



**REPORT OF THE SEMINAR ON**  
**“INTEGRATING REGULATORY IMPACT**  
**ASSESSMENT IN LAW MAKING IN INDIA”**

**THURSDAY, 21 APRIL 2016, NEW DELHI**

## Background

CUTS International is implementing a project on “Facilitating Adoption of Regulatory Impact Assessment (RIA) in India”, with support from The British High Commission, New Delhi (BHC). Under the project, a high level advocacy and dissemination seminar on “Integrating Regulatory Impact Assessment in Law Making in India” was organised on Thursday, 21 April, 2016, in New Delhi. The seminar was organised in collaboration with the National Institute of Public Finance and Policy (NIPFP), a premier research institution in public economics and policies.<sup>1</sup>

The seminar witnessed participation from Dr. Bimal Jalan, Former Governor, Reserve Bank of India; Mr. Ashok Chawla, Former Chairman, Competition Commission of India; Mr. Ajay Shankar, Former Secretary, Department of Industrial Policy and Promotion; Dr. Arvind Mayaram, Former Finance Secretary, among others.

The objective of the seminar was to discuss the challenges to adoption of RIA, and design measures to address them. Key barriers to adoption of RIA comprise political economy challenges; and technical and human capacity. Consequently, focused panel discussions with experts and practitioners were organised at the seminar.

The seminar witnessed release of advance copy of CUTS Research Report on RIA in Insurance Sector: Facilitating Investments and Enabling Access. It also marked the completion of the CUTS project supported by the BHC.

## Opening Session

**Bhargavi Zaveri**, Consultant, NIPFP, opened the seminar by stressing on the importance of RIA. She mentioned that the movement has already taken over the OECD countries, and it began when the countries began insisting on empirical analysis for regulations. She further mentioned how various committees like the Committee on Ease of Doing Business, Financial Sector Legislative Reforms Commission etc. had already recommended to implement RIA in India.

The opening session was moderated by **Pradeep S. Mehta**, Secretary General, CUTS International. He quoted Mr. Bimal Jalan by saying, “regulations should not degenerate into control”. He commented that regulations are currently drafted from the command and control mindset. It was further mentioned that at present, law-making is sub-optimal in nature. The objectives are not defined correctly, neither is the impact of legislation (costs and benefits) are estimated. Stakeholders are not consulted before the regulations are finalised and adopted.

He highlighted that RIA is an internationally recognised and institutionalised tool for regulation making and assessment in developed countries, the same was required for India as well, and emphasised that the regulators need to change their processes to meet with the current times.

**Ajay Shah**, Professor, NIPFP agreed with Mr. Mehta and highlighted that a thin line exists between regulation and control. He stressed that every time the state uses its coercive power, it imposes costs on the society, and that regulations must be designed to address market failure, which should be carefully defined.

He mentioned that regulatory architecture must be correctly developed to push regulators to think about costs and benefits of existing/proposed regulations and addressing market failures. It

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<sup>1</sup> <http://www.nipfp.org.in/home-page/>

was pointed out that the Indian Financial Code provides the necessary guidance to design regulatory architecture.

Adding to views expressed, **Rathin Roy**, Director, NIPFP, highlighted that we live in a highly discretion based society. He mentioned that limited analysis and assessment is conducted before utilising the discretion. Illustrations from the civil aviation and transport sector were given, in this regard. He mentioned the need to do an analysis before making a regulation, and such analysis must be used by policymakers to question arbitrariness.

This was followed by the remarks made **Ashok Chawla**, who highlighted that the regulatory mindset of 'King can do no wrong' was a thing of past and regulators needed to be more scientific and fact-based while developing and enforcing regulations. He highlighted the efforts made by the Competition Commission of India, in this regard. The CCI has piloted Competition Impact Assessment, wherein it has empanelled expert agencies (including CUTS and NIPFP) to conduct assessment of impact of regulations on competition.

The last speaker for the opening session was **Bimal Jalan**. He stressed on the financial sector has grown at an exceptionally fast rate over the last two decades, and that RIA can help regulators keep pace with the changing times. He mentioned the problems caused by the multiplicity of regulators, multiple regulations and mentioned that it was time to focus on three priorities: i.e. taking stock of the size of the financial sector; re-examine laws; and integrate regulatory agencies.

#### **Panel Discussion I: Genesis of RIA in India: FSLRC and post-FSLRC updates**

**Suyash Rai**, Consultant, NIPFP, delivered a presentation on case for RIA in India. He highlighted the benefits and broad process for RIA. However, he cautioned that RIA has the potential of being misused for confirming/ providing evidences for pre-arrived conclusion. There was also a possibility that RIA is conducted in name only, for compliance purposes, to signal credibility. He highlighted that institutional design of regulatory agencies, transparency and accountability mechanisms could help in overcoming such challenges.

**Ajay Shankar**, while commenting on the presentation, and sharing his thoughts, noted the possibility that RIA could either reform the country or it might turn out to be another token mechanism. He stated that we are in the 25th year of business reforms, but we have hit a plateau. Between 1991 and now, we have not had many reforms at the micro-level. He mentioned that policy debates need to shift to micro-level issues, and RIA could do the needful. It was pointed out that while autonomous regulators have been created, we have not succeeded at deregulation in a significant manner.

He acknowledged that RIA provides an important tool for doing micro-level work. He also noted that we have not had the bandwidth to do a proper assessment, and lauded the efforts of organisations like CUTS in this regard.

**Ashok Chawla** mentioned that we could start small and begin by focusing on the regulatory agencies, to build momentum for RIA. He commented on the genuine lack of capacity on the part of the regulators and suggested that small models need to be started and upscaled. He reiterated CCI's initiative to do undertake Competition Impact Assessment voluntarily, from which different regulatory agencies could take lead.

**K. P. Krishnan**, Additional Secretary, Department of Land Resources, Ministry of Rural Development, while moderating the panel discussion pointed out to the poorly drafted, recently released Chandigarh Public Amusement Regulations.

He observed that as customers, we are unaware of the costs that regulations impose on us. It was mentioned that there is constant clamour for more regulations, without knowing that it is the taxpayer that is paying for it.

**Arvind Mayaram**, in his intervention, pointed out that regulation is essentially based on mistrust. Since the cost of failure of the regulator is too high, there is a twin tendency to demand and supply more regulation.

The panel discussion was followed by a lively audience interaction. It was pointed out that the developmental aspect of regulation is taking a backseat, which is an area RIA must look into. For instance, training, advocacy, public awareness should be the regulatory duties. It was noted that various regulations must be aligned to the same objectives. It was also pointed out that RIA must be mandated in the primary law to create proper incentives for regulatory agencies to undertake it.

### **Panel Discussion II: Nuts and Bolts of RIA: Case Study of RIA on debt recovery laws**

**Siddharth Mitra**, Professor, Jadavpur University made a presentation on the process of RIA and different steps involved in it. He also expounded on different methods to conduct the assessment, and ways of presenting the results. This was followed by a presentation by **Amol Kulkarni**, Senior Policy Analyst, CUTS International, on its case-study of RIA on debt recovery legislations. He highlighted the methodology adopted to undertake the case study, key findings and recommendations of the study.

**Charan Singh**, RBI Chair Professor, IIM Bangalore, pointed out that while regulatory agencies conduct a rigorous cost benefit analysis internally, they often do not engage in open public consultation or publication of results of their internal processes. He also mentioned that regulations might be perfectly suited for the times they were made in and to respond to challenges of those times. However, the inability to update and review such regulations, often results in them getting outdated. He also enquired if a deep dive on sectors/ industries unable to make debt repayments was made, and the debt recovery tribunals for which data was collected. CUTS team responded to these queries.

**Rathin Roy**, while moderating the session, pointed out the lack of cooperation among bureaucracy while regulation making. He recalled several anecdotes to make his point. He pointed out that the regulators need to be mindful of costs and benefits of the regulations they propose.

This was followed by a lively discussion with audience which included experts, researchers, bureaucrats, think tanks, industry and media. It was pointed out the regulators must periodically review if the regulatory objectives are being, or if changes in the regulations were required.

**Udai S Mehta**, Director, CUTS International, noted that while CUTS has taken up this agenda, and has been pushing for RIA, it cannot be the lone voice. He urged other stakeholders to join hands to push the government to adopt RIA. Agreeing, **Pradeep S. Mehta**, closed the seminar by pointing out that RIA is a critical reform whose time has come, and the stakeholders must realise its importance.

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