investment in retail has been on the drawing board for six-seven years but the government has dithered on opening up the sector to foreign competition fearing adverse impact on local *kirana* stores. *(ToI, 23.07.11)*

Industry Rivals Push for GST

The Goods and Services Tax (GST) will create a common market in India where costs are likely to be lowered by allowing firms to offset tax paid on inputs, and consumers will know the indirect tax rates. Rivals Hindustan Unilever Ltd, India's largest consumer packaged goods company, and Marico Ltd are joining hands for a shared cause – the GST regime.

Under this regime, tax will be levied and collected at the point of consumption. GST will have significant impact across companies, government machinery and consumers. A big change it will catalyse is the way companies locate and carry out manufacturing, operational and logistics activities.

It has missed an April 2011 deadline; the government is now working towards implementing it in April 2012. *(Mint, 28.08.11)*

Global Norms for Minerals

A Ministry of Mines Committee has suggested modifications to revenue and taxation policies to attract private investments in exploration of minerals other than coal and lignite. The panel chaired by S K Srivastava, Additional Secretary, Ministry of Mines, said regulations do not permit 'junior exploration companies' to list on the stock exchanges and consequently raise risk capital from the market.

The panel, which has submitted its findings to the ministry, has observed that the security of tenure is currently not guaranteed under the existing regulations. It called for an expeditious grant of concessions and simplification of procedures, transparency in transactions, application of e-governance in transactions, building training capacity and strengthening the state directorates for taking up exploration.

According to the panel, states should facilitate mining activity by encouraging investors and entrepreneurs to exploit the mineral wealth by improving infrastructure, easing tax laws wherever possible and by enabling the forest clearance process. *(BS, 12.07.11)*

Green Estates Concept

The ministries of commerce and environment may soon find common ground on the proposed National Manufacturing and Investment Zones (NMIZ) with the latter proposing green industrial estates. Based on United Nations Environment Programme's (UNEP) concept of green estates, these would have only one effluent outlet for irrigation purposes.

Besides, regardless of the type of industries in the NMIZ, all units will be connected to one treatment and disposal system at the lowest contour of the estate zone. NMIZs will focus on establishing manufacturing facilities for domestic and export-led production, along with associated services and infrastructure. The processing area may include special economic zones, industrial parks, warehousing zones and export-oriented units. *(FE, 21.07.11)*

Environment Regulator Soon

In the backdrop of the controversy over environmental clearances to major projects, Prime Minister Manmohan Singh said an independent regulator would soon revamp the process and help protect ecology without bringing back "the hated licence permit raj".

This authority could lead to a complete change in the process of granting environmental clearances. Staffed by dedicated professionals, it will work on a full time basis to evolve better and more objective standards of scrutiny.

The move to establish this authority appears to have come in the wake of stalling of several industrial and mining projects after the Environment Ministry, till recently led by Jairam Ramesh, had refused to clear the project. *(Mint, 25.07.11)*

There is no Room for Pessimism

On inflation outlook...

No doubt inflation is doggedly pursuing us. But, looking forward, we expect headline Wholesale Price Index (WPI) inflation to come down to six-seven percent by March 2012. The rates will remain relatively "sticky" and there could be a spurt between August-December 2011, but they will start to fall thereafter. However, global commodity prices remain high and will pressure imported inflation. We believe that rising and high global commodity prices in significant part emanate from the consequences of very large and sustained monetary policy easing in advanced economies. We hope that international commodity prices will moderate.

Financial Express

Do higher administered prices for agricultural crops make inflation worse?

Some amount of inflation hardening will be there in the economy. Farmers will have no incentive to produce more if the Minimum Support Price (MSP) is not raised. At the same time, there is a mismatch between demand and supply for agricultural commodities. Also, if we did not pass on some of the price increases, then the effect would show up in the larger fiscal deficit that would cause higher general inflation, which is a worse outcome. Our preferred approach is to increase prices only gradually.

Is there a slowdown in demand and investment?

There is a wrong impression that we (UPA-II) have given up. But look at the number of Bills cleared by the group of ministers, like the MMDR, the Food Security Bill which has more or less gotten a final shape, or the Bills on insurance, pension and banking regulations that are already with the standing committees in Parliament. But I do realise that (foreign) investors look at an economy in comparison with its competitors and especially at how much of an investment-conducive environment it is offering. At the same time, we have the compulsions of coalition politics but there is no room for pessimism.

After the appointment of Sushil Modi, how far on track does the GST plan look like?

To implement it, we have set aside about ₹50,000crore as compensation for the states. The states have to decide on how fast it can happen, though next year looks difficult. Modi is a good choice, I feel, as he has been with the empowered committee for a long time. He has rarely missed any meeting of the committee so his leadership will provide the direction the committee needs.

Is the government defensive in its role with the civil society?

As I see it, every organ of the state has to play its assigned role. Otherwise, there is a distortion. The problem is if the legislature does not do its duty of passing Bills and resorts to obstructionism, then the common man will seek other remedies. The government does not just administer land or resources but the aspirations of 1.2 billion people. So, it has not been remiss in its role in trying to address the various concerns, including those of the civil society.

What are the chances of the government sticking to the growth and deficit numbers this year?

There is uncertainty in the global economy. It does not help us to project lower growth numbers now. As of now, I am sticking to the nine percent growth numbers we projected in the Budget in 2011. We will review them after the first quarter results in the mid-term review. As of date, there is no hard data on real GDP or its components available for the current year. The first quarter estimate is scheduled to be released on August 31, 2011. Therefore, the outlook for the current fiscal at this juncture has to be inferred from movements of past data as well as from some higher frequency proxy economic indicators.

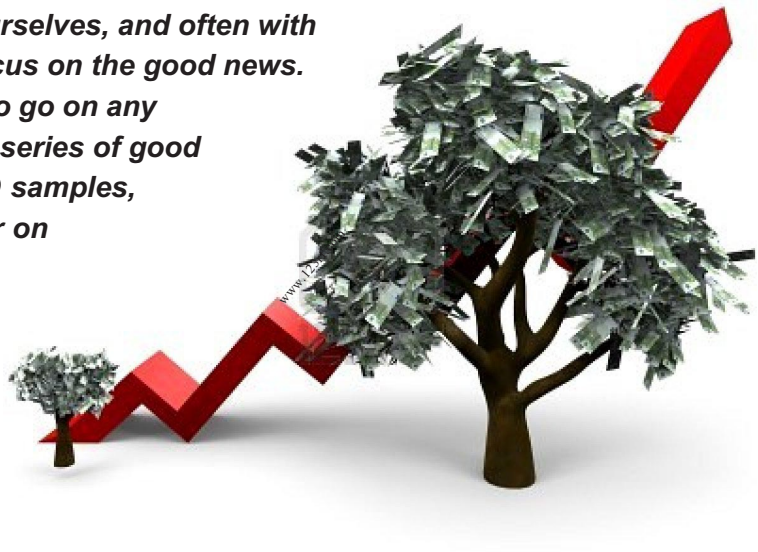
Finance minister Pranab Mukherjee was clear the government was not being defensive when it met Ramdev; "Issues like de-monetisation were never on. We would have had to print currency notes abroad," he said. The government was only trying to communicate better with all sections, he said about the meeting of the controversial godman with the former CBDT chief. On the overall issue of policy stagnation and anti-inflation measures, Mukherjee said talks are going on to allow FDI in retail while food inflation has decelerated to eight percent now from 22 percent in February. Excerpts from a select media briefing

* *The news item appeared in the* Financial Express*, on July 21, 2011.*

Inclusive Growth, Here We Come

– Sunil Jain

We are so focused on berating ourselves, and often with good reason, we are unable to focus on the good news. To be sure, India has a long way to go on any parameter you can think of, but a series of good news coming out from two NSSO samples, one on employment and the other on consumption. Both indicate economic growth has begun to deliver results, something even the government has been unwilling to believe, given its sole focus on all manner of anti-poverty programmes



Take the jobs data first. This is the first time since the reforms began in 1991 that unemployment levels have come down, and when 2009-10 was a drought year – indeed, the National Sample Survey Office (NSSO) has agreed to do another large survey for 2011-12 so that more meaningful results can be derived. It is true that 401 million jobs were created in 2009-10 as compared to 383 million in 2004-05 and 338 million in 1999-2000 – that is, while the NDA government created 45 million jobs, the UPA created just 18 million. The reason why less jobs got created by the UPA is that there was less demand for jobs.

Many argue this doesn't wash, that since women are being discriminated against and find it difficult to get jobs, they are just not entering the labour force – so the unemployment numbers, the argument goes, are misleading. Between 2004-05 and 2009-10, the participation rate of women is down from 22 to 18 percent and that for men is up from 53 to 54 percent. The figure for boys is 16 million, implying that 28 million people are not in the labour force out of choice. Indeed, this explanation of less people being available for employment is consistent with the rise in wage levels. In the period 2004-05 to 2009-10, wages and salaries have gone up by 72-102 percent for men and women in rural and urban areas.

For salaried women workers in rural areas, salaries grew at 1.7 percent per year in the 1999-2000 to 2004-05 period as compared to a whopping 12.8 percent between 2004-05 and 2009-10; for urban women, the growth rose from 1.8 to 15.1 percent in the same two periods. For salaried men in rural areas, salaries grew by 2.6 percent per year in the first period to 11.5 percent in the second period. For casual workers who are women, annual growth in wage rates rose from 3.5 to 14.6 percent; for urban women who were casual workers, income growth was 2.8 percent per year in urban areas in the first period and this rose to 11.8 percent in the second period.

This hike in employment growth and in wages, logically enough, led to a sharp hike in expenditure levels. In real terms, monthly per capita expenditure in rural areas rose by 0.2 percent per year between 1987-88 and 1993-94; this rose to 0.8 percent in the 1993-94 to 2004-05 period, and then to 1.4 percent per year in the five years from 2004-05 to 2009-10. For urban areas, real per capita expenditures grew by 0.98 percent in the 1987-88 to 1993-94 period, by 1.47 percent between 1993-94 and 2004-05, and further to 2.67 percent between 2004-05 and 2009-10.

As a result, poverty in 2009-10 is likely to have fallen to 32.2 percent, which means poverty levels fell by one percentage point each year since 2004-05. While poverty fell by one percentage point each year between 2004-05 and 2009-10, it fell by 0.81 percentage points per year between 1993-94 and 2004-05.

Equally important is the further improvement in health indicators like infant mortality, maternal mortality and the under-5 mortality rate – all go to show that most states are focusing on health delivery. Nine states have a fertility level that ensures no growth in population – in 12 years, that will be true of the entire country. As in other cases, there's a long way to go but the improvement is steady. Pity the UPA's not talking about what it has achieved.

* *Columnist, Business Standard. The article appeared in the* Financial Express*, on July 13, 2011.*

India's Big Steps to Global Clout

The Indian government is ranked fifth in wielding economic clout globally after the US, China, Japan and Germany, and ahead of European powers France and the UK, according to a study authored by chief economist advisor Kaushik Basu.

The study suggests that India has done well in the last decade. It uses a new four-parameter Index of Government Economic Power to rank 100 countries from 2000 to 2009. India moved up three notches from eighth in 2000 to fifth in 2009, thanks partly to the sustained none percent-plus growth in the years preceding the global financial crisis that saw the country's share in global GDP rise to 5.4 percent in 2010 from 4.6 percent in 2000.

The index, which uses three broad indicators to gauge a government's economic prowess, captures China's stupendous rise on the global economic landscape. The dragon overtook Japan in 2003 and is now closing in on the US. *(ET, 15.07.11)*

8.1% Growth for India in 2011

In the midst of an anticipated global slowdown to three percent in 2011, the United Nations Conference on Trade and Development (UNCTAD) highlighted India as a shining star, projecting an economic growth of 8.1 percent – the fastest rate of expansion in the world after China.

UNCTAD stated that despite the slowdown in developed countries, the Indian economy is set to grow by 8.1 percent in 2011 as against to 8.6 percent in 2010.

UNCTAD said that the South Asia region is likely to be among the best performers globally, with a growth of seven percent in 2011. As for India, UNCTAD noted that its growth story is mainly on account of domestic demand. *(TH, 07.09.11)*

4 lakh Millionaires by 2012

The millionaire club is set to witness a major boom as their numbers are expected to more than double to 4.03 lakh by 2015 on the back of a robust economic growth and impressive returns from stock and property markets.

The total wealth of these millionaires, having minimum investible assets of US$1mn, is also estimated to more than double to about US$2.5tr by 2015, a report on Asian wealth market said.

Investment banking major CLSA said in its report, entitled 'Wealthy Asia' that there were a total of 1,73,000 millionaires in India at the end of 2010, with total wealth of US$949bn.

For 2015, the report forecasted the country to have as many as 4,03,000 High Net Worth Individuals, who have been classified as those having minimum investible assets of US$1mn, with a combined wealth of US$2,465bn. *(ET, 12.09.11)*

India Slips in Innovation

India slipped to 62nd position in the 2011 edition of the Global Innovation Index rankings from being 56th in 2010 and 41st in 2009. The 2011 rankings were released by the leading international business school INSEAD and its knowledge partners, Alcatel-Lucent, Booz & Company, the Confederation of Indian Industry, and the World Intellectual Property Organisation.

Switzerland topped 2011's list. The others in the top 5 are Sweden, Singapore, Hong Kong and Finland. The other major countries are; US (7), China (29), Brazil (47) and Russia (56). The Global Innovation Index is computed as an average of the scores across inputs pillars and output pillars. *(BL, 01.07.11)*

No Access to Infrastructure

Scheduled Caste, Scheduled Tribe and minority habitations have limited or no access to public infrastructure, according to National Infrastructure Equity Audit conducted by Social Equity Watch – a non-Governmental Organisation. The audit says that there is continued presence of deep-rooted caste-based inequity in the distribution and availability of infrastructure.

Access to public infrastructure by different social groups was surveyed in 124 *gram panchayats* of Andhra Pradesh, Bihar, Karnataka, Orissa and Rajasthan covering 1,000 caste and religious habitations.

There are many SC/ST habitations that are still officially uncovered, says the audit. Over 60 percent of *gram panchayats* surveyed had no health centres, schools, *panchayat bhawans* and post offices located in SC/ST and minority areas. *(BL, 10.09.11)*

Joblessness Falls Faster in Cities

India's labour force increased by 11.7 million to 428.9 million in the five years between 2004-05 and 2009-10 on a current daily status basis while the workforce grew a much higher 18 million to 400.8 million, according to numbers from the latest National Sample Survey Organisation study.

MEN AT WORK

Trends in the growth of the labour force, workforce and unemployment (current daily status basis)

	Male	Female	Total
Growth of labour force (m)			
2004-05	305.1	112.1	417.2
2009-10	328.4	100.5	428.9
Change	▲23.3	▼11.6	11.7
Growth of workforce (m)			
2004-05	281.2	101.6	382.8
2009-10	308.6	92.2	400.8
Change	▲27.4	▼9.4	18.0
Number of unemployed (m)			
2004-05	23.9	10.4	34.3
2009-10	19.8	8.2	28.0
Change	▼4.1	▼2.2	-6.3
Unemployment rate (%)			
2004-05	7.8	9.2	8.2
2009-10	6.1	8.2	6.6

Source: NSSO

The higher growth of employment has helped push down the number of unemployed from 34.3 million in 2004-08 to 28 million by 2009-10; a decline of 6.3 million unemployed during the five-year period.

The substantial fall in unemployment as estimated on a current daily status basis, which has been used by the Planning Commission in the Tenth Plan, is a major achievement as the number of unemployed had steadily picked up from 20.2 million in 1993-94 to 26.7 million in 1999-2000 and further to 34.3 million in 2004-05. *(FE, 01.07.11)*

Reinventing India's FDI Strategy

– Biswajit Dhar*

Over the past several months, there has been rising concern among policymakers over declining inflows of FDI in India. The World Investment Report, 2011 (WIR) issued by the UNCTAD shows that in 2010, when the emerging economies had recovered from the economic downturn, FDI inflows into India were below pre-crisis levels by as much as 42 percent.

But while the Government of India is engaged in formulating the policies that would be helpful in reversing the recent trends of FDI inflows, WIR provides useful insights on the mode of operations of the enterprises that are the source of this form of capital, the transnational corporations (TNCs). Operations of TNCs have been changing over the past two decades, and this change has become a dominant pattern of their behaviour during the past decade. Instead of making mega-sized investments in host economies, TNCs have been sub-contracting various parts of the value chains by establishing joint ventures with local enterprises in a number of countries, thus establishing global value chains (GVCs).

Advantages of GVCs have been seen in India's neighbourhood. Southeast Asian countries have long been involved in these GVCs that were first triggered when Japanese firms moved away from their home country in search of more cost-efficient locations.

The extent of sub-contracting has varied across sectors: in case of toys and sporting goods almost 90 percent of the cost of the final products is obtained through sub-contacting, while for consumer electronics, the corresponding figure is 80 percent.

Where does India figure in the sub-contracting business? Evidence provided by WIR indicates that India is still lagging behind in terms of its engagement with GVCs. As regards the major sectors that are witnessing the emergence of sub-contracting, Indian firms seem to be performing better in the generic pharmaceutical sector where firms such as Piramal Healthcare and Jubilant Life Sciences are among the top 10 global players in contract manufacturing.

The performance of Indian firms in the IT-BPO sector has been disappointing as none of the leading Indian firms could find themselves in the global top 10. Although Tata Consultancy Services seem to have narrowly missed out from being counted in this list, the absence of any Indian enterprise should be viewed with some concern, particularly because India considers itself to be a global leader in this sector.

Quite clearly, India has not yet been able to provide globally competitive enterprises that have in them to be included in the GVCs. How can the situation be changed? Adoption of a proactive industrial policy, which seems to have found favour with many governments after years of neglect, seems to be the right way forward. There is evidence that most emerging economies have opted for an industrial policy, which includes policies to change the relative incentive structure as between foreign and domestic enterprises with a view to promoting the latter.

In India, the contours of such an industrial policy would have to be written as a part of the manufacturing strategy that is currently doing the rounds. The objective of this manufacturing strategy, as underlined by the Union finance minister in his budget speech, was to increase the share of manufacturing in the gross domestic product from about 16 percent today to 25 percent over a period of 10 years.

For the realising this goal, policymakers will have to adopt a two-pronged strategy. In the first instance, greater policy coherence will be required to improve the ease of doing business in the country. At the same time, needs of the globally competitive sectors such as generic pharmaceuticals and IT-BPO, among others, and emerging sectors such as auto ancillaries would have to be kept in view. The government would have to get the right mix of policies to ensure that these frontline sectors enjoy the right incentives to expand their businesses in the country.

* *Director General, Research and Information System for Developing Countries, New Delhi. Abridged from an article that appeared in* The Mint*, on August 02, 2011.*

Public with Audit Reports

Prime Minister Manmohan Singh may not be happy with the way the Comptroller and Auditor General (CAG) of India, goes public with its findings, but the office of the CAG is bracing up for more public interactions in the coming days.

CAG briefings, however, will not be on special audits such as 2G telecom spectrum allocation or Commonwealth Games expenditure, but on its observations on flagship social sector programmes such as the Mahatma Gandhi National Rural Employment Guarantee Scheme (MGNREGS) and National Rural Health Mission, which cumulatively account for over ₹80,000 crore annual spend from the central exchequer.

It is for the first time in its 150-year history, it is preparing common man-friendly audit reports on social issues such as rural health, education, environment, rural asset creation, pollution and water-based issues, among others, with a clear objective to sensitise the public. *(BS, 02.07.11)*

Civil Society-India Incto Guide

After the government involved the civil society while framing the important *Lok Pal* Bill, it is the turn of the national auditor to listen to the society at large and companies on how to go about its job.

The CAG has set up a 15-member advisory board which will have civil society representatives to suggest how it can improve its functioning.The move comes amid criticism of some of its recent findings as well as the leak of various reports before they could be tabled in Parliament.

The main function of the board will be to advise CAG on audit matters and suggest improvements. This will, however, be done within the framework of the Constitution and the statutory mandate of CAG. *(BS, 23.07.11)*

Hits out at Kapil Sibal

The CAG lashed out at Telecom Minister Kapil Sibal saying it was 'improper' for anyone to comment on a matter being considered by a parliamentary committee. Sibal faulted the CAG's report on the alleged 2G spectrum allocation scam, calling it 'utterly erroneous'.

The government's auditor said that when any matter is under consideration of a Parliamentary Committee, no person, including a Member of Parliament, should make or publish a statement or comment about that matter.

Making public comments on the matter is highly improper and may even amount to contempt of the House, the CAG added. *(www.news.worldsnap.com, 12.01.11)*

Shipping Corp Slammed

Pulling up state-run Shipping Corporation of India for not pursuing an ambitious acquisition policy to augment fleet, CAG said it has not only resulted in ₹2,100 crore cost overrun, but also adversely impacted its business growth.

Shortfall in acquisition also delayed modernisation of the navratna company's fleet capacity at a time when country's seaborne trade was growing at a pace of 8.5 percent annually, preventing it to capitalise on it, the CAG said.

CAG also noted that average age of company's vessels was 15.63 years as against 11 years of their immediate competitor in the private sector. *(FE, 05.09.11)*

'Under Spending' in E-governance

A Parliamentary panel slammed the IT Department on the "under utilisation of outlay" for National e-Governance Plan (NeGP). NeGP is an ongoing flagship programme of the government, aimed at providing electronic delivery of public services to the citizens.

The Standing Committee on IT noted that actual expenditure in the first four years of the XIIth Plan amounted to only about 36 percent of the total budgetary allocation approved for the full Plan period.

In its report, the committee observed that while the Revised Estimate allocation during the period was pegged at about ₹2,171 crore, the actual spending met so far during the first four years of the XIIth Plan was only about ₹1,795 crore.

The analysis of the data furnished by the Department in various documents revealed that during the XIIth Plan, ₹4,992 crore was provided, it said, adding that the Budget Estimate allocation for five years was about ₹4,617 crore. *(BL, 11.08.11)*

Nilekani Moots LPG Cap

The Nandan Nilekani task force on direct cash transfer of subsidy on fuel and fertilisers has recommended a system of real-time transfer of cash to the buyer's bank account, which could subsequently be finetuned to cover only poor families.

Finance minister Pranab Mukherjee had set up the task force led by Unique Identification Authority of India chairman Nilekani to recommend ways of directly transferring cash subsidy on kerosene, LPG and fertilisers to the intended beneficiaries. The panel, which submitted its draft recommendations, proposed an IT-enabled core subsidy management system (CSMS) to be implemented from March 2012.

As a preparatory step, the movement of subsidised fuel and fertiliser through the supply chain should be tracked up to the buyer and the customer electronically identified at the time of purchase, the task force noted. *(FE, 05.07.11)*

Bolster *Aam Aadmi's* Image

In an attempt to bolster its *aam aadmi* image, the government is setting up the Aajeevika Development and Financial Corporation (ADFC), a financial institution to ensure easily available funding for self-help groups under the National Rural Livelihood Mission. Problems in accessing credit for families below poverty line have been a major hurdle for the livelihood mission.

The Rural Development Ministry, which is promoting the Aajeevika Development and Financial Corporation, plans to formally launch the financial institution on February 02, 2012, which is the Mahatma Gandhi National Rural Employment Guarantee Act Day.

Aajeevika aims at eliminating poverty by enabling the people below poverty line, particularly women, to access financial resources at affordable rates and to ensure sustainable livelihoods. *(ET, 10.09.11)*

RTI: A Tool to Fight Corruption

The right to information (RTI) is a cherished right. Information and the RTI are intended to be formidable tools in the hands of responsible citizens to fight corruption and bring about transparency and accountability, the Supreme Court held.

A Bench of Justices while giving this ruling said the RTI Act provisions should be enforced strictly and all efforts made to bring to light the necessary information under Section 4 (4) (b) which "relates to securing transparency and accountability in the working of public authorities and in discouraging corruption."

The RTI Act should not be allowed to be misused or abused to become a tool to obstruct national development and integration or to destroy peace, tranquillity and harmony among its citizens. Nor should it be converted into a tool of oppression or intimidation of honest officials striving to do their duty. *(TH, 13.08.11)*

Rural Scheme Fails

Nearly 40 percent of the households who got work under the government's flagship rural jobs programme in 2010-11 did not complete even 15 days of work. The MGNREGS promises 100 days of work to each poor rural household. The programme was started in 2006 and covers 619 of India's 626 districts.

Only 34.1 million of the 54.9 million households that received work under the scheme last fiscal completed at least 15 days of employment. The Ministry of Rural Development is the nodal agency for implementing the scheme. In most states, at least 20 percent of the people employed under MGNREGS did not work for even 15 days under the scheme. *(Mint, 08.07.11)*

2nd Green Revolution for Food

While noting that the food production has been increasing consistently over the last few decades, Prime Minister Manmohan Singh stressed the need for a broad based and sustainable second green revolution for meeting rising demands of food and ensuring the nutritional security.

While calling upon agricultural scientists to help augment the foodgrain production to two percent per annum, Singh said the enormity of the task ahead is indicated by the fact that during the 10-year period from 1997-98 to 2006-07, the country's foodgrain production had grown at an average annual rate of only one percent. He stressed the need for a second green revolution that is more broad-based, more inclusive and more sustainable. *(FE, 16.07.11)*

Corrupt Babus Make Losses

The government is considering making dishonest public servants compensate the nation for losses incurred on account of their actions. Corruption among public servants is currently treated as criminal offence under the country's anti-corruption laws, but there is no civil liability or provision for compensation.

The Group of Ministers on corruption is also examining a proposal to bring private sector utility services providers and non-government organisations that receive substantial aid from the government into the ambit of the Prevention of Corruption Act, 1988. Law Minister Veerappa Moily, who is part of the ministerial group, first mooted these ideas as the chairman of the 2nd Administrative Reforms Commission. *(ET, 12.07.11)*

Welfare Measures more than Reforms

India will complete 20 years of liberalisation today. The removal of the licence permit raj was done with the hope that it would usher in a market economy. The focus of the government in the last few years has been quite different. In contrast to reforms that were meant to help India turn into a market economy, the government has turned to providing benefits to people. Both are meant to reduce poverty but the basic philosophy of the two approaches is quite different. While the former was meant to increase the pie, the present approach focuses not on growing but on redistributing the pie.

Can India afford this new approach? Are we rich enough to focus on redistribution? Will the fiscal cost of welfare programmes bring in a crisis?

These are serious concerns today when a few years of fast growth seem to have convinced the government that now it can turn towards large welfare programmes. Further, there are a number of issues including foreign investment, infrastructure, taxes, and so on, for which a laundry list of reforms is available. What India is seeing today is not as much a lack of reforms, as a new philosophy. The Congress today emphasises on welfare programmes through various rights such as to employment, education, food, etc. which are redistributive in nature. *(FE, 24.07.11)*

Governance and Growth

– A V Rajwade*

While much is made of the lack of policy reforms, the key issues are improving governance and accountability

In his speech before the United Nations (UN), the Prime Minister spoke of the balancing role India's growth may play in helping a slowing global economy. The fact is that Indian growth has slowed for five successive quarters, and may well fall further. The Index of Industrial Production remains soft: indeed, it may fall further as corporate investment growth continues to fall, as, for environmental reasons, ore and coal mines are ordered closed affecting steel and power output and exports have shown a large jump, but the veracity and sustainability of the numbers is questionable.

While much is made of the lack of policy reforms, the most important problems are improving governance and accountability. The problem starts right at the top with an unelected and non-accountable body (the National Advisory Council, NAC) acting as a super-cabinet, which loads ever greater social responsibilities on a government machinery unable to deliver even basic serviceswith a modicum of efficiency and honesty.

Indeed, we have made governance and decision making so complex as to almost ensure that decisions from the purchase of new dustbins by the Mumbai Municipal Corporation to the installation of CCTV cameras around the Delhi high court, get delayed, and nobody is responsible for the delays. The CAG criticised both the merger of Air India with Indian Airlines, and the huge order placed for the expansion of the fleet. At last count, the bodies of learned men involved in the decision-making processes included the boards of the two companies, the Ministry, the Planning Commission, the Project Investment Board, committees of secretaries, the Cabinet Committee on Economic Affairs, etc. How can poor Praful Patel be blamed for the decisions?

But to come back to the NAC, at a time when we need to increase investments to create jobs, ever more resources are spent on social programmes. God alone (hopefully!) knows the proportion of "outlays" leading to lasting "outcomes". No wonder jobs growth dropped to just 2 million in the last five years! The number of people with no stake in the proper functioning of the economy is rising rapidly, even as we talk of "inclusive" growth.

At one level, security forces are becoming ever more brutal and extortionate—a truck driver in Uttar Pradesh was murdered by the police because he refused to pay the demanded bribe! At another, their working conditions are becoming more intolerable every day, despite any number of commissions and pious platitudes about reform. If the police and paramilitary forces join the farmers in striking against the way things are, where will we be?

At a different level, within the BRICS (Brazil, Russia, India, China and South Africa), we come out weakest in macroeconomic comparisons of the current account and consolidated fiscal deficits – and the highest in inflation. Five years ago, the World Economic Forum gave India a competitiveness score of 4.3, one notch below China's 4.4. The latest scores were 4.3 for India and 4.9 for China.

In the Global Innovation Index, developed by INSEAD, India's ranking has slipped from 23 in 2007 to 62 now, while China remains in the top 30. We rank equally low in the World Justice Project's latest Rule of Law index. But then, who has time (or inclination?) to think about, to debate, to rectify such issues? Our political masters often behave, and act, as if nine percent per annum of real gross domestic product growth has become the "new Hindu rate"– persisting whatever we do or do not do. Is this a valid assumption? I for one would not be surprised if, following the fortunes of the Indian cricket team, we register a sharp fall in our global ranking. As Pratap Bhanu Mehta asked in a recent article, "Is India an ungovernable economy now?" The answer, sadly, seems: "Yes!"

* *A Risk Management Consulant, Columnist and Author. Abridged from an article that appeared in* The Mint*, on September 28, 2011.*

Cash under Food Security Act

Citing the diversion of foodgrains meant for public distribution, Bihar and Delhi have urged the Centre to provide cash instead of foodgrains for beneficiaries under the proposed National Food Security Act.

The Union Food and Consumer Affairs Ministry is ready with the draft Bill that will be soon placed before an Empowered Group of Ministers (EGoM) on food. It aims to provide legal right over highly subsidised foodgrains to 68 percent of the country's population.

Under the new law, the Ministry plans to provide 7 kg of foodgrains per person per month falling under 'priority household' category and 3 kg to a member of 'general household' category. *(TH, 04.07.11)*

Right to Services on Anvil

The Punjab government will implement the Right to Services Act from August 15 in the state, assuring the residents prompt delivery of 67 basic services.Deputy Chief Minister Sukhbir Singh Badal sought their cooperation to make the "path-breaking and historic Act", which will facilitate prompt delivery of services like driving licences and ration cards, a great success.

He asked the Deputy Commissioners to set up a special cell at every *Suwidha Kendra* at the sub-tehsil level to receive complaints regarding non-availability of scheduled services within the stipulated time.

Expressing concern over reported cases of touts operating in *SuwidhaKendras*,Badal asked all present to check this menace. He also emphasised the need for more counters in the Kendras due to the increasing footfall. *(TH, 15.07.11)*

National Sports Development

The Union Cabinet did not clear the National Sports Development Bill that aimed at regulating the functioning of national sports federations and putting an age limit on their bosses.

The bill was discussed and a number of ministers raised objections. Subsequently, it was decided that the bill should be re-worked by the Sports Ministry before it could be again considered.

The bill sought to bring in revolutionary changes in the functioning of sports bodies in the country, which included putting an age limit of 70 years and tenure restrictions besides bringing these bodies under RTI. *(PTI, 31.08.11)*

Nuclear Safety Authority

A bill to set up a new national nuclear authority and other regulatory bodies to oversee radiation and nuclear safety has been introduced to India's lower house, the Lok Sabha.

The Nuclear Safety Regulatory Authority Bill was drawn up in response to events at Fukushima and aims to establish several new regulatory bodies. A new Council of Nuclear Safety (CNS) would oversee and review policies on radiation safety, nuclear safety and other connected matters.

The second major body to be established would be called the Nuclear Safety Regulatory Authority (NSRA) and would be responsible for ensuring radiation safety and nuclear safety in all civilian sector nuclear activities.

(www.world-nuclear-news.org, 09.09.11)

Land Acquisition Bill Cleared

The draft bill on land acquisition and rehabilitation and resettlement of land-owners, which provides for higher compensation and wider discretion to the farmers to exercise choice while their land is acquired, was introduced in the Parliament.

Rural Development Minister Jairam Ramesh introduced the National Land Acquisition and Rehabilitation and Resettlement Bill, 2011, bill in the Lok Sabha. No member opposed the introduction of the bill.

Ramesh said the draft bill tightened definition of "public purpose" and made provision of "eminent domain", meaning land acquisition would require prior consent of 80 percent "project affected" persons where the government acquires land for purpose of transferring it to private companies for stated public purpose.

(BS, 06.09.11)

A New Anti-corruption Bill

The much-hyped "Lokpal Bill" would allow citizens to approach a newly-created anti-corruption watchdog with complaints about officials, including federal ministers and senior bureaucrats who are shielded under India's current laws.

The ombudsman will be picked from the highest levels of the judiciary and supported by 10 other officials who would be from the judiciary or people of "impeccable integrity".

The scheduled version of the bill has been strongly criticised by civil society activists, who were allowed to participate in the drafting process but complained that their views were marginalised. *(www.dawn.com, 04.08.11)*

Women Demand Reservation

Women's groups have got together to demand the passage of the Women's Reservation Bill in the Lok Sabha. The Bill that seeks to reserve 33 percent seats for women in State Assemblies and Parliament was passed in the Rajya Sabha in March 2010 amidst pandemonium after more than a decade of struggle to arrive at a consensus with various political parties on the draft of the Bill.

However, the Bill has not been tabled in the Lok Sabha as the government still wants to reach on an agreement with other political parties like the *Rashtriya Janata Dal* and the *Samajwadi* Party who are opposed to the present draft of the Bill and are demanding reservation within reservation for Muslim and women from the backward classes. *(TH, 29.07.11)*

Cess to Fund Free Healthcare

You may soon have to pay more tax since the government is considering a proposal to levy a surcharge to fund its ambitious plan of providing free healthcare to every citizen in the country. The Planning Commission's expert panel has turned down the proposal for a securities transaction tax, and instead voted for a health surcharge on taxable income.

The move would complement the government's budgetary allocation and "obviate the need for user charges on the rich". Though the panel has not recommended how much surcharge should be levied, a one percent levy would yield over ₹9,000 crore for this fiscal.

Now, the Planning Commission panel wants the government to introduce a national health entitlement card for every citizen that will guarantee free access to a heath package of essential primary, secondary and tertiary healthcare fully funded by the Centre. *(ToI, 16.08.11)*

Generic Drugs to be Promoted

The Health Ministry fears the takeover of Indian firms making generic drugs by multi-national companies (MNCs) will push up the prices of essential drugs. As per the rule, whenever a MNC wants to take over an Indian generic drug-making firm, it has to first apply to the Foreign Investment Promotion Board (FIPB), who will look at what impact the acquisition would have for India's public health sector, and then give its approval.

This has led to a spate of buy-offs of Indian companies, whose effect would be felt when 61 drugs worth over US$80bn go off the patent list in the US between 2011-2013.Once the drugs go off the patent list, domestic pharma companies in India would be able to produce their cheaper variants.

But if MNCs buy them, the price would still be high, and this would affect the governments' efforts to make generic drugs cheaper as against branded drugs. *(ToI, 04.09.11)*

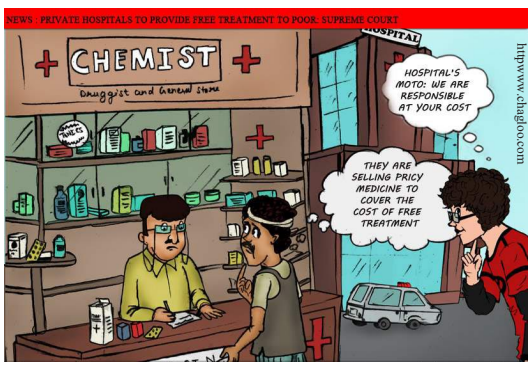
Revamp Healthcare Mechanism

A government panel has suggested path-breaking reforms to revamp the country's healthcare system, including regulatory mechanism for the heath sector – both public and private – to ensure affordable and quality healthcare for all the citizens.

The expert group of the Planning Commission aims to set up the National Health Regulatory and Development Authority, an apex body to keep an eye on both public and private healthcare providers. *(ToI, 12.09.11)*

Free Treatment to Poor

Private hospitals getting subsidised land cannot run away from their responsibility to give free treatment to economically weaker sections of society, the Supreme Court said while asking them to work out a mechanism with Delhi government for ensuring this.



A bench comprising Justice R V Raveendran and Justice A K Patnaik pulled up some of the hospitals for not giving free treatment to the poor. It asked the hospitals to sit with government authorities to sort out the issue and work out a scheme to treat the poor patients – 25 percent outdoor and 10 percent indoor – free of cost.

In the meantime, the court said that patients from government hospitals be referred to such private hospitals which would provide free treatment. The state government told the court that out of 37 such hospitals 27 are giving treatment to poor patients. *(PTI, 26.08.11)*

In Search of the Right Medicine

Drug price regulation will be better served when the Pharmaceuticals Policy sees the light of day and takes structural changes in industry into account. The National Pharmaceutical Pricing Authority (NPPA) shoulders the onerous task of balancing the interests of the consumers who take medicines and the companies that produce them.

With the estimated ₹1-lakh-crore drug industry seeing tumultuous change, especially over the last six years, the NPPA has not really kept pace. At present, 74 drugs on the list of essential medicines are under price control and the rest are monitored if the price increase is over 10 percent in a year.

The NPPA's road ahead, though, can be re-defined only when the long-pending Pharmaceuticals Policy sees the light of day and aligns itself to the structural changes in the industry over the past decade. The Drafts of 2002 and 2006 have lapsed, and the NPPA is left to operate on the lines of the Drug Price Control Order, 1995.

This is where NPPA has a role to play. It is surely possible to crack down on inordinate mark-ups, which are indicative of monopolistic or oligopolistic practices. But NPPA lacks support from the Centre and can hardly make a meaningful impact in delivering affordable healthcare.

The root problem is the absence of a policy framework that reconciles regulation with competition, and therefore the interests of consumers and producers. But with medicines being just part of healthcare, it is time for the government to train its guns on other facets of healthcare cost, including diagnostic tests, hospital facilities and doctor fees.

(BL, 19.08.11)

We Need a Nasscom-type Body in Healthcare Sector

A Vaidheesh
Managing Director Johnson & amp; Johnson Medical India (J&J), shares the strides his firm has made in reverse innovation. He also talks about the advantages India can reap by following the Singapore healthcare model in the regulatory space.

Your peers GE, Phillips and Siemen have been extremely bullish on "reverse innovation" lately, innovating products for India in their R&D hubs within the country and then scaling them up globally. J&J has been relatively quiet on that front. Why?

We have just not talked about developments on reverse innovation, but the truth is there is a lot of India specific innovation happening in the company, which is finding market across the globe. Our glucometer — One touch Horizon, which is available for less than ₹1,000 here, was designed completely in India with the inputs of a distinguished set of Indian doctors. The same is marketed in US under brand One Touch UltraMini at a comparable price point and actually became a hot-selling item in the US market. Similarly our surgical staplers Advant 55 was developed in India, but later found huge markets in China, Russia and Brazil. We will be launching by the end of the year a specific technology that would make shifting patients from one bed to the other in the hospital much safer and much easier. You know the lengths such an innovation can go to in preventing accidents in hospitals. That technology is an Indian innovation from scratch, in fact by a team with participation from AIIMS, IIT Mumbai and Stanford University. And I am sure this would find takers across the world. Also, you would also see us upscaling our R&D efforts around Mumbai in times to come.

As an integrated healthcare company, what is the biggest challenge you have faced in the Indian regulatory landscape?

That we have no healthcare regulator and we have eight or nine ministries handling fragmented bits of the healthcare continuum, which results in a complete lack of a concerted national strategy to address healthcare issues.

All this ultimately leads to a single scary consequence — a dissatisfied patient and caregivers. That is why we have proposed a "healthcare promotion board" on the lines of what Singapore government does. It would be a comprehensive body that coordinates with different ministries on the entire gamut of issues related to healthcare — the hardware, software — starting from drugs, price control, health insurance, medical education, patient grievances, medical ethics, even health tourism. In fact, we need a Nasscom for healthcare industry, if a national level concerted healthcare strategy is to be formulated.

In your capacity as the chairman of FICCI medical electronics forum, what are the some of the issues that you are taking up with the government for medical technology firms?

The one thing we are in talks now with the government, which concerns more with the local manufacturing industry is that in most cases imported products come out to be cheaper than products which are manufactured within the country. That kills incentive to set up manufacturing facilities and proves detrimental to the health of the local industry. The revenue secretary has been apprised of the issue, is looking into it and may resolve it favourably.

How are the public-private-partnertships with states coming up?

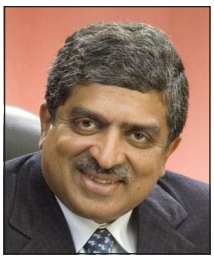
Some states such as Tamil Nadu, Andhra Pradesh, Gujarat are doing a tremendous job at it. Others such as Kerala, Maharashtra are doing good job, too.

But are those models sustainable in the long term?

I think it is. We have just done thousands of knee replacement surgeries for the Tamil Nadu government under its below poverty line programmes. Maharashtra will be rolling similar schemes in near future. In such models, the margins of the health insurance firms, may go down 5-15 percent, but they would still make money. But PPP is the right, may be the only way to answer the questions in healthcare. The government is better off being the payer than the provider in healthcare.

The interview appeared in The Financial Express*, on June 03, 2011*

Ground Realities in Policy



Policy formation must take into account the ground realities and evidence of how people are reacting to it, said Nandan Nilekani, Chairman, Unique Identification Authority of India. Speaking at a book discussion on 'Poor economics: Rethinking poverty and the ways to end it' by Abhijit V Banerjee, Ford International Professor of Economics at MIT, and Ether Duflo, Abdul LatifJameel Professor of Poverty Alleviation and Development Economics at MIT, Nilekani said that this applied even to the PDS system.

''The question is of grain or cash transfers. But the real question is how to improve the benefits to the people. The inability to reach the people is the bigger problem. For example, what happens if bank accounts are far away from the people," said Nilekani. There is a need to bring in trials and experiments into policy, he added. He also advocated the need for rapid feedback groups so that the policy-making bodies can learn and self-correct. *(FE, 23.07.11)*

Infra Deficit is Huge

An estimated ₹54 lakh crore is needed for urban infrastructure, said the Union Minister for Urban Development, Kamal Nath, emphasising the need for a public private partnership (PPP) model to bridge the huge infrastructure backlog in the country.

"We have huge infrastructure deficits and we have to bridge these deficits. In the process we are trying to catch up with the past and not building for the future. Unless there is a unique partnership between the government and the private sector, we cannot bridge the deficits," said Kamal Nath.

About 60 percent of the GDP is generated by urban centres and this figure is estimated to increase over the next decade. "70 percent of the GDP will be generated by urban centres in the next decade and seventy percent of the new jobs are going to be created in urban centres," said Nath. *(BL, 23.09.11)*

Compulsory Registration for Schools

Minting money through setting up of private middle-level schools, most of which are unregistered in Rajasthan, would no longer be anyone's cup of tea as the state government made it compulsory for all such institutes to get recognition at least up to Class VIII.

As on date, there are more than 32,000 unregistered private middle-level schools running in the Rajasthan that follow no norms in fee fixation, infrastructural facilities or in appointment of teachers. According to the new rules, every private school will have to pay a recognition fee of ₹10,000 and will have to show a fix deposit of ₹50,000. They also have to follow the norms and standard of Right to Education which has been partially implemented in the state from April 01, 2009. *(ToI, 12.07.11)*

Panel backs for-Profit Institutes

In a potential game-changer for India's education sector, the Planning Commission suggested that the country allow establishing institutes of higher learning that could be run for profit.

The not-for-profit tag in higher education sector should perhaps be re-examined in a more pragmatic manner so as to ensure quality without losing focus on expansion and equity. India should facilitate private sector growth in higher education, particularly in technical subjects, and should explore and develop innovative public-private partnerships (PPP) in the 12th Five-year Plan period that begins on April 01, 2012.

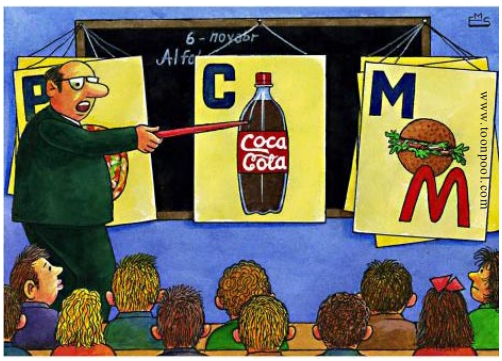
The move comes at a time when the government has publicly accepted that India needs to scale up the education sector to reap demographic dividends, but the state alone will not be able to help fund all initiatives. The suggestion to permit for-profit institutes has come out of a public debate on the quality of higher education in the country.

(Mint, 29.08.11)

New National Policy on Education

Prime Minister Manmohan Singh's announcement on setting up a commission "to make suggestions for improvements at all levels of education" has largely gone unnoticed amid the public focus on corruption.

The commission is expected to be headed by an eminent educationist, assisted by experts from the fields of higher, technical, medical, secondary, elementary, vocational and other sectors of education. It will also have inputs from the reports of the National Knowledge Commission, the Yashpal Committee and the Valiathan Committee.



As the existing National Policy on Education, 1986 (NPE) was conceived during Rajiv Gandhi's tenure, it may be politically daunting for the United Progressive Alliance Government to wish away its vital elements. Thus Singh's announcement is expected to pave the way for a new policy after nearly two decades. *(TH, 18.08.11)*

CCI Faces Staff Crunch

The Competition Commission of India (CCI) is severely understaffed. While as many as 50 percent of the vacancies are yet to be filled up in the commission, two-third of the Director General's office is also desperately seeking new appointments.

In order to overcome the immediate shortage, the Commission has been hiring experts for short period, as per the provision of the Act and the regulation. Since the Commission got fully active from 2009 as many as 102 cases have been decided out of a total of 194 cases.

The other issue that also needs to be tackled is whether the people being finally recruited have the domain knowledge of competition law.

(FE, 06.09.11)

DLF Seek Higher Compensation

Property developer DLF Ltd's customers, having succeeded in getting India's anti-trust regulator to impose a ₹630 crore penalty on the company, are seeking to more than treble that, but experts are questioning the ruling itself.

The CCI imposed the levy on DLF for abuse of its dominant position in housing projects in Gurgaon. DLF is appealing the decision. DLF will likely contest the order on the grounds that CCI has wrongly interpreted the relevant market and thereby the company's dominant position in that market. It may also ask why a show-cause notice was not issued before the penalty was imposed and submit that it has been transparent in all its deals with customers.

The complaints against DLF focused on two key issues– increasing the number of floors from 19 to 29, and delays in completion.

(Mint, 06.09.11)

Indian Cement Faces Probe

The Ministry of Corporate Affairs asked the CCI to further probe charges of cartelisation against cement majors ACC, Gujarat Ambuja and UltraTech Cements. The Ministry had ordered its investigations arm, Serious Fraud Investigation Office (SFIO), to probe charges of price manipulation by the three companies between 2008 and 2010 under Section 234 (6) of the Companies Act, 1956.

SFIO held the three manufacturers guilty of price manipulation and recommended action against them. However, SFIO does not have jurisdiction to prove cartelisation charges. It probed the three companies under the Companies Act, and now it is the job of CCI to use that information and further investigate the matter under the Competition Act.

The three companies control almost one-third of the country's total cement manufacturing capacity of 300 million tonnes. *(BL, 15.09.11)*

Apple Sued Over Dominance

The CCI ordered investigations into allegations that iPhone and iPad-maker Apple is limiting the availability of its products to a few service providers using its dominant market position. The customer's complaint was admitted under the section 4 of the Competition Act, 2002.

Besides, Apple phones could only be serviced in Apple centres, which in turn charge high rates for servicing. iPhone, the touch-screen handset that acquired a cult status in the US and other western countries, was launched for the first time in India in 2008.

Smartphones are catching up fast in the Indian market, especially at a time more companies are rolling out 3G services across the country. 3G services, which offer high-speed Internet access, have already been rolled out by operators like Airtel, Vodafone and Aircel. *(BL, 07.09.11)*

No Curbs on FDI in Pharma

A government panel said there should be no restrictions on FDI in the ₹47,000 crore pharmaceuticals sector, evoking strong opposition from the DIPP and the Health Ministry. The panel, however, said all mergers and acquisitions in the sector should be cleared by the CCI, as it fears that a spate of M&As in the sector may lead to increase in drug prices.

The Health Ministry, at whose behest a restriction on FDI in the sector was mooted, also opposed the panel's recommendation. However, panel members from the Finance Ministry and the Planning Commission were in favour of clearance coming from the CCI and not the FIPB. They do not want any change in policy that was put in place 10 years ago. *(ET, 28.09.11)*

RIL's Buyout of Bharti Stake

The CCI cleared Reliance Industries' (RIL) buyout of Bharti group's 74 percent stake in insurance joint ventures with AXA of France. As per the competition law effective from June 01, 2011 the high value deals need to have clearance of the monopoly watchdog CCI. The merger deals will come under CCI radar if the combined turnover of the two companies is ₹4,500 crore and above. The Reliance-Bharti AXA deal is first such deal to be cleared since June.

Bharti had entered into joint ventures with the AXA group in 2006 and held 74 percent stake in both these ventures — Bharti AXA Life Insurance and Bharti AXA General Insurance. RIL and its subsidiary Reliance Industrial Infrastructure (RIIL) would own 57 and 17 percent respectively in both the insurance companies and would become AXA's JV partners in India. AXA holds 26 percent stake in the JV in line with the foreign direct investment ceiling in the sector.

(PTI, 27.07.11)

Old Wine in New Bottle - 2011 Competition Policy

– KumkumSen*

Why introduce a Competition Policy, when the Act is in place, having undergone a prolonged complex gestation? What purpose can the Policy serve when the CCI is operational?

A policy is usually introduced with certain objectives and goals in mind, culminating in the introduction of a law. The Constitution provides for the law to be enacted by the Parliament, but its initial preparation rests with the executive, while enforceability is part of the judicial system. In the Indian system, the kick start for any policy/law is given by the ruling party, taken up by the respective ministers, when a white paper is produced, which usually forms the basis of the law. Public and stakeholders views are often invited, considered, and a draft bill, approved by the Cabinet Committee is tabled before the Parliament. A policy unless backed by a legal framework for implementation and enforcement is ineffective, but does not necessarily become obsolete because the legal structure is in place.

www.google.com

On the contrary, policies represent continuity and have to constantly evolve in reflecting changing trends, which include updating laws. By and large, the Government and the Legislature follow the above pattern, but there are exceptions, whether on an *ad-hoc* basis, or dictated by the exigencies of a given situation, but neither explains the delay or the purpose in the introduction of the Competition Policy in 2011.

Going back in time, the need for a functional Competition Policy and Law for promoting competition in domestic markets was identified and recognised in the 1980's Industrial Policy. Pro-competition reforms, bringing about radical changes in the existing industrial and trade regimes formed part of the various policies mooted in the 90's reforms – notably the Industrial Policy, 1991, which virtually removed licensing requirements and capacity and expansion restrictions, in one stroke. The changes in the Trade Policy 1991 in the reduction of tariffs, quotas, adopting international controls, signing the WTO documents, and eventually removal of quantitative restrictions on imports in 2001, represented the paradigm shift in policy perspectives, as did the privatisation and disinvestment initiatives, in unshackling the insulation which State owned enterprises enjoyed in a protected and subsidised environment. There is also no Consumer Policy, on the other hand there is a robust and fairly effective law. Does that imply that consumer interest does not require any separate policy? These are the issues which a Competition Policy has to address.

The Act was introduced in 2002 subjected to several delays, and operational only in 2010. There is no rationale for the delay in the introduction of Competition Policy. The Act lays down and implements the law in correcting and penalising instances of dominance and other non-competitive market practices. But for a holistic and long term vision and approach, in promoting and fostering competition, a policy is imperative, of which the law is only one element. The Competition Advocacy envisaged in Section 49 of the Act, cannot be a substitute – it is a situation of the tail wagging the dog.

The Approach Paper in the 11th Five Year Plan had recommended promoting competition in the agriculture sector by abolishing *mandi* taxes, and proposing reforms in transport and FDI. The Act and the Policy both have their genesis in this Report, which led to the setting up of a Working Group by the Planning Commission with high profile members, and a detailed report submitted to the government in 2007.

The draft policy in essence does not bring anything new on board which was not covered in the 2007 Report except issues of updation and language changes and emphasis on government initiatives at all levels. The reference to promotion, encouragement and involvement of consumer movement is no different from the Working Group Report. It is indeed unfortunate that the entire exercise has to be duplicated de novo – the end result is only delay.

* *Partner at Bharucha & Partners, Delhi Office. The article appeared in the* Business Standard*, on August 29, 2011.*

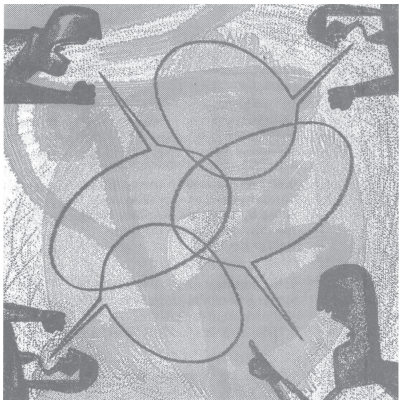
India's Discordant Democrats

– Arun Maira*

These rumblings we hear are the noise of the world's largest democracy getting into higher gear, drawing on its reserves of power to climb over obstacles to its progress. As economies grow, they evolve. New industries develop, which require new capabilities for regulation. The awareness of citizens about what is going on increases with advances in education, the growth of the middle class, the expansion of media and access to information. Institutional capabilities for regulation and representation must catch up with growth.

All citizens, and organisations representing them, have a right in a democracy to advocate their causes to government. Indeed, they must be enabled to do this. Political parties are a means for citizens to advocate causes in elected assemblies and Parliament. Hence they are necessary and legitimate institutions in democracies. And so are labour unions, that represent the cause of workers – as well as civil society organisations, that represent myriad interests. In the same vein, corporations too must have rights to present their views to the government. Therefore, contrary to some reports, the Planning Commission is not proposing any ban on corporate lobbying.

However, a problem with processes of advocacy in democracies is the unequal access to financial resources between corporations and other institutions such as unions, civil society organisations and political parties. Corporations and other business organisations are the engines of the money economy. They legally get money from citizens for the many products and services they provide, whereas for all other institutions, sources of their own revenue, are far smaller than corporations' cash flows. Hence any system that requires money to pay for advocacy services, legally or otherwise, puts corporations, especially the largest ones, at a great advantage.



When corruption grabbed public attention and Anna Hazare led a movement to demand civil society's involvement in the framing of the Lokpal Bill, several political commentators raised alarms about "non-representative" groups encroaching on the legitimate space of elected law-makers. Hazare clarified that civil society merely wanted to participate in the drafting of the laws, not in their passage, which is the function of the elected Parliament. A similar concern is now being expressed about the "interference" by the Supreme Court (also in matters of corruption) into the government's legitimate space

The consequence of this unequal access to money power between corporations and other institutions, such as civil society organisations and unions, causes the apprehension in all societies. What is the alternative, then, for advocacy to be encouraged in ways that are fair to all? One way would be to strengthen institutions that represent the common man (and woman), and to give these institutions a larger role in the policy-shaping process. Indeed, the emasculation of labour unions since the era of President Ronald Reagan may have caused the rising inequality in incomes between the top and bottom quintiles of American society, according to Robert Reich in his book, Supercapitalism: the Transformation of Business, Democracy, and Everyday Life.

Merely the rule of law does not make a just society. Who makes the rules, and how the rules are made, matters too. Deep democracy requires democratic processes for framing laws. Constructive and representative institutions are necessary for the processes to work. Therefore, political parties, civil society organisations, unions, and business associations must improve their internal democracy.

Moreover, the quality of public discourse must improve too – to shift from ringing alarms to developing solutions; and from mutual recriminations amongst citizens and institutions to a search for consensus. A better quality of discourse is required in Parliament, the supreme council for deliberations in our democracy. And debates in our media must clarify issues for citizens, rather than confuse them with rhetoric. India needs a well-conducted, participative, pre-legislative process.

Indeed, "second generation" reforms on issues that affect many stakeholders, such as land, labour, and agricultural reforms, cannot be expedited without better process. For inclusive and faster growth, India's discordant democrats must learn to listen to each other and find common ground.

* *Member, Planning Commission. Abridged from an article that appeared in* Indian Express*, on July 28, 2011.*

India is too Corrupt to become a Superpower

– Ramachandra Guha*

Throughout India's history the manifestations of its chaos have been largely social and political: from secessionist movements and sectarian pogroms, to its enduring territorial conflicts with China and Pakistan. The bomb blasts in Mumbai are but the latest example. The perpetrators are as yet unidentified: like the 2008 Mumbai attacks, they may have originated from Pakistan, but whoever they turn out to be, this was a familiar example of one of India's pervasive and long-standing fault lines.

Yet the Republic of India today faces challenges that are as much moral as social or political, with the Mumbai blasts having only temporarily shifted off the front pages the corruption scandals that more recently dominated. These have revealed that manner in which our politicians have abused the state's power of eminent domain, its control of infrastructural contracts, and its monopoly of natural resources, to enrich themselves. Rectifying this is now arguably India's defining challenge.

These scandals implicate many of the country's most powerful leaders. They include the large scale looting of mineral resources in southern and eastern India; graft during the organising of the Commonwealth Games in New Delhi; the underpricing of mobile phone contracts to the tune of billions of dollars; and also numerous property and housing scandals in Mumbai. Corruption is not new in India, but the scale and ubiquity of these problems is genuinely unprecedented.

This activity cuts across political parties – small and large, regional and national. It has tainted the media too, with influential editors now commonly lobbying pliant politicians to bend the law to favour particular corporations. But while journalists may collude, and many companies and corporate titans have benefited, the chief promoters of this malaise have been the politicians themselves.

Surging growth is another proximate cause. Economic liberalisation has created wealth and jobs, and a class of entrepreneurs unshackled by the state.

Over the past three decades, a series of commissions have highlighted the need for institutional reforms, that, among other things, would insulate administrators and judges from interference by capricious politicians; prohibit criminals from contesting elections; curb abuse of the power of eminent domain; provide proper compensation for villagers displaced by industrial projects; make more efficient the now mostly malfunctioning public health system.

Many, perhaps all, of these reports have been read by Manmohan Singh, India's scholarly prime minister; indeed, several were commissioned by him. When Singh became prime minister seven years ago, his appointment was widely welcomed. He was seen as incorruptible, and with the added advantage of a lifetime of public service. Tragically, in terms of concrete institutional reform these have been seven wasted years.

The sociologist Ashis Nandy once noted that "in India the choice could never be between chaos and stability, but between manageable and unmanageable chaos". He wrote this in the 1980s, a decade marked by ethnic strife, caste violence, and bloody religious riots. But it applies even more so to the India of today, and is being made worse by the steady deterioration and corruption of India's ruling political elite

To single out an honest and intelligent man when corruption and criminality flourish may seem unfair. Singh has been content to let things ride. He has not asserted himself against corrupt cabinet colleagues, nor has he promoted greater efficiency in public administration. Whatever the cause this inactivity has greatly damaged his credibility, not to say India itself.

If nothing else, the current wave of corruption scandals will put at least a temporary halt to premature talk of India's imminent rise to superstardom. Yet the truth is that India is in no position to become a superpower. It is not a rising power, nor even an emerging power. It is merely a fascinating, complex, and perhaps unique experiment in nationhood and democracy, whose leaders need still to attend to the fault lines within, rather than presume to take on the world without.

* *Historian whose books include India after Gandhi and Makers of Modern India. Abridged from an article that appeared in the* Financial Times*, on July 19, 2011.*

ReguLetter

The July-September 2011 issue of ReguLetter encapsulates 'Google and Facebook: *Competition Concerns to Watch Out for'* in its cover story. CUTS has recently filed two Preliminary Information Reports (PIRs) with the Competition Commission of India (CCI) urging them to investigate the activities of Facebook and more recently Google with reference to related relevant markets in India. The PIR also marks innovation in legal process, a new instrument created by CUTS analogous to the FIR which allows the CCI to investigate a potential anti-competitive abuse without obliging them to do so.

A special feature by Joseph Kieyah states that while the intentions of price control are good, its implementation may adversely affects the very venerable Kenyans it purports to protect. Without guaranteeing the supply of essential commodities, imposing arbitrary price control will lead to shortage and unemployment. Another special article by Michael Lind says that American antitrust law is a relic of 19th century agrarian populism.

This newsletter can be accessed at:
www.cuts-ccier.org/reguletter.htm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Google & Facebook
Competition Concerns to Watch Out for!!

Inside this Issue

Special Articles

CUTS C-CIER

Unholy Alliances in Healthcare Services

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

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

This report can be viewed at:
www.cuts-ccier.org/cohed/pdf/Unholy_Alliances_in_Healthcare_Services-COHED.pdf

SOURCES

BL: The Hindu Business Line, **BS:** Business Standard, **ET:** The Economic Times, **FE:** The Financial Express, **HT:** Hindustan Times, **PTI:** Press Trust of India; **TH:** The Hindu, **ToI:** Times of India