

The Indian National Interest Review

# Pragati

May 2013

[www.nationalinterest.in](http://www.nationalinterest.in)

## The last act?

### Conflict theatre of Northeastern India

---

**Arms Trade Treaty: Why India abstained**

---

**Think sanitation, not food security**

---

**Can India be Shale-&-hearty?**

---

**Child before the law**

---

**Riedel's fantastical fantasies**

---

## PERSPECTIVE

### 4 HOW TO IMPROVE SOCIAL POLICY DESIGN

*The challenge of making rational public policy in a democratic India*

Gulzar Natarajan

### 10 THE STRANGE DYNAMICS OF ENERGY PRICING

*The price of natural gas, coal and biomass is somehow correlated with the international price of oil which in turn is manipulated by a few countries*

M Rajagopalan

### 13 THE BALLISTIC MISSILE INTERCEPT PROBLEM

*India must seek to constantly expand its envelope of missile intercept options and technologies*

Sunil S

### 16 WHITHER CYBER STRATEGY?

*Indian government's vague resolutions to build capacity for cyber security with little to no specifics are unlikely to meet the requirement.*

R Srikanth

### 19 THE INSECURITY BEHIND THE FOOD SECURITY BILL

*The Food Security Bill places a heavy burden on India's fiscal deficit, but the real problem is the distortion it causes to India's food supply chain*

Ravikiran Rao

### 23 POLITICAL CHANGE, THE STIMULUS THAT INDIA NEEDS

*India's growth pains are a symptom of the structural – economic, social and political – malaise that the country has sunk into, in the last decade*

V Anantha Nageswaran

### 29 THINK SANITATION, NOT FOOD SECURITY

*Not only does the Food Security Bill show poor economic reasoning and flawed policy design, it is also treating the wrong problem*

Pavan Srinath

### 32 LET THE PUBLIC PARTICIPATE

*There are many ways in which the government can deepen public engagement with the legislative process*

Kaushiki Sanyal

### 36 ARMS TRADE TREATY: WHY INDIA ABSTAINED

*Arms Trade Treaty, originally conceived to control illicit arms trade, has been hijacked and converted into an instrument of coercion favouring a few arms exporting countries in the West*

SN Ravichandran

---

## IN DEPTH

### 39 CHILD BEFORE THE LAW

*The new National Policy for Children defining anyone below 18 as a child ignores Indian social realities*

Sarah Farooqui

### 43 CAN INDIA BE SHALE & HEARTY?

*A clear policy on exploration and production of shale gas is the first step to tap the potential of shale gas in India*

Jaspreet Singh

### 46 THE ANTI-DEFECTION LAW NEEDS A RELOOK

*Parliament can be effective only if individual MPs have a significant role as law makers, and if they can be held accountable for their actions by their electorate*

M R Madhavan

---

## BOOKS

### 49 RIEDEL'S FANTASTICAL FANTASIES

*Avoiding Armageddon adequately covers the history of the US and the Indian subcontinent but is marred by naive proposals to solve Kashmir*

Aruna Urs

---

## HIGHLIGHT



### 7 It is not over yet

*Insurgencies in India's Northeast are demonstrating signs and intent of staging a comeback*

Bibhu Prasad Routray

---

## CONTRIBUTORS

### **Gulzar Natarajan**

*Gulzar Natarajan is a civil servant. The views are personal*

---

### **Bibhu Prasad Routray**

*Bibhu Prasad Routray is the Fellow for Counterinsurgency Studies at the Takshashila Institution, and served as a Deputy Director in the National Security Council Secretariat, New Delhi*

---

### **M Rajagopalan**

*M Rajagopalan has held senior positions in companies that promote decentralised power solutions*

---

### **Sunil S**

*Sunil S is the former Editor of Security Research Review at Bharat-Rakshak.com*

---

### **R Srikanth**

*Srikanth R is a Senior Researcher in Cyberstrategy Studies at the Takshashila Institution*

---

### **Ravikiran S Rao**

*Ravikiran S Rao blogs at The Examined Life*

---

### **V Anantha Nageswaran**

*V Anantha Nageswaran is the Fellow for Geo-economics at the Takshashila Institution*

---

### **Pavan Srinath**

*Pavan Srinath is a public policy Researcher with the Takshashila Institution and till recently, with Arghyam, Bangalore*

---

### **Kaushiki Sanyal**

*Kaushiki Sanyal is a Takshashila Scholar and Senior Analyst at the Bharti Institute of Public Policy, Indian School of Business*

---

### **S N Ravichandran**

*S N Ravichandran is with the Cyber Society of India.*

---

### **Sarah Farooqui**

*Sarah farooqui is a Researcher at Public Affairs Centre, Bangalore and Assistant Editor of Pragati*

---

### **Jaspreet Singh**

*Jaspreet Singh is the India Coordinator of Perspective and works in the oil and gas industry. The views are personal*

---

### **M R Madhavan**

*M R Madhavan is the co-founder of PRS Legislative Research*

---

### **Aruna Urs**

*Aruna Urs is a commentator on public affairs*

---

Published by the Takshashila Institution, an independent think tank on India's strategic affairs.

Some rights reserved. This work is licensed under the Creative Commons Attribution 2.5 India License.

### **Advisory Panel**

Mukul G Asher  
Sameer Jain  
Amey V Laud  
V Anantha Nageswaran  
Ram Narayanan  
Sameer Wagle

### **Editors**

Nitin Pai  
Sushant K Singh

### **Assistant Editor**

Sarah Farooqui

### **Acknowledgements**

Ryan Schultz

### **Contact**

[pragati@nationalinterest.in](mailto:pragati@nationalinterest.in)  
[pragati.nationalinterest.in](http://pragati.nationalinterest.in)

Neither Pragati nor The Indian National Interest website are affiliated with any political party or platform. The views expressed in this publication are personal opinions of the contributors and not those of their employers or of Pragati.

We accept letters and unsolicited manuscripts.

### **Community Edition**

Pragati (ISSN 0973-8460) is available for free download at [pragati.nationalinterest.in](http://pragati.nationalinterest.in) This edition may be freely distributed (in its complete form) through both electronic and non-electronic means. You are encouraged to share your copy with your local community

# Pragati

The Indian National Interest Review

**Pragati-** The Indian National Interest Review

GULZAR NATARAJAN

*Gulzar Natarajan is a civil servant. The views are personal.*

# How to improve social policy design

*A collaborative approach to solving development problems in India.*

Tatinauk



It is widely acknowledged that program implementation is the Achilles Heel of India's massive social policy administration. The search for explanations has revolved around lack of outcomes focus in policy design and inadequate professionalism in implementation.

In this context, experimental researchers advocate "evidence-based" policy design, with evidence emerging from experimental research. They favour using field tests, like randomised control trials, to identify causal links between

specific program designs and its desired outcomes. The works of researchers like Esther Duflo and Abhijit Banerjee at the Abdul Latif Jameel Poverty Action Lab (J-PAL) have pushed this into the center-stage of modern development economics, despite criticisms about the generalisability of its findings.

Management scholars attribute the failures to the absence of professional program management expertise within government bureaucracies. A few large private sector consulting organisations have therefore, in recent years, started to

apply their standard problem-solving techniques to improving social policy implementation. An innovative integration of the two should be the way forward.

Here a distinction between policy design and implementation strategy is in order. While the policy is formulated at national or state level and can be more broadly defined, the details of the implementation strategy is context-specific. Inadequate attention to the latter has led to many excellent examples of policy design stumbling at the last mile of implementation.

Instead of top-down solutions that start with a theoretical hypothesis, highly context-specific social sector issues require an approach that begins with the problem itself. The problem should be unpacked through a process of discovering latent institutional knowledge and experimental research, with the solution emerging bottom-up from this process. This process demands close collaboration between government bureaucracies, consultants, and experimental researchers.

A public system will hire consultants to assist in program implementation. They would embed themselves within the system for a short period, undertake a comprehensive problem-solving exercise, and formalise an implementation blue-print, with its identified uncertain elements. Multiple versions of the program will then be piloted and the uncertainties resolved through iterative field experimentation.

Consider the example of a large-scale placement-linked skills development program for youth. The program consultant would formulate the implementation blueprint based on the broad policy design. Three (or four)

versions of the program, varying based on, say, the method of mobilising the trainees and how the private training agency and employers interact, can be tested for a short duration as iterative pilots with tight feedback loops. Experimental researchers can help design these pilots and use the data to refine and confirm the final scalable program version. Simultaneously the consultants will help build professional implementation capacity in the government bureaucracy and exit once the scale-up stabilises.

*Over time, the consultants would acquire the expertise to manage field experiments too and public bureaucracies would develop professional program implementation capabilities.*

Similarly, after a problem-solving exercise, an intervention aimed at improving student learning outcomes can be tailored around remedial instruction. But the implementation blue-print would reflect the uncertain elements of this plan – in- or after-school remediation, integration of remediation into regular classroom instruction, grouping of children, need for an additional contract teacher etc. Experimental techniques, including randomised control trials, can be used to identify which is the most effective strategy for each of these elements, for

the specific context. However, instead of expensive and long-drawn pilots, three or four versions of the original blueprint, reflecting these differences, can be implemented for a short duration as iterative pilots. The iterative process will be facilitated by tight feedback loops, which would help in the continuous refinement of the original blue-print.

The biggest challenge with this approach is “missing market”. Specifically, given the constraints imposed by public sector procurements, there is a deficiency of providers who can service this market. There are three problems with this. First, public procurement rules preclude anybody other than established and experienced agencies. Second, the learning curve for management consultants, tutored in private sector problem-solving, is most often too steep. Finally, the price point for service delivery needs to be much lower than the exorbitant hours-based fees currently charged by the top-line consultants.

This means that the large and established consulting organisations are the only ones ‘officially’ eligible to bid. But unless they reinvent themselves dramatically, they are too deeply internalised with the ethos of private sector problem solving to be successful. Their social sector domain expertise and experience of public systems, which are not amenable to templates-driven problem-solving, is too limited to make them effective contributors to program implementation. In any case, their price point is so high as to make their business model a non-starter in social sector consulting.

For all the aforementioned reasons, I am not hopeful that the large consulting organisations can bridge the “missing market”. Smaller consulting firms, with requisite domain expertise, experience with public systems, and willing to offer their service at a outcomes-based price-point, stand a greater likelihood of succeeding. They are more likely to be able to provide the high-quality manpower to be embedded within the government bureaucracies for sufficiently long enough periods to make the program sustainable and also transfer professional program management skills to the public system.

There is also the important issue of identification of an appropriate entry level for the external facilitators. In India, the district, being at the cutting edge of implementation, is the right level for such problem-solving exercises. They provide a large enough canvas but a reasonably similar environment for a unified policy design and implementation strategy.

A partnership between the large private foundations that finance numerous social sector projects and organisations like the J-PAL could catalyse the development of this “missing market”. A few successful collaborations could unlock the market. Over time, the consultants would acquire the expertise to manage field experiments too and public bureaucracies would develop professional program implementation capabilities.

None of this should overlook the fact that these external participants are only enablers and the program implementation would be the responsibility of public officials.

**BIBHU PRASAD ROUTRAY**

*Bibhu Prasad Routray is the Fellow for Counterinsurgency Studies at the Takshashila Institution, and served as a Deputy Director in the National Security Council Secretariat, New Delhi.*

# It is not over yet

*Insurgencies in India's Northeast are demonstrating signs and intent of staging a comeback.*



lecentre

The premature claims by the Ministry of Home Affairs (MHA) in its Annual Report for the year 2006-07 that the overall violence in the northeast “has been contained” notwithstanding, the region’s rendezvous with insurgency and instability continued much longer. Till the newly installed Awami League (AL) Government in Dhaka decided in 2009 to put a halt to the country’s tolerance of the activities of Indian insurgents on its soil, insurgency continued full steam, thwarting New Delhi’s twin efforts of pushing foreign governments in Bhutan, Bangladesh and Myanmar to cooperate with its own counter-insurgency operations at home. However, three years since this

momentous and landmark cooperation from Bangladesh that should have reduced the insurgents to tatters, insurgency movements in the northeast live on, albeit weak and a poor caricature of their former selves, yet demonstrating signs and intent of making a comeback. Ineffectual policies that make central forces the backbone of counter-insurgency operations are at the core of such failures.

The MHA, in its year-end report for the year 2011, asserted, “There has been significant decline in the incidents of violent killings of the civilians and the security forces in the North Eastern States due to the consistent efforts by Ministry of Home Affairs.” While the

MHA's actual contribution to the decline in violence levels can be a contentious issue, insurgency-induced violence has indeed hit the bottom. Compared to 2007, the year which witnessed killing of 498 civilians and 79 security force personnel in the northeast, security situation in the region has improved significantly to record 97 civilian and 14 security force fatalities in 2012.

### *Several questions relating the counter-insurgency strategies remain unasked and unanswered in the northeast.*

Lest this be construed as a tactical retreat by the insurgent outfits, almost all the major outfits in the region had been reduced to a state of weakness. The United Liberation Front of Asom (ULFA)'s anti-talk faction, reduced to cadre strength of less than 150, had to find sanctuary in Myanmar. From being one of the most potent outfits in Manipur, much of United National Liberation Front (UNLF)'s action plan, following its chairman R K Meghen's arrest in Bangladesh, veered around preserving its cadres.

By the end of 2011, the Northeast appeared on a road to complete recovery and the days of insurgency, once seen as everlasting, appeared numbered. The then Home Minister P Chidambaram predicted a "final settlement of the issues" in December 2010 and a more circumspect "ebbing of insurgency" a year later. Insurgencies, by no means, were dead in this frontier, but certainly were on deathbeds,

creating thereby significant opportunities for the police forces in the region to consolidate their hold over the hitherto no-go areas.

On the contrary what continued were the old tactics — combination of alarmist assessments of the state of insurgencies by the governments of the day and a lackadaisical approach at enabling the police to take charge of the overall situation. For the region's political class, to give up on the central forces, notwithstanding the latter's negligible contribution to the transformed state of affairs, remained an impossible dream. The prospect of the return of peace appeared to be bad news for the political class, for it could bring in new responsibilities. Carrying on with the narrative of instability, on the other hand, has been far more convenient.

Several questions relating the counter-insurgency strategies remain unasked and unanswered in the northeast. Why a situation of declining violence, when the cadre strength and consequent nuisance potential of the insurgents have declined to record low levels, cannot be handled by the police forces? Why have the MHA's police modernisation programme with allocations running into Rupees 1690 crores between 2000 and March 2013, consistently failed to augment policing capabilities in the northeast? If indeed there is a method to the fascination of the Chief Ministers of northeastern states to continue projecting a "conflict-affected" rather than a "conflict-free" status for their states, why can't the Army, with all its reservations against involvement in the Maoist theatres and opposition to the dilution of the controversial Armed Forces (Special Powers) Act, has not



made any unilateral effort to extricate itself from the northeast's conflict theatres?

Not surprisingly, riding on such persistent disinclination to launch police-led initiatives, the ULFA has been able to cast both its violence profile and extortion abilities far beyond the upper Assam districts in the proximity of Myanmar into districts abutting state capital Dispur. Dismissed previously as a miniscule faction reduced to irrelevance, it has managed to revive itself into what the Assam governor described in February 2013 as a "force to reckon with". In 2012, 357 ULFA cadres were arrested and 16 were killed in encounters. Yet the cadre strength of this faction led by Paresh Baruah has increased to over 250, underlining the irrelevance of the continuing peace talks with the pro-talks factions.

A similar story has unfolded in Manipur. Major insurgent outfits have managed to thwart the prophecies of doom by forming an umbrella organisation, the CorCom (Coordination Committee) and continuing sporadic violence. The Garo Hills of Meghalaya, the erstwhile transit route for the insurgents between Bangladesh and Assam, has again become active. With no end to the Naga conflict in sight, not only the Nagaland state continues to be a theatre of internecine warfare,

abduction and extortion but problems routinely spill over into neighbouring Manipur and Arunachal Pradesh.

More importantly, beyond these narratives on the big and influential among the armed factions, smaller outfits have mushroomed in the region, filling up the vacuum left open by the larger outfits. The localised and yet all pervasive activities of the Santhal Tiger Force, Karbi People's Liberation Tigers, Bodoland Royal Tigers Force, United Tribal Liberation Army et al, combining extortion, arms smuggling and abductions, is not captured by these profusely comforting figures of 111 civilian and security force deaths in 2012.

In the last week of April 2013, Assam Police arrested a central committee member of the Communist Party of India-Maoist in Assam. Each incident of this nature on earlier occasions has been used by Assam Chief Minister Tarun Gogoi to demand additional battalions of central forces for the state. Such pathological dependence on central forces could find a potential facilitator in this year's parliamentary elections in Bangladesh. Victory for the Bangladesh Nationalist Party (BNP) may very well put north-eastern insurgency on a path to recovery. New Delhi then can be left ruining the undoing of a job half done.

M RAJAGOPALAN

*M Rajagopalan has held senior positions in companies that promote decentralised power solutions.*

# The strange dynamics of energy pricing

*The price of natural gas, coal and biomass is somehow correlated with the international price of oil which in turn is manipulated by a few countries.*

José Luís Agapito



The rise in Brent price of crude oil from \$22-28 a barrel in the year 2000, to a peak of \$145 in 2008 was attributed to many factors – increased demand from developing countries like China and India, higher cost of production due to “peak oil” phenomenon, political instability in the Middle East, etc. Today, with reports of plentiful availability and supplies from different parts of the world, and no evidence of peaking of oil, the trend should have reversed and oil price cooled off considerably. This has not happened and oil price continues to rule in the range of USD

100-120 a barrel. The question to be asked is, why?

As Bloomberg News reported recently, quoting a senior consultant at the Arab Petroleum Investments Corp (Apicorp), “Oil prices must average \$99 this year for the 12 members of the Organization of Petroleum Exporting Countries to be able to balance their national budgets. Saudi Arabia, OPEC’s largest producer, needs an average price of \$94 to balance its budget, according to Apicorp estimates. Iran requires oil at \$125 to break even, or almost double the level

needed by Qatar. The break-even level represents the price sought by the government, not the actual cost of producing oil.” If price falls close to break-even level, OPEC countries will need to cut down on production to shore up the prices.

The Union Budget of India, for the financial year 2013-14, assumes an annual average price of \$110 a barrel while making allocation for the petroleum subsidies. This is realistic and is indexed to the price budgeted by OPEC with the transportation costs added on.

*When India imports 80 percent of its oil and has no control whatsoever over the pricing, the only sensible thing that it can do is pass on the burden to all the users, instead of trying to under-recover the costs or extend unsustainable subsidies.*

Why must OPEC control the price at a high level? Apart from the obvious profit motive, there are other reasons. In an interesting piece titled “The first law of petropolitics” written in 2006, Thomas Friedman had posited that there was an inverse correlation between crude oil price and democratic freedom. Quoting Michael L Ross, a political scientist at UCLA, he wrote, “Oil-rich governments tend to use their revenues to relieve social pressures that might

otherwise lead to demands for greater accountability from, or representation in, the governing authority... When oil revenues provide an authoritarian state with a cash windfall, the government can use its newfound wealth to prevent independent social groups — precisely those most inclined to demand political rights — from forming. A massive influx of oil wealth can diminish social pressures for occupational specialisation, urbanisation, and the securing of higher levels of education — trends that normally accompany broad economic development and that also produce a public that is more articulate, better able to organise, bargain, and communicate, and endowed with economic power centers of its own.” So, from the standpoint of the OPEC rulers, it would be suicidal to let the oil prices fall as it could lead to erosion of their authority.

What about the price of natural gas? Though the production is distributed over a wider geography than in the case of oil, the price of gas, especially in the Asian market, closely follows the price of oil. Why should this be so? Although oil-derived products and gas are not readily fungible, there are many applications where either could be used. For example, fertiliser plants that use naphtha as feedstock could change over easily to natural gas. Metal melting furnaces that burn oil could switch to gas. LNG imported into India tends to follow the 6-to-1 rule. The gas price in \$/MMBTU is around one-sixth the price of a barrel of crude oil. If crude is at \$100 a barrel, gas price hovers around \$16-17/MMBTU.

The price of the other major source of primary energy — coal — should be independent of crude oil price but, in

reality, it is not. While India has adequate domestic reserves of coal, for a variety of reasons, the production does not keep pace with demand. We need to import about 30 percent of our coal needs — and this percentage is expected to increase in the future. Unlike in the case of oil, there is no cartel, and the pricing can be based purely on fundamentals of supply and demand. But coal traders keep track of oil pricing as it provides them a good sense of the willingness of the user to pay a higher cost. This gives them the cue to increase the coal price. Thus, when oil prices rose from 2005 to 2008, thermal coal prices also went up by 300 percent, before some sanity was restored.

Even suppliers and aggregators of biomass for boilers stay tuned to the oil price. Biomass is a cheaper alternative to furnace oil or gas, and when the price of oil increases, an arbitrage opportunity is immediately sensed. Cost of woody biomass has gone up in the last few years from an average of Rs 800-1000/ton to Rs 2500-3000/ton, mimicking the increase in oil price .

Clearly, whatever is the form of energy,

there is some correlation with the price of oil which, in turn is manipulated by a few countries. When India imports 80 percent of its oil and has no control whatsoever over the pricing, the only sensible thing that it can do is pass on the burden to all the users, instead of trying to under-recover the costs or extend unsustainable subsidies. The gradual increase in the price of diesel was a good move. The under-recovery has come down from Rs 10-12/litre to Rs 3-4/litre in the last few months.

Similarly, the decision to allow Adani Power and Tata Power to pass on the coal price increase to the distribution companies and its consumers is to be welcomed. This violates the fixed-price stipulation in the contracts and can be viewed as a mockery of the bidding process, but it is sensible to recognise the impracticality of the clause and move on, rather than allowing the power plants built at huge cost to be closed down due to unviable pricing. Energy management requires a pragmatic approach and not a dogmatic one.

SUNIL S

*Sunil S is the former Editor of Security Research Review at Bharat-Rakshak.com.*

# The Ballistic Missile intercept problem

*India must seek to constantly expand its envelope of missile intercept options and technologies.*



Recent disclosures in the *Japan Times* about the Nodong/Ghauri missile's INS being not up to the mark may alter the threat perception from Pakistan's missile program. While the Pakistani missile program has contributions from sources other than North Korea, the Ghauri missile is the longest-range delivery option in Pakistan's arsenal. The Ghauri missile lends unique capability to Pakistan's strategic weapons forces.

For the purpose of this discussion, it is preferable to frame the ballistic missile issue in a way that focuses on the warhead trajectory and the launcher survivability. If one has a longer-range missile, one gets two things, the ability to position the launcher further away from the target and a higher warhead velocity. The higher velocity can be crucial in the terminal phase of the missile's trajectory. Placing the launcher

farther away from the target allows for better survivability. The most effective place to terminate an enemy missile launch is at the launch point itself, either by a direct assault on the launcher or via interference in the post launch navigational correction period. During the first Gulf War, a number of Special Forces teams from the US, UK, and Israel wandered around Iraq seeking out Scud missile launchers. When they could not disrupt the launch, they provided launch warning to Patriot missile batteries in Israel and Saudi Arabia. These forward observer teams were the key to the success of the Patriot missile system and their timely actions saved thousands of lives.

*At present the exact trajectories attempted by Pakistani missile tests is not in the public realm.*

According to reports in the media, India allegedly does not possess the ability to deploy long-range reconnaissance patrols deep within the Pakistani territory. If we assume that somehow this peculiar disability can be overcome in times of crisis, by placing the missiles in heavily guarded Pakistani bases deep in Baluchistan, Pakistan could significantly limit India's observation capabilities. In a more general sense, a longer-range missile platform can be placed farther away from regions where interference can be easily carried out.

Once the missile is launched, the enemy stands to gain a lot if a depressed trajectory or 'lofted' shot is used. Such a shot would dramatically affect the time

allowed for the target country to react to the launch. Even if a Special Forces observer team is able to provide intimation of the launch, the exact computation of an intercept trajectory relies on getting accurate information from surveillance radar. The accuracy of trajectory calculations for a depressed trajectory or 'lofted' shot is poor.

At present the exact trajectories attempted by Pakistani missile tests is not in the public realm. In news reports of the tests, the Pakistanis maintain a deliberate ambiguity about the exact location of the launch. For example, the Ghauri missile launch complex is commonly referred to as "Tilla Jogian", "Tilla Satellite Launch Complex" or the "Mashood Test Firing Range". It is said that missiles launched from this complex, land in "Jiwani, Balochistan" – but the exact location has never been disclosed to the public. It is also unknown if any Indian radar system can track Pakistani missile trajectories during such tests. Clearly Pakistan is adept at using deception at the strategic level and keeping its enemies in the dark about its true capabilities.

Pakistan may also increase its chances of success by employing deception during the actual attack. By deploying decoy launchers and multiple launches, Pakistan can distract the defensive forces of India. These decoy launchers would confuse ground observer teams and lead to false alarms. The multiple launches could easily overload the computational resources of the target country. A simple sequential launch scheme would cause India to devote computational resources to the first set of launches and then lose the ability to track subsequent launches. At present Pakistan has given no indication of what

sort of exact missile warfare plans it is contemplating.

From the Anti-Tactical Ballistic Missile (ATBM) perspective, there is a small window to sight the incoming ballistic missile, find the warhead in the clutter, compute an intercept trajectory and commit to an ATBM launch. After the commitment phase, it is all about how good the data was at the point of commitment and whether the ATBM that was just fired followed the trajectory programmed into it. At present the best available ABM systems can do Mach 4, that allows for modest success in intercepting slow moving warheads (around Mach 3-4) – provided sufficient time is allotted for the detection, discrimination and commitment phases of the ATBM radar. The exact numbers on range, speed, computation time etc. are not in the public domain.

If the Pakistanis can increase the velocity of the warhead, the ATBM will not be able to make the intercept. It is important to keep track of the terminal velocities of Pakistani tactical ballistic missiles. If the Pakistanis can raise the range of the weapon, then in a lofted shot or depressed trajectory, they will be able to dramatically reduce the time available to India's ATBM radar to

capture information about the incoming threat. These relatively minor adjustments to the existing missile platforms in Pakistan allow it to significantly alter the threat posed to India.

Over the last two decades, India has successfully invested in radar technology and built up a serious ATBM option. The public disclosure of INS problems in Pakistan's long-range platform will most likely spur the Pakistanis to make exactly the kinds of improvements needed to reduce India's advantage on the ATBM front. Despite all evidence to the contrary, one cannot pretend that technically competent Pakistani scientists can never exist. Also given Pakistan's extensive involvement in the black market in missile technology, the possibility of a sudden improvement in their capability cannot be ruled out.

A robust investment in anti-tactical ballistic missile technologies is desirable but developing a false sense of security around these systems is not. Our anti-tactical ballistic missile initiatives should not become the modern idols of Somnath. India must seek to constantly expand its envelope of missile intercept options and technologies.

**SRIKANTH R**

*Srikanth R is a Senior Researcher in Cyberstrategy Studies at the Takshashila Institution.*

# Whither cyber strategy?

*Indian government's vague resolutions to build capacity for cyber security with little to no specifics are unlikely to meet the requirement.*

Defence Images



The increasing role of networked computers in running infrastructure (such as cell phone networks and critical business processes) in recent decades has seen a rise in crimes related to compromising the integrity of these networks. An event such as Chinese hackers taking down a large part of the Indian telephone networks, that are mostly based on Chinese Telephony Hardware, is not unlikely. [A report](#) prepared by Pentagon for the US Congress identifies targeted cyber attacks by the Chinese military on US

government and private networks. Such plans have been announced by other governments targeting competitor nations with targeted cyber attacks to steal intellectual property or to cripple critical infrastructure in case of hostilities. Such concerns have prompted the Indian government to study the scope and nature of threats arising from such cyber attacks.

The [recommendations of various Joint Working Groups](#) (JWG) last year were consolidated and released in a report by the National Security Council Secretariat



titled *Recommendations of JWG On Engagement with Private Sector on Cyber Security*, towards charting a plan for securing networks and computers of public and private sectors by creating a permanent mechanism for a Public-Private Partnership in cyber-security. The document recognises the importance of creating trained professionals required for securing the goals mentioned in the document. Newspapers had reported plans to create 500,000 cyber security professionals by 2015, which amounts to graduating roughly 250,000 security professionals annually until 2015. These numbers appear to be arbitrary given the lack of facilities to teach that many individuals in such a short time span. This news has already attracted operators of unknown antecedents offering cyber security training for a hefty fee, and doing little more than providing documents towards the preparation for cyber security certifications like CISSP. The set of recommendations in the JWG report for training the required personnel, amount to innovative recruitment and placement procedures, specialised training in PPP mode, joint work by the Ministry of Communications and Information Technology and Ministry of Human Resource Development with the private sector to establish a cyber security capacity building framework, running awareness campaigns for general public, and similar vague resolutions to build capacity with little to no specifics. These organisation are to be coordinated under the leadership of the Deputy NSA. The implementations of all these recommendations have been left to a permanent JWG at some unspecified point in the future. It is not clear how the Deputy NSA plans to coordinate

with MHRD and MCIT in their plans for training people, should the requirements change down the line.

The US government has similarly recognised the need for large numbers of trained security professionals in the government, based on [a set of 11 recommendations](#) by the DHS Advisory Council in Cyber skills Task Force Report. This report recognises the vulnerability of government networks and SCADA systems used to control industrial machinery such as power generators. Secretary of the DHS, Ms Janet Napolitano identified the development of a workforce capable of meeting cyber security challenges in June 2012, before the JWG submitted its report to the NCSC in August 2012. Specifically, Secretary Napolitano recognised the need to improve its capability to recruit large numbers of sophisticated cyber security professionals.

*Such concerns have prompted the Indian government to study the scope and nature of threats arising from such cyber attacks*

The DHS report is specific on how it plans to achieve its goals by recognising that different mission-critical tasks may require different skill sets, and recommends maintaining an authoritative list of all mission critical cyber-security tasks, and then developing specialised training for each of these tasks. The DHS is directly responsible for the development of

cyber security workforce. Towards this end, the DHS [recently announced](#) that it was working with community colleges, high schools and universities across the nation, along with cyber security competitions and challenges to tap talent for a more skilled and challenging mission critical tasks. This is the first step towards selecting capable people into the system after which they are expected to work on different tasks, such as customs and border enforcement, managing SCADA systems or one of the other mission critical tasks and to make them capable of serving either in the government or in private corporations. The important part is that the DHS has sole responsibility in determining the kind of training that is required by cyber security professionals now and in the future to meet the challenges it has determined.

According to the DHS website, this program will begin at Immigration and Customs Enforcement computer forensic labs in 36 cities nationwide, where students will be trained and gain hands-on experience within the department's cyber security community. The unpaid volunteer program is only available to community college students and (military) veterans pursuing a degree in the cyber security field.

A government program that spreads the responsibility across the MHRD and MCIT without a common vision for the requirements of the future is unlikely to meet those requirements, either for the government or for the private sector. The setup being planned would prove to be a catastrophe in the long run. India needs to assess the stakes at play here and pragmatically improve its strategy in this field.

RAVIKIRAN S RAO

*Ravikiran S Rao blogs at The Examined Life.*

# The insecurity behind the Food Security Bill

*The Food Security Bill places a heavy burden on India's fiscal deficit, but the real problem is the distortion it causes to India's food supply chain.*

The alliance of convenience between the National Advisory Council (NAC) and the political establishment headed by Sonia Gandhi has given rise to many bad ideas and their implementation. All their ideas follow a similar pattern. The NAC wants to purge India of the neo-liberal heresies that it has adopted over the past 20 years, reverse the process of dismantling of the various entitlement schemes that the older Mrs Gandhi established, and correct them of imperfections that impeded their proper working then. The current Mrs Gandhi sees the NAC's schemes as means by which she can distribute the largesse among the populace who will then vote for her party, and an opportunity for her political establishment to perpetuate and expand the system of patronage that will enable them to extract rents, and ultimately, grant them political control.

The Food Security Bill that our dysfunctional political system mercifully failed to pass, is a very good illustration of this dynamic. It proposes to provide subsidised food to nearly

two-thirds of India's population through the Public Distribution System (PDS). The PDS happens to have a leakage rate of 40 percent, but never mind that – experiments in Chattisgarh apparently show that if we try really hard, the PDS can be fixed. When it comes to expanding the scope of government, the faintest glimmer of hope is sufficient to base public policy on.

When it comes to evaluating the success of neo-liberal policies, on the other hand, no amount of evidence is sufficient to prove them a success. The steady decline in poverty that NSS surveys show, the evidence that everyone, (including the poorest) is spending less on food even when they have the money to spend, the evidence that they are shifting from foodgrains to richer food, ought to be treated as good news by an unbiased observer. For the NAC, however, it is a reason to discount the validity of these surveys and simultaneously pick on one aspect of the evidence – the decline in foodgrain consumption – to claim that the poor have less access to food, and to write



International Maize and Wheat Improvement Center

into the Food Security Bill the proviso that 5 kg of foodgrains be provided to eligible families.

*When it comes to evaluating the success of neo-liberal policies, on the other hand, no amount of evidence is sufficient to prove them a success.*

Why expand eligibility so much? Why not focus on the poorest and the hungriest Indians? Because, for the NAC, the objective of providing food security is less important than the moral imperative of expanding the PDS. The point is to prove that if the PDS were better designed, it can be made to work. This is why it is important to push the Food Security Bill in the face of opposition from every advocate of financial prudence, both from within the government and outside of it. The C Rangarajan committee has advised this government to confine the benefits to the poorest. Ashok Gulati, Chairman of the Commission on Agricultural Costs and Prices, has calculated that the best approach to achieve food security is through reduction of the fiscal deficit, which is the opposite of what the Food Security Bill sets out to do.

For the political establishment, it is about extending what has been the longest running scam in India's history. India's agriculture is subject to a regime of central planning and administered pricing that would be considered repressive if it were proposed for India's industry today. Farmers are forced by

law to sell their produce at designated district markets under the supervision of Agricultural Produce Marketing Committees (APMC). These APMCs are usually controlled by local politicians and are tools of dispensing political patronage.

Prices paid to farmers are determined by central and state governments through the minimum support price mechanisms. Foodgrains are procured and dispensed to the PDS through the notoriously corrupt Food Corporation of India that maintains granaries in such poor conditions that enormous quantities of grains rot every year. It maintains buffer stocks far in excess of what is prudent, the quantity being determined more by the political exigencies of having to procure from farmers than from any rational calculation of how much India needs to last out a drought. It does a terrible task of supplying to the PDS, with a vast proportion believed to be diverted to the open market.

All of this places a heavy burden on India's fiscal deficit, but the real problem is what it does to India's food supply chain. India is an agricultural country. It cannot afford to remain one for much longer. It cannot afford to have 60 percent of its workforce engaged in food production, give those agricultural workers a decent standard of living, and yet provide cheap food to its population.

It needs to have fewer people working on farms and more people in factories. It needs the fewer people that do work on farms to produce more food using mechanised means, and it needs to transport this food efficiently and with minimum wastage to a rapidly urbanising populace. This requires corporate investment in cold chains, and

for this to happen, India needs to dismantle the various choke points and political controls on food supply.

Instead, we are likely to get the Food Security Act (FSA) that, like many other actions of this government, will achieve the opposite of what its title declares that it shall. We no longer notice the newspaper headlines that the government is threatening schools with

closure under the Right to Education Act. When we will see similar headlines under the FSA, our reaction will be no different. The NAC will fret about the difficulties of implementing a well-intentioned policy in India, while the political establishment will display a secret smirk on its face. And the people shall await the next such act of (mis) deliverance.

V ANANTHA NAGESWARAN

*V Anantha Nageswaran is the Fellow for geo-economics at the Takshashila Institution.*

# Political change, the stimulus that India needs

*India's growth pains are a symptom of the structural – economic, social and political – malaise that the country has sunk into, in the last decade.*

Meena Kadri



Raghuram Rajan, the Chief Economic Advisor to the Government of India, has [written a piece](#) recently on why growth in India slowed and how it could be revived. He blames the growth slowdown in India on the failure of India's institutions to cope with the high growth rates experienced during 2002-2007 and on the global financial crisis. Further, he blames political opposition to investment projects that slowed capital formation.

All explanations have an element of truth in them. The above is no exception. But they minimise the importance of dysfunctional and cynical governance that has brought about India's current economic mess: high inflation, high fiscal deficit, low growth and high current account deficit. What India is experiencing is not a "garden variety" cyclical slowdown caused by inventory accumulation or a mild pick-up in inflation; India's growth slowdown is

structural. Yes, the proximate cause is a rapid decline in capital formation. However, faith in the government and the Rule of Law has receded to such an extent that risk-taking in the real economy has all but vanished. Trust between counterparties is essential for commerce to flourish. Contracts help but without trust that they would be honoured, they are largely worthless. If all contracts are settled in courts, the judicial system would be overwhelmed. Trust has been the single-most important factor underpinning economic activity in all economic systems, whether capitalist or socialist.

The trust that the Government of India is an honest interlocutor, a 'disinterested' party, that it would create and maintain a level playing field for all participants has taken such a big knock that nothing short of political change can begin to restore that trust. Only then can animal spirits revive. The scandals that this government has created and the sums involved have been unprecedented in the history of independent India. We briefly examine those and assess the mood of the country.

We also draw up on research from Forensic Asia (an independent bottom-up research company that analyses corporate balance-sheets) to argue that a more immediate obstacle to revival of investment spending is that the corporate sector is maxed out. The long and painful process of de-leveraging has just begun as the corporate sector accumulated too much debt in the boom years and now is payback time.

Unless India's intellectuals and elites can agree that this government has caused tremendous harm to the idea of India and that, at the minimum, political

change is required to reverse India's fortunes, India's recovery will remain elusive.

A partial list of corruption and other scandals since 2004

**Coalgate** – This refers to the disputed allocation of coal mines (a public asset) that cost billions to the exchequer and to bidders with no experience in coal mining. Their intent was to trade the license for a profit! This 'Coalgate' has spawned many sub-gates. The Prime Minister was personally in charge of the Coal Ministry from 2006 until 2008 because the UPA had a fugitive from law as its cabinet minister in charge of the Coal Ministry. The PM had to take over the Ministry when he 'disappeared'. The investigative agency, charged by the Supreme Court to report to it directly, has submitted its report to the Law Ministry for 'approval' ahead of placing it before the Court.

**Spectrum Gate** – This refers to the allocation of spectrum (airwaves) to bidders in the telecommunications industry, again in a controversial manner that cost the exchequer billions in licensing fees. In order to deflect attention, the government appointed a Joint Parliamentary Committee (JPC). The word, 'Joint' suggests a committee comprising of Members of Parliament from the ruling and opposition parties. The government nominee who headed the JPC never invited the Opposition members for a meeting. He refused to allow the former Minister for Telecommunications to testify since the former Minister had said that the Prime Minister was fully in the know of all the decisions he took.

**CWG Gate** – This refers to the corruption scandals around the



Commonwealth Games in New Delhi in 2010.

**Environment Gate** – This refers to the withholding of environmental clearances for many projects.

**Vadra Gate** – This refers to the various land deals that the son-in-law of Ms Sonia Gandhi engaged in. He had perfect foresight, buying land in various places ahead of the announcement of industrial projects there. An upright officer of the Indian Administrative Service, who questioned some of the deals, has been transferred more than once and the Government of the state of Haryana is questioning him for his actions in cancelling some of the transactions.

#### **Something changed for the worse in India in 2004**

Most economists – not just in India – completely exclude the social and political environment in their analyses. They do so for two reasons. One is that it is hard to include social and political variables in a quantitative model of the economy. Two, they have been stable for the most part in Western democracies. Hence they ceased to be a factor influencing short-run (one to two years) economic (mis) fortunes.

Unsurprisingly, Indian economists have followed the lead set by the West, at the expense of losing touch with reality in India. Politics has always been a big factor and the change in government in 2004 was a big event for India's economic progress. The Congress-led United Progressive Alliance (UPA) was a post-poll alliance. Moreover, it was determined to repudiate the Bharatiya Janata Party (BJP)'s "India Shining" campaign. In hindsight, the BJP slogan might have been a bit early but it was

positive and aspirational. The Congress-led UPA, on the other hand, had no idea of how to govern a semi-liberalised modern economy with a young and aspiring population. Its slogans, politics, ideas and policies were excavated from the 1970s, despite them not having delivered the goods even then. The extra-constitutional/unconstitutional National Advisory Council was populated with ideologues and hangers-on who were only too keen to endorse Sonia Gandhi's ill-informed and unproductive and unsustainable fiscal populism. They refused (and still refuse) to acknowledge that their prescriptions for eliminating poverty have been discredited empirically.

The upshot of all of these was a change in emphasis from growth to redistribution through fiscal hand-outs. Many bravely chose to ignore it by focusing on personalities who were reformers in an earlier era but the control of the government had passed into the hands of Sonia Gandhi who had no inclination for or understanding of the importance of economic growth to achieve her pet equity outcomes. It has turned out that the reformers did not have strong convictions to stand up to her brand of economics. Redistribution orchestrated by the government resulted in concentration of discretionary power in the central government. Abuse and aggrandisement inevitably follow concentration of power. Further, the obsession to stay in office meant tolerating and even collaborating with corruption engaged in by various coalition partners in their respective ministries.

For a while, the failure to recognise this important change did not appear to matter due to the global nature of the

economic boom that lasted up to 2007. India too prospered or appeared to. Now, analysts and the Indian economy stand exposed. Complacency and a hubristic belief in the inevitability of India's rise have brought things to such a pass now that big question marks linger over India's political and economic future.

### **"Institutional failure" sounds dignified but misleading**

It is a good sign that economists look beyond business cycle models and acknowledge the importance of institutions. That is what Raghuram Rajan has done in his recent piece cited earlier. In his words,

To revive growth in the short run, India must improve supply, which means shifting from consumption to investment. And it must do so by creating new, transparent institutions and processes, which would limit adverse political reaction. Over the medium term, it must take an axe to the thicket of unwieldy regulations that make businesses so dependent on an agile and cooperative bureaucracy.

One example of a new institution is the Cabinet Committee on Investment, which has been created to facilitate the completion of large projects. By bringing together the key ministers, the committee has coordinated and accelerated decision-making, and has already approved tens of billions of dollars in spending in its first few meetings.

However, the Cabinet Committee on Investment (CCI) is not an example of a good institution. For institutions to gain legitimacy and credibility, it takes time and trust in the leadership of that institution. The CCI, being an institution

of the UPA government led by a man whose 'reputation is in tatters', is unlikely to be an effective one. There is no guarantee that decisions of the CCI will be respected by his own Cabinet members without dissent. In any event, as [Ila Patnaik explains](#), escalation in costs since the time these proposals were submitted for approval until now and the difficulty in obtaining funding might render the CCI approvals academic.

### **Corporate de-leveraging has a way to go**

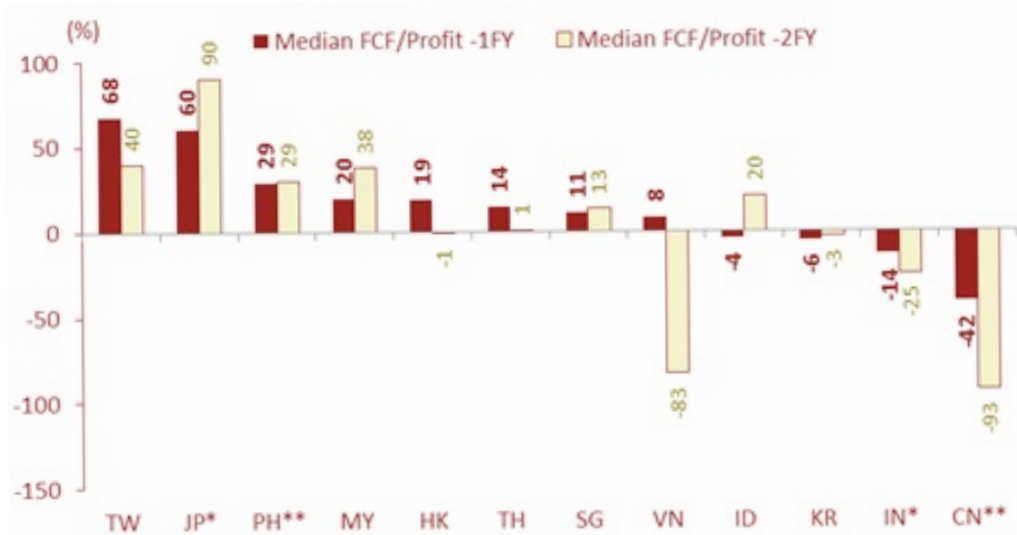
The large and organised corporate sector is in a soup of its own making for it had taken on more debt in the good days expecting them to last forever. Now, it is payback time. The table below, from Forensic Asia ('Asian Financial Stress: the North-South divide widens', 25 April 2013), shows that the debt/operating cash-flow ratio is too high – higher than the danger mark of 6.0 in several sectors (Figure 1). Excepting for companies in communications, technology and consumer non-cyclical sectors, others have no scope to increase capital expenditure. Further, the fact that the corporate sector has just started to experience cash outflows also militates against any immediate resumption of investment spending on their part (Figure 2).

### **Political change must precede institutional overhaul**

In any event, the rest of the country has long abandoned any faith in this government to look after the national interest. Therefore, investment intentions are missing. Kumar Mangalam Birla of the Aditya Birla Group said so in his Bloomberg interview a month ago. He would rather invest outside India. The trust factor has

Market	CN	IN	HK	TH	MY	SG	ID	PH1	JP	KR	TW	Asia
Basic Materials	30.5	9.2	10.2	14.3	33.6	492.0	15.6	0.5	3.0	14.6	8.9	11.3
Communications	1.6	3.1	0.9	1.5	2.6	1.9	2.7	1.7	0.6	1.6	0.5	1.6
Consumer, Cyclical	2.5	6.8	1.7	2.6	4.0	5.1	2.3	0.3	2.6	4.0	1.8	2.9
Consumer, Non cyclical	2.9	2.2	2.1	2.2	2.5	3.2	2.0	0.7	1.5	6.5	1.1	2.5
Diversified	22.5	30.0	12.2	5.8	6.5	3.0	2.7	0.6	na	5.7	na	10.9
Energy	4.5	6.8	11.6	2.7	4.4	-234.0	61.6	290.0	6.8	6.9	-13.0	8.4
Property	-32.0	13.6	6.8	5.5	5.9	8.1	1.3	5.9	11.1	3.0	14.6	9.6
Industrial	7.3	9.1	6.8	2.7	5.1	5.3	2.0	11.6	3.8	27.7	5.4	6.9
Technology	2.0	1.3	0.5	230.0	0.3	1.2	0.3	na	2.5	2.5	3.0	2.4
Utilities	7.2	8.7	4.3	2.9	2.7	0.6	-0.8	4.0	-602.0	5.4	na	7.4
All sectors	5.6	6.2	4.5	3.4	4.2	5.9	2.4	1.6	3.3	7.5	3.8	4.6

**Figure 1: Debt/OPCF (x) by Market and Sector: 2012 – too much corporate debt in India**  
 (Source: Forensic Asia. 1-In China only 743 out of 1,200 companies have full data and in the Philippines just 39 out of 174)



**Figure 2: Free Cashflow/Profit: Indian corporates experiencing free cash outflows**  
 (Source: Forensic Asia. \* March 2012 Financial year-end. \*\* Incomplete data, implied number)

to be restored. Governments do not always have to support economies with big investment projects. Acts of leadership in pursuit of national interest would do the trick, even if actual results, in terms of economic growth, take time to show. Leadership and trust stimulus are more effective in restoring economic dynamism and animal spirits than fiscal stimulus.

### **Conclusion**

Recently, some fond hopes have been expressed that the drop in the prices of crude oil and gold augurs well for India's current account deficit to decline and economic growth to revive. Not only do input costs become lower, but also the room for rate cuts by the Reserve Bank of India is expanded.

Forecasts of pick-up in growth in the second half are gaining currency. We caution against premature optimism.

India's growth pains are but a symptom of the structural – economic, social and political – malaise that the country has sunk into, in the last decade. It would need leadership of the kind that Britain and the United States were blessed with in the 1980s to revive India's economic fortunes. The arrival of such leadership would signal a bottom in India's financial assets even if underlying corporate fundamentals take time to improve. Unfortunately, we are a long way from there as the elections are not due until May 2014 and the outcome is too hazy for any confident predictions to be made.

PAVAN SRINATH

*Pavan Srinath is a public policy Researcher with the Takshashila Institution and till recently, with Arghyam, Bangalore. The views are personal.*

# Think sanitation, not food security

*Not only does the Food Security Bill show poor economic reasoning and flawed policy design, it is also treating the wrong problem.*

Overseas Development Institute



The proposed National Food Security Bill is not just poor medicine for the problems of hunger and malnutrition that it aims to address. It is also a wrong diagnosis of the disease, where the self-appointed doctors fail to read the symptoms correctly. Malnutrition is a condition where certain basic nutrients are lacking in the human body, leading to poor health and physical development. The mistake has been in assuming that this is because people do not have enough food to eat. Nutrition is

not just about what people eat – but about how well the body is able to utilise it. Could it be, that people are losing their health, not because of the lack of food but because of recurring bouts of dysentery, diarrhoea and an infection from a host of parasites? Could the problem here be a lack of sanitation and not food insecurity? Could the problem have been fundamentally misdiagnosed?

First, let us look at the symptoms – chronic hunger and malnutrition.

Numbers on both are debated in India. There are widespread claims of a fifth of Indian population suffering from chronic hunger which are not backed up by good data. 99 percent of rural households and 99.4 percent of urban households reported that they had two square meals a day throughout the year, as per a 2009-10 National Sample Survey Organisation report. While this recall survey may miss out on capturing sporadic instances of people going hungry, it makes a robust case against widespread chronic hunger. Apart from this, measured calorie consumption has been declining because of a host of reasons including changing dietary habits and a reduction in physical labour work. Interpreting a decline in measured calorie consumption as evidence for chronic hunger is fallacious.

The second symptom, malnutrition, cannot be measured effectively through oral or recall surveys. Researchers use child height (stunting), height-to-weight ratios (wasting), upper arm circumferences and other bodily measurements to determine if someone has received sufficient nutrition or not. By and large, these proxies are more reliable for growing children than they are for adults. The assumption here is that if children are born to healthy mothers anywhere in the world, they will reach a certain height range if they receive adequate nutrition through their childhood. Thus, it is children of height well below the acceptable height who are classified as stunted, and hence malnourished. It is by these measures that 43 percent of India's children are classified as malnourished.

When posed with a symptom, doctors perform a differential diagnosis. The

question to ask is: what causes this malnutrition? Is it because of a lack of food intake (or availability), or because of unclean drinking water and open defecation? The latter is particularly hard to measure, because people are affected not only if they defecate in the open – but also if their neighbours do so. [New research](#) from Dean Spears of Princeton University shows that open defecation (and a lack of basic sanitation) explains a majority of variation in child height across all countries in the world – as opposed to food availability, income, literacy or any other reason. Spears provides evidence that consistently shows the high negative impact of open defecation on child height and malnutrition, across countries, within India and when controlled for factors like GDP.

While stunting and wasting are widely accepted as robust measures of malnutrition, economists Arvind Panagariya and Jagdish Bhagwati disagree – stating that it is wrong to assume the same healthy range of heights for people of all ethnicities and genetic make-ups. They contrast sub-Saharan African countries with India: the former have lower malnutrition rates than India, but have much higher Infant Mortality rates. Since the latter are much harder numbers less open to dispute, and have largely the same causal reasons, Panagariya and Bhagwati argue that the Indian malnutrition numbers cannot possibly be true. What Dean Spears finds is that if one looks at granular data within India or sub-Saharan Africa, habitations with open defecation have both higher infant mortality and higher rates of stunting. While India does much better than sub-Saharan Africa on almost all development indicators, the one that it

remains far behind on is sanitation. This hidden factor is ably demonstrated as explaining this long-standing enigma between India and Africa.

*The question to ask is: what causes this malnutrition? Is it because of a lack of food intake (or availability), or because of unclean drinking water and open defecation?*

While the National Food Security Bill proponents have been looking at nutrition as a 'gross' problem which requires more input in the form of cheaper food, the reality is that it is largely a 'net' problem. Far too much nutrition is lost to recurring diarrhoea, dysentery, persistent worm infestations and chronic environmental enteropathy linked to open defecation and a lack of sanitation. People in 69 percent of rural Indian households continue to defecate in the open. While most of the urban population uses toilets, little human waste gets collected and treated properly.

It is ludicrous that sanitation has not been made a priority in development policies addressing malnutrition. While the official government of India position

has always been that malnutrition is "[complex, multidimensional and inter-generational](#)", the interventions have largely been about targeted and non-targeted nutritional interventions, subsidized healthcare, and with token mention of clean drinking water supply and sanitation. This is like giving dysentery patients subsidized food and medicine, and asking them to eat more, and stopping the medical advice there. In the absence of focus on sanitation, what we have is taxpayer-funded diarrhea and little else.

The High Powered Executive Committee report on urban infrastructure and services in 2012 [estimated](#) that India would need to invest approximately 5.6 lakh crore rupees over the next twenty years on urban water and sanitation infrastructure. While this may sound like an incredibly high number – it is the same as just three to five years of total estimated expenditure for the food subsidies, depending on whose [cost estimates](#) you believe. The challenge in rural sanitation is even more basic – motivating people to build and use toilets, and help those who do not have the means to.

Not only does the Food Security Bill show poor economic reasoning, and flawed policy design, it is also treating the wrong problem. What national policies need to focus on are rural and urban sanitation along with the provision of clean drinking water. Not on quaint notions of food security.

**KAUSHIKI SANYAL**

*Kaushiki Sanyal is a Takshashila Scholar and Senior Analyst at the Bharti Institute of Public Policy, Indian School of Business.*

# Let the public participate

*There are many ways in which the government can deepen public engagement with the legislative process.*

Andrew Becraft



Given the failure of many government legislations in achieving the objectives for which they were formulated, a case for institutionalising deeper public consultations in the legislative process has been made in the recent past. Currently, there are four entry points where citizens can participate in the legislative process: first, the identifying stage; second, the drafting stage; third, the legislative stage; and fourth, the post-legislative stage.

Civil society organisations can alert the government to the need for a particular legislation or changes in an existing law.

The *Mazdoor Kisan Shakti Sangathan*, a farmers and workers group, ran a successful campaign for a Right to Information law, which was finally enacted in 2005. The recent anti-corruption agitation led to the introduction of a Lokpal Bill currently pending in the Rajya Sabha. The long-running Right to Food campaign by a



network of NGOs has been instrumental in raising awareness about chronic hunger and the eventual introduction of the National Food Security Bill in 2011.

The Government can also *suo moto* decide that a law is required in a particular sector. It may get inputs from specialised bodies such as the National Human Rights Commission and the Law Commission or appoint a group to study a sector and draft a law. These groups or bodies may hold consultations with independent experts and stakeholders. Furthermore, an individual Member of Parliament (MP) can also introduce a Bill in either House. This is known as a Private Member's Bill (for example, Lok Sabha MP, Kalikesh Singh Deo introduced the Disclosure of Lobbying Activities Bill in 2013 to regulate lobbying activities). Although these are generally never passed, they act as signalling devices to the government, which may introduce its own legislation on the subject. It is possible for the public to approach their constituency representatives to advocate for a particular law.

Government Bills are drafted by the concerned ministry, which is then vetted by other ministries. There are also times when the government approaches an independent expert to draft a law. Recently, it appointed the Financial Sector Legislative Reforms Commission, under the chairmanship of Justice BN Srikrishna to reform the financial sector laws.

The Government may publish the draft legislation in the public domain for feedback. Drafts of the Electronic Service Delivery Bill, the National Sports Bill and the Land Acquisition and Resettlement Bill were published for a specified time period (generally 20-30

days). It may also circulate the draft among a select set of stakeholders for comments. An individual MP may solicit public feedback on his Private Member Legislation. For example, Biju Janata Dal, MP Baijayant Panda uses his personal website and social media tools such as Facebook to publicise the draft of his private member bills.

There are few avenues of public engagement once the Bill is introduced in the Parliament. Since 1993, 24 Department-related Standing Committees (DRSCs) were formed to scrutinise Bills and other policies of the Government (before 1993 Bills were sometimes referred to ad-hoc committees for scrutiny). Generally most Bills are referred to these DRSCs, however, the presiding officer of the House has the discretion not to do so. For instance, key Bills such as the Special Economic Zones Bill, 2005 and the National Investigation Agency Bill, 2008 were not referred to a DRSC. In contrast, the Lokpal Bill passed by the Lok Sabha was sent to a Select Committee by the Rajya Sabha although it had been examined by the DRSC.

These DRSCs may solicit feedback from the public by issuing notices in key newspapers and the Gazette of India. The public comments are also tabled in the form of a report. However, the level of public engagement varies with different Bills. For instance, the DRSC scrutinising the Companies Bill, 2009 received 101 comments while only 10 submissions were received for the Armed Forces Tribunal (Amendment) Bill, 2012.

The government is not bound to accept the recommendations of the DRSC but individual MPs may introduce amendments to the Bill when it is being

considered by the House. The MP may suggest amendments based on the DRSC's suggestions or any public feedback.

Once Bills are enacted, ministries draft and notify Rules (also known as subordinate legislation) to enable their implementation. These Rules may be scrutinised by the Subordinate Legislation Committee, which is empowered to seek public feedback.

Post legislative scrutiny of laws is not mandatory in India. It may however be undertaken by bodies such as the Law Commission of India, the DRSCs or a specific commission appointed for the purpose who may hold public consultations. Recently, rape laws were reviewed by the Justice Verma Committee before an Ordinance was promulgated on the matter.

Many other democracies have devised meaningful ways to encourage public participation in the legislative process. In countries such as the UK, Australia and South Africa, it is mandatory to hold public consultations or publish draft Bills for comments. In fact, in South Africa it is a constitutionally mandated provision. In the UK, the Government publishes Green Paper and White Paper, which sets out its central ideas on the Bill. After introduction, it is compulsory to refer a Bill to a committee in the UK and the US. However, there is no such requirement in Australia, Canada and South Africa. Unlike in India and South Africa, it is mandatory for the Government in countries such as the UK, Australia and Canada to respond to the recommendations of the committee. While post legislative scrutiny in India is largely a matter of discretion of the Government, in the UK it is compulsory to do so within three to

five years. In the US, legislative oversight committees review laws on a continuous basis. In Australia, most laws have to be reviewed within three years. Public comments are also solicited during the post-legislative scrutiny.

*Currently, there are four entry points where citizens can participate in the legislative process: first, the identifying stage; second, the drafting stage; third, the legislative stage; and fourth, the post-legislative stage.*

India can learn from the experience of these countries and tailor them to suit our requirements. There are many ways in which the government can deepen public engagement in the legislative process.

First, ministries can be mandatorily required to publish the draft Bill for a reasonable time and publicise it through different media. Along with the draft Bill, the ministry may be required to include available background information on the subject and facilitate access to legal and legislative record on the matter.

Second, it should be compulsory to refer a Bill to a DRSC or select committee for scrutiny. This could be at both the pre-legislative stage and the legislative stage. These committees should be required to hold wide consultations

with a variety of stakeholders (NGOs, state and local governments, special interest groups, academics and legal experts). Public participation may be facilitated by increasing access to constituency offices, using a variety of media outlets to publicise the Bill and creating public participation offices that can interface with the public.

Third, in order to increase transparency in the feedback process, the government could be required to publish a report demonstrating how the inputs from stakeholders have been considered while formulating the law.

Fourth, most Acts should be subject to a post legislative scrutiny through public engagement every three to five years. This could be carried out if each Bill includes an Explanatory Note giving the criteria or outcomes by which the Bill could be judged for effectiveness. This responsibility could be given to a specialised committee.

Such measures will result in robust legislations, which shall need lesser amendments and will be successful in achieving the objective with which that legislation was enacted.

SN Ravichandran

*S N Ravichandran is with the Cyber Society of India.*

# Arms Trade Treaty: Why India abstained

*Arms Trade Treaty, originally conceived to control illicit arms trade, has been hijacked and converted into an instrument of coercion favouring a few arms exporting countries in the West.*

Norway UN



The world's largest arms exporter controlling almost 30 percent of the arms trade voted for adopting the treaty with the knowledge that its Congress was not going to ratify it and the world's largest importer of arms- India, abstained. The Arms Trade Treaty (ATT) was approved by 153 votes in its favour and 3 against 23 nations, including Russia, China and India abstained and a few others were absent.

The ATT was initially conceived in 2001 to "prevent, combat and eradicate" illicit arms trade that had grown alarmingly.

The treaty was conceptualised in 2003 and the UN took up the matter in 2006 by Resolution 61/89. India abstained and the US voted against the resolution. A group of governmental experts (from 28 countries) was formed in 2007 to consolidate and submit a report on the views expressed by the member states. The report was submitted in 2009. An Open Ended Working Group met in 2009 to debate the issue over six sessions. The exercise was cut short after two sessions since the US indicated a change in policy to support the treaty. A

conference on the ATT was called for in 2012 and on April 2 the Treaty was adopted.

There has been much criticism of India's abstention in sections of international law but India has certain valid objections to the Treaty in the present form.

The first stems from the manner in which the objective for controlling illicit arms trade was distorted by Resolution 61/89, which introduced a vague resolve to examine the feasibility, scope and draft parameters for a legally binding instrument establishing international standards for the import, export and transfer of conventional arms. The enlargement of the original objective to include legal arms trade between nations was predicated by the view that developing economies were the main source of illicit arms trade due to their weak legal framework, loss, corruption, diversion and theft. It also implied that control of the trade could and should be left to the developed arms exporting countries. The change in wording ensured that all arms importing countries irrespective of their need would have to follow the same standards. Thus, countries like Congo and Sudan, which imported arms to decimate their own people would be equated with countries like India and Vietnam, which import arms to protect their sovereignty. The resolution ensured that the primary objective namely control of illicit arm sale was swept under the carpet.

The second objection rises from Article 6, which prohibits states from exporting arms if it violates any Security Council resolution. In other words the Security Council will have the final word on whether a sovereign exporting state can or cannot enter into an Arms trade with

another sovereign country. This is a direct infringement of Article 51 of the UN Charter that gives states the inherent right to individual and collective defensive action.

While exporting, states are barred against sending arms if they have prior knowledge of its usage against civilian targets. But the treaty is silent on the use of the arms by the exporting state on behalf of the importing state to target civilian targets. The American use of drones in Pakistan would fall under this category.

*The Arms Trade Treaty (ATT) was approved by 153 votes in its favour and 3 against 23 nations, including Russia, China and India abstained and a few others were absent.*

The third objection to the treaty rises from Article 7, which directs the exporting state to demand, receive, and evaluate the reasons for the importing states' requirements. In other words it is the exporting state that will decide whether the importing state can or should buy arms, and lay conditions of the circumstances under which the arms can be used. A country like India, which imports 70 percent of its arms, will be at the mercy of the exporting states.

The fourth objection rises from Article 8, which permits exporting states to demand end use or end user documentation. This particular clause is a backdoor attempt to arm twist India

into signing end user documents, which at present it is resisting.

The fifth objection rises from Article 11, which deals with diversion of conventional arms where it allows an exporting state to take appropriate measures in case it detects a diversion of arms. The section does not compel the exporting state to take responsibility for the diversion. We have seen in the past where the Non Proliferation Treaty was violated by every exporting signatory and where, even when evidence was forthcoming, such violations were overlooked for political reasons.

Diversion has not been defined. If there is an insurgency in the country and the army has to be called in, then will use of arms procured for external security to quell the insurgency be labeled as diversion? There is no clear way forward.

The sixth objection arises from the need to maintain a detailed register of the material being exported including the make, model, quantity, value etc. and

details of the end user. This clause sees vehement opposition from the National Rifle Association of the USA, which will not countenance any form of gun registration and deems such registration as violation of the Second Amendment. They have vowed to see that the treaty is not ratified by the US Congress, and this by itself will render the treaty a non-starter.

Finally, the Treaty does not cover any sale to non-state actors. Sale of weapons used for sports and the conversion of conventional weapons to use biological, chemical or nuclear munitions. The treaty also does not cover arms, which have been abandoned by a state during or after an operation.

The sad part of the story is that an Arms Treaty, originally conceived to control illicit arms trade, has been hijacked and converted into an instrument of coercion favouring a few developed arms exporting countries in the West. India did well to abstain from the Treaty and should continue to do so.

SARAH FAROOQUI

*Sarah farooqui is a Researcher at Public Affairs Centre, Bangalore and Assistant Editor of Pragati.*

# Child before the law

*The new National Policy for Children defining anyone below 18 as a child ignores Indian social realities.*

After the December 16 Delhi rape case, legal and human rights experts called for a legal redefinition of the term 'child'. Accompanying these calls was the suggestion to reduce the age of a 'juvenile' from 18 to 16. After a public debate, the [recently passed](#) National Policy for Children 2012 has however defined a child as anyone below the age of 18. Further, recent decisions to [amend the Juvenile Justice Act 2000](#) seek to replace the word 'juvenile' with 'child'. This move standardises the previous ambiguous definitions of a child in India but does not amend the definition of a 'child' in each and every law automatically. It can then overcome the inconsistency where every law in India defines a child differently.

Take a look at the different laws, often at variance, mandating different legal ages for a child.

- Under the Age of Majority Act 1875, every Indian attains Majority at 18 years of age, unless another law 'specifies' otherwise.
- Section 2 of the Prohibition of Child Marriage Act, 2006 states that a male has not reached majority if he has not completed twenty-one years of age,

and a female, has not reached majority until she is eighteen years of age.

- According to the Child Labour (Prohibition and Regulation) Act, 1986, a child is a person who has not completed 14 years of age. (The [Amendment](#) to this act prohibits employment of any child below 14 years. It also adds a new category of persons called 'adolescents' between 14 and 18 years of age.)
- The Factories Act, 1948 and The Motor Transport Workers Act 1961, both define a child as a person who has not completed 15 years of age and adolescent as one who has completed 15 but not 18 years of age.
- The Plantation Labour Act 1951 states that a child is one who has not completed 14 years of age and adolescence as one who has completed 14, but not 18 years of age.
- The Beedi and Cigar Workers (Conditions Of Employment) Act 1966, defines a child as one below the age of 14 (but does not define an adolescent).
- The Merchant Shipping Act and Apprentices Act 1961 don't explicitly

define a child but state that an individual below 14 is not permitted to work

- The Mines Act, 1952 Act defines an 'adult' as a person who has completed 18 years of age (and hence anyone below that age would be a child).
- The Indian Penal Code 1860 finds that a person above 7 is criminally responsible for an action and in case of a mental disability or inability to understand the consequences of his action, the age is raised to 12.
- The various state Shops and Establishment Acts define a child as someone below the ages 12-15 years, accordingly.
- For protection against kidnapping, abduction and related offences, a child is one below 16 (male) and 18 (female) years.
- The Protection of Women from Domestic Violence Act 2005 defines a child as any person below the age of 18, and includes an adopted step- or foster child.
- Under Section 118 of the Evidence Act, even in the absence of an oath, the evidence of a "child witness" can be considered, provided that the witness is able to understand the answer thereof. The only precaution that the court should bear in mind that whilst assessing the evidence of a child witness, the witness must be reliable and his/her demeanour must not have a likelihood of being under influence or tutored.
- Under Section 375 of the Indian Penal Code, sexual intercourse by man with his own wife, the wife not being under 15 years of age, is not rape. An offence

of rape within marriage stands only if the wife is less than 12 years of age. If she is 12-16 years, it is an offence though with a milder punishment. Once the age crosses 16, there is no legal protection accorded to the wife.

If we look at these laws as individual pieces of legislations, they are terse, catering to a specific context. But when combined together to form a child protection mechanism, they contradict one another and make little sense. An individual is a major at 18. But a girl can legally marry at 18 and a boy at 21. If the girl is raped within marriage at 16 years and four months of age, there is no punishment for her 'husband'. But the legal age for a girl to marry is 18. While outside of marriage, neither a girl nor a boy can have consensual sex before the age of 18.

The 5-year old girl who was recently brutally raped and assaulted in Delhi, is a 'child' under the Juvenile Justice Act (under the category of children in need of care and protection). And so is the 17-year old male who brutally raped and assaulted a girl in the December 16 Delhi gang rape case: he is a 'child' under the Juvenile Justice Act (under the category of juvenile in conflict with the law). This accused cannot have consensual sex or marry, but according to the a different set of laws, he can work in factories and hazardous industries.

By fixing the age of a child as 18, the new policy has set to define a standard norm. If that standardisation is what the Indian legal system seeks, there is a need to individually amend all the relevant laws mentioned above, defining a child and standardising the age. Simply creating a policy, that labels everyone below the age of 18 as a child





John K

is not enough.

But such change has serious consequences. It stems from the paternalistic perception that one becomes an adult only after reaching the age of 18. The entrenched social and moral perceptions of a 'child' ignores that Indians, especially in urban areas are growing at a younger age — emotionally, mentally and physically. Research shows that among the lower economic classes in urban cities, responsibilities and a desperate need for economic self-reliance ensure that a child thinks as an adult much before the legal age. Similarly, life on the streets for most vagrant children ensures easy access to adulthood — employment in various non-formal sectors, exposure and access to sexual activity, substances (alcohol and narcotics), violence and a lack of familial structure. Economic fluidity (which results in stable nutrition, health and education provisions for children), access to different forms of media and communication and the rise in nuclear families ensure that most urban children in middle and upper middle classes grow up in an environment very similar to the developed countries, resulting in early exposure to adulthood and hence at a faster pace than the previous generations.

Standardising the legal age of a child to 18 preterms the category of young adults, those between 16 to 18 years of age. It believes that young adults are children unable of comprehending their actions. Data on juvenile crimes proves this fact. Between 2001 to 2011, juvenile crimes have escalated in India by 65 percent to 25,125. As per the NCRB data, 64 percent of these juvenile criminals are young adults, in the age group of 16 to

18 years. The Indian legal system instead needs to look at young adults as rational human beings, who are months away from adulthood.

*Simply creating a policy, that labels everyone below the age of 18 as a child is not enough.*

The current legal system tries every individual below the age of 18 as a child through the Juvenile Justice Board. Without attaching too much importance to the seriousness on the nature of the crime committed, all juvenile offenders are put into reformatory homes until they reach the age of 18. This measure is a burden on the reformatory homes — most reformatories face severe infrastructure and expertise deficit — which are forced to take in young adults and treat them as children.

The ideal amendment to the National Policy for Children would have been to incorporate the term 'adolescent' defining it as those belonging to the age group of 16-18 years. This does not automatically mean harsher punishments for adolescent offenders, or abandoning those in need of care and protection. It means recognising that this segment of population is neither a child nor is it at par with adults and therefore, should be treated legally on a case by case basis. By standardising the age of a child below 18 irrespective of the context, the new National Policy for Children fails to accept the contemporary social reality of India, the evidence of which was seen in the December 16 Delhi rape case.

**JASPREET SINGH**

*Jaspreet Singh is the India Coordinator of Perspectivity and works in the oil and gas industry. The views are personal.*

# Can India be Shale- &-hearty?

*A clear policy on exploration and production of shale gas is the first step to tap the potential of shale gas in India.*

tonguetyed



Even until a decade ago LNG (Liquefied Natural Gas) re-gasification terminals were being planned along the US coast in anticipation of US being a large importer of natural gas. However, in 2012, approvals were granted to construct LNG terminals at the very same sites for export to gas hungry markets in Asia. Over the last five years, the price of natural gas in US has fallen sharply, from about US \$12/ mmbtu in the first half of 2008 to an average of US \$3/mmbtu in 2012. The reason was the boom in production of shale gas i.e.

natural gas adsorbed in fine-grained sedimentary rock, which has very low permeability and is spread over large territorial areas. Technological advances in horizontal drilling and hydraulic fracturing have made shale gas production commercially viable.

Lower gas prices have given a boost to petrochemical, fertiliser and other manufacturing units where natural gas is the key feedstock. It has also helped US move away from using coal for power production thus reducing its

carbon footprint as natural gas emits 40 – 50 percent less carbon dioxide compared to coal. The result of this success has led other nations to explore and develop local shale gas reserves. Leading the race is China, which has the largest estimated reserves of 1275 tcf (trillion cubic feet) (the estimated reserves in the US is 862 tcf).

*Currently a key concern for international majors is the stability of the fiscal and pricing regime in the country.*

In comparison, India holds technically recoverable shale gas reserves of 61 tcf in 4 out of its 26 sedimentary basins. The exploration of remaining basins to estimate the potential reserves is in process in partnership with the US Geological Survey. Some industry estimates are hopeful of reserves upward of 600 tcf within India.

India's demand for natural gas is estimated to increase three fold within the next five years. Natural gas is also expected to be the preferred fossil fuel for power generation and as feedstock for petrochemical and fertiliser plants. In order to meet this shortfall in the immediate future, the Indian government is pushing for construction of more LNG re-gasification terminals along the western and eastern coast and also exploring the possibility of cross country pipelines to bring home natural gas from Central Asia. Neither option is however attractive as the current price of importing LNG is upward of US\$ 14/mmbtu (it has ranged from US\$ 12 to

15 /mmbtu in the Asian markets) while the pipeline route is via geographically and politically challenging landscape. It is therefore imperative for India to aggressively explore and develop local resources, both conventional and shale gas reserves.

However, even increasing shale gas production is no less challenging. There are technological, regulatory, infrastructure and environmental hurdles that need to be crossed to leverage the potential of shale gas in India. It took the oil and gas industry in US over 30 years to achieve commercial success in shale gas production. While this time-frame can be reduced to replicate success in India, the government will have to be open and offer incentives to attract foreign investment in the sector.

Currently a key concern for international majors is the stability of the fiscal and pricing regime in the country. Additionally, acquisition of vast areas of land for commercial development will be among the biggest challenges. A typical shale gas development will be spread over 1000 sq.km. Many of the basins are in environmentally sensitive, densely populated or forest areas. In the US, since the landowners also earn a share of revenues from production of minerals under their land, land access becomes easier. The transportation and delivery of the gas to the end customers will be an expensive endeavor. Because India unlike the US, does not have the benefit of an existing extensive network of pipelines. Finally, the key challenge will be the consumption and contamination of water resources. Shale gas production is a water intensive process (because of hydraulic fracturing). The water

consumption will be in direct competition to usage of water for agriculture and drinking. India faces a large gap between current supply of water and projected demand, amounting to a shortfall of around 50 percent in the next two decades. While advancement in technology is expected to reduce consumption of water for gas production, nevertheless a strong policy to reuse water will be essential.

The Ministry of Petroleum and Natural Gas released the draft policy for exploration and production of shale reserves in August last year prior to anticipated launch of the first licensing round in December 2013. While the final policy was expected by March 2013 it is yet to be released. The draft policy clarifies that the acreage will be awarded via an international competitive bidding process with 100 percent participation of foreign companies. The government has also proposed a new production-sharing agreement linked to production levels which will help simplify accounting procedures. However, there is little mention of potential fiscal incentives, which may be necessary to attract significant interest given the high uncertainty in the quantity and quality of the reserves. China, for example, has announced a new subsidy for operators linked to production of shale gas.

The biggest concern however is around land acquisition and water management. The draft policy states "Government of India will seek in-principle approval from the state

governments concerned, prior to bidding, including facilitation in the matter of land acquisition and water management issues". This could be a red flag to most companies who would wish to seek clarity on the process given the recent history of issues involved in land acquisition for industrial purposes. Further, the water management process seems to be lenient for the operators. The existing acts, which will be applicable, focus more on the process of disposal of contaminated water but not on either reusing or recycling. The draft policy states that river, rain or non-potable groundwater should be the preferred type of water with rainwater harvesting at site being mandatory but there is no broader thinking on optimising water usage with competing objectives.

India needs gas to meet its growth targets. Given the lead-time to explore and produce hydrocarbon resources the short-term solution is to import gas. However, in the medium to longer term the higher cost of energy imports will only add to the fiscal deficit. Local production can help reduce the import bill but a clear and robust policy not just for the operators but also for all stakeholders will be the first step. The success of shale gas production is not a given and it may be early days to pin hopes on a shale boom in India. The final policy on shale gas is much awaited and so is its commercial production, which still looks 5 to 7 years away.

M R MADHAVAN

*M R Madhavan is the co-founder of PRS Legislative Research.*

# The Anti-Defection Law needs a relook

*Parliament can be effective only if individual MPs have a significant role as law makers, and if they can be held accountable for their actions by their electorate.*



JS-42

In the last few years, we have seen the role of individual Members of Parliament diminish on account of the Anti-Defection Law. For example, when the issue of FDI in retail was voted upon, all MPs voted on party lines. It is difficult to believe that every Congress MP supported the move, or that every BJP MP opposed it, or that every MP of the BSP had no opinion on the issue and decided to abstain.

Two arguments are often made in support of the Anti-Defection Law. One argument is that this Law would ensure

stability of the government in an environment where money power can be used to persuade individual MPs to bring down elected governments. The other argument is that MPs are elected on the party ticket. Voters have exercised their preference for a set of policies espoused by the party, and therefore, MPs should be bound by the decisions taken by the party.

Whereas there may be some merit in the first argument, there is a flaw in the second one. Voters decide on a combination of particular candidates

and their support for the political parties. The binding nature of the anti-defection law assumes that the MP is voted solely on the popularity of their party, akin to a list system. In this context, it may be useful to see the differences between the current first-past-the-post system and the list system.

India follows a first-past-the-post system in elections to Lok Sabha and state legislative assemblies. That is, the person who gets the highest vote in a geographical constituency is elected from that constituency. The other main method of elections prevalent in several democracies is that of a list system. In such a system, parties get seats according to their overall vote share (provided they cross a pre-set threshold of vote share). The party nominates the members to its allotted seats. (There are also democracies that follow a mixed system, with a number of seats on the basis of first-past-the-posts, and other seats filled from the list.)

The list system has some advantages. It is more representative of the overall preference of voters. It enables smaller groups, say with 10 percent overall support, to have representation in the legislature. It may encourage parties with a nascent support base, and enable alternatives to established parties.

However, there are several ways in which the list system may be seen as inferior to the first-past-the-post system. It does not require parties to build a wide appeal to have their voice heard, as even a smaller vote base could be sufficient to gain a few seats. It could enable fringe extremist groups with a narrow base to have a voice in Parliament. Also, the list system would lower the chances of any party getting a clear majority and necessitate coalition

governments. (For example, though India saw clear majorities in the first eight Lok Sabhas, no political party garnered a majority vote share in any of these elections.) Such coalitions may also necessitate the support of fringe extremist groups; whereas, such a government would be more representative of voter preferences, it is debatable whether it would lead to greater social welfare.

*Another fundamental feature of the first-past-the-post system is that it increases the accountability of individual MPs.*

Though the first-past-the-post system, as experienced in India, also has some of these failings, the threshold for gaining a seat in the legislature is higher. Typically, even in a three-cornered election, the winning candidate needs at least 30 percent of the vote share. Though we have seen minor swings in vote share resulting in major shifts in seat share – for example, in Uttar Pradesh, the swing from BSP to SP was below five percent but the swing in seat share was over one-fourth of the available seats – the threshold to get a majority in the legislature is still above 30 percent of vote share.

Another fundamental feature of the first-past-the-post system is that it increases the accountability of individual MPs. As MPs are elected by a particular set of voters in a geographical constituency, the electors can demand the performance of MPs and reward or punish them in the next election. The

Anti-Defection Law breaks this link. MPs can say that they voted in a particular manner because their party asked them to do so. They do not have to justify their individual votes on issues that may be important to their voters. For example, if a voter who believes that FDI in retail is harmful to her interests asks a Congress MP to justify his support for the issue, the answer can be that the MP had no choice given the Anti-Defection Law. If he dissented from the party line, he would lose his seat, and would be unable to work for the electors' interests on several other issues.

Furthermore, the Anti-Defection Law removes the need for the government to build a broad consensus for its decisions. The ruling party can ensure the support of each of its MP by issuing a whip. If it needs to build further support to get a majority, it only needs to convince the leaders of other parties, and not individual MPs. In a sense, the role of an MP is diminished to just a person who has to follow orders from

the party bosses.

Therefore, if we wish to make MPs more accountable to voters for their actions in Parliament, moving towards the list system is not a solution. Instead, we need to retain the present system and modify the Anti-Defection Law. One may argue in favour of repealing this provision as it does not, in any case, ensure stability of governments in an era of coalitions. A different argument to modify the law can be found in a (now lapsed) Private Member Bill proposed by Manish Tewari. That Bill suggested that the Anti-Defection Law be restricted to confidence votes (and Money Bills which are similar to confidence votes).

Parliament can be effective only if individual MPs have a significant role as law makers, and if they can be held accountable for their actions by their electorate. The Anti-Defection Law is a major impediment, and we need a wider public debate on this issue.



ARUNA URS

*Aruna Urs is a commentator on public affairs.*

# Riedel's fantastical fantasies

*Avoiding Armageddon adequately covers the history of the US and the Indian subcontinent but is marred by naïve proposals to solve Kashmir.*

Those who forget history are condemned to repeat it: and risk an Armageddon. That Santayana quote (without the Armageddon bit) is the premise on which Bruce Riedel bases his latest book, *Avoiding Armageddon: America, India, and Pakistan to the Brink and Back*. After a 30 year career at the CIA, Riedel has served at various senior positions in the US administration under the last four presidents, the most recent being the chair of the review of American policy towards Afghanistan and Pakistan for newly elected President Obama in January 2009. Riedel contends that Americans are notoriously averse to studying their history while Indians and Pakistanis wallow in theirs. In 200 pages, he covers a wide span of history of the US and the Indian subcontinent – starting from Columbus and Vasco da Gama, and ending in the present.

The problem in the book is not the quick flythrough over the history of America and the subcontinent. It is with his prescription for what he thinks ails this region, and the medicine that the US can

administer to India and Pakistan. He paints a doomsday scenario where a nuclear war between India and Pakistan is possible any time. That may win his book attention among the discredited nuclear ayatollahs on the Hill but his contentions are not grounded in reality. As Shyam Saran, the Chairman of National Security Advisory Board warned recently, it is not sufficient to analyse the India-Pakistan nuclear equation only in the bilateral context. Indian nuclear arsenal – as much as Pakistan would like to portray otherwise – was developed to primarily counter a nuclear Communist China. Having just vanquished Pakistan in a war in 1971, India had no need to conduct a nuclear test three years later to target Pakistan. The China factor was also explained by Jaswant Singh to the Americans after the 1998 nuclear tests. That Riedel completely ignores China or India's No First Use policy in the argument doesn't come as a surprise when he is cherry-picking facts to suit his narrative.

To further bolster his narrative, Riedel brings out the old hackneyed line that India and Pakistan (mischievously clubbing both countries together) “spend an enormous amount of their wealth on their military ... (despite) facing huge challenges of poverty and unemployment.” While China is completely ignored again, he also forgets that India spends barely 1.7 percent of its GDP on defence. This is less than the spending in many European countries today, and down from almost 3 percent by India in the late 1990s. And while China’s defence budget this year is more than three times larger than India’s defence budget, its actual spending will be even higher.

The arguments get further muddled up. If the 2000 attack on Indian parliament gave “a vivid warning that there are those in Pakistan who seek a nuclear confrontation to realise their twisted dream of destroying the Indian union”, then there is nothing India can do to satisfy them. Similarly, there is little that India can do to prevent the jihadi groups in Pakistan from getting their hands on a nuclear warhead. The only answer, however radical it may sound, is to take away the nuclear weapons from Pakistan’s military-jihadi complex. Else the military-jihadi complex will continue to blackmail the world behind its nuclear arsenal and Riedel’s of the world will keep putting the onus on India to stop them.

Riedel’s litany of bad ideas runs long. Most of them flow from his tunneled approach, where the only neighbour he assumes India has is Pakistan. He wants a South Asia Bureau to be created in the US National Security Council, and in the rest of the US executive branch, followed by an Indian Ocean Military

Command looking after India, Pakistan and Afghanistan. That India comes under Pacific Military Command is because the top US leadership, unlike Riedel, sees India as an important player in relation with a rapidly growing China. And India’s role there is going to gain even greater importance in the future.

## *He paints a doomsday scenario where a nuclear war between India and Pakistan is possible any time.*

Riedel correctly identifies that Pakistan’s twin sense of vulnerability and unfulfilled aspirations are the root of the problem: Pakistan is unsatisfied with its borders and is living next to a much-bigger rival, India. He also correctly concludes that while more trade and people-to-people contact between India and Pakistan can help, Pakistani establishment will not allow any progress on that front.

Riedel presumes that the US can push President Karzai of Afghanistan to publicly accept the Durand Line as the de facto permanent border. Statements from the US State department earlier this year on the status of the Durand Line were vehemently opposed by all sections of Afghan society and polity. Not even the Taliban, despite being a Pakistan proxy, accepted the Durand Line as a frontier when they ruled Afghanistan.

Riedel doesn’t explain how the US, the UN and the ISAF will get Pakistan to address the insecurity of its badlands in the north in exchange for Karzai’s

acceptance of the Durand Line? Despite sustained pressure from the top US officials over the last few years, Pakistan has refused to launch military operations in North Waziristan. Pakistan army has instead signed many peace treaties with various factions of the Taliban in the tribal areas. Now when the US is moving out of Afghanistan in 2014, there exists no incentive for Pakistan army to move against the jihadis in tribal areas.

But all this pales into insignificance compared to what Riedel suggests is the underlying problem that drives Pakistan's relationship with terrorism: India and Kashmir. He wants the US diplomacy to help advance the Kashmir issue to a better, more stable solution. He floats the usual formulas – the Galbraith solution of making Kashmir like Saar region between France and Germany, make Line of Control a permanent international border, a special condominium and so on. India will agree if US presses quietly and forcefully because US-India relations are steady and enduring after the nuclear deal. US will force Pakistan to break up and dismantle the Lashkar-e-Taiba (LeT) and India will then be ready to do a deal on Kashmir. Because Pakistan may not listen to the US, US can ask China, Saudi Arabia, UAE and the UK to push Pakistan to the negotiating table. If only things were as simple as that. In the entire discussion, there is no consideration of the domestic political situation in either India or Pakistan. The whole thing displays a naiveté unexpected of a CIA veteran and top US Presidential advisor.

Riedel's fantastical proposals could have been ignored but for the recent changes in the US administration, where such

bad ideas from the past could again be resuscitated. These proposals need to be snubbed before they get traction and consume India's limited diplomatic resources. Nehru told the American ambassador in 1953 that "he was tired of receiving moralistic advice from the United States. So far as Kashmir was concerned, he would not give an inch." That intent holds good even today. When Richard Holbrooke tried to include Kashmir in his AfPak mandate – in accordance with the third and most important point of Riedel's AfPak review for President Obama in 2009 – Delhi made it clear, both in public and private, that Holbrooke was not welcome in India.

The book is not completely devoid of merit though. It précis the long history of US and the Indian subcontinent in six readable chapters. It jogs the memory with many forgotten facts and interesting anecdotes. The *New York Times*, for example, called the 1857 war of independence "a Mohammedan conspiracy" to restore the Mughal Empire. Ulysses S Grant was the first US President to visit India, when he travelled to Bombay, Delhi, Jaipur, Agra, Benares and Calcutta immediately after leaving the White House in 1876. Pakistan was invited to the fiftieth anniversary of Japan's surrender in the Second World War in Hawaii in 1995 and honoured for its role in Japan's defeat at the commemoration ceremony. It was absurd as Pakistan didn't even exist in 1945. But Pakistan represented the Indian soldiers because the Indian government didn't wish to be associated with Churchill's war.

After Kennedy responded favourably to Nehru's call for help in the aftermath of the Chinese humiliation, the approval

ratings among Indians for America soared from 7 percent at the start of the war to 62 percent at the end. Later, Bob McNamara told JFK in 1963 that “we should recognise that in order to carry out any commitment to defend India against any substantial Chinese attack, we would have to use nuclear weapons.” Kennedy responded that “we should defend India, and therefore we will defend India if she were attacked.”

Indira Gandhi’s snubs to Nixon and

*Riedel’s book covers a vast expanse of history but his noteworthy effort ends up propping a list of rather fanciful suggestions for solving Kashmir.*

Kissinger were legendary. In a meeting during one of Nixon’s visit to Delhi before he became President, Mrs Gandhi famously asked an aide in Hindi, “How much longer must I talk to this man?” In October 1974 when Kissinger visited India on a three-day trip as the Secretary of State, Mrs Gandhi had lunch with him on the first day and then left for Kashmir.

The book also makes some revelations. American investigators were 90 percent certain that Zia’s plane crash was due to mechanical failure and not sabotage. For the remaining 10 percent, Riedel unequivocally rules out CIA’s hand in the crash: “One thing is certain: America does not kill its ambassadors or its

allies’ leaders.” He also claims that the massive explosion at Ojhri ammunition facility outside Rawalpindi in April 1988 was done by the Indian intelligence agencies. Although it was the major depot to supply the Afghan fighters, the ISI had used the site to store equipment for the Kashmir jihadis and Khalistan militants. More than 1000 people, including five ISI officers died in the blast. It has always been speculated that the explosion was ordered by Pakistan to cover up its pilferage of Stinger missiles, which the US wanted to audit.

Riedel also reveals that there were some significant successes due to India-US cooperation after 2008 Mumbai terror attacks in thwarting the LeT’s nefarious designs. The US played a major role in Abu Jundal’s apprehension in Saudi Arabia and his handing over to the Indians. In 2009, a plot to attack the American, British and Indian embassies in Dhaka was foiled by effective counterterrorism cooperation between India and the US. A much more elaborate LeT plot in October 2010 to attack the Commonwealth Games in New Delhi was disrupted and prevented by good counterterrorism work. If the plot had succeeded, Riedel claims, it might have been even bigger than the 2008 Mumbai attack.

Riedel’s book covers a vast expanse of history but his noteworthy effort ends up propping a list of rather fanciful suggestions for solving Kashmir. Professional historians are always reluctant to draw lessons from history. Riedel is not one, and he will perhaps realise that history offers no obvious answers. It only provides the comfort of knowing that failure is nothing new.

---

**Want to transform  
India?**  
Then get equipped.

## **The Takshashila GCPP**

**The Graduate Certificate in Public Policy (GCPP) Programme** is an intensive twelve-week distance learning course suited to the demands of today's dynamic Indian.

Gain the knowledge of the policymaking process and the factors that influence it.

Acquire skills required to analyse policy in your own context and apply this understanding to your personal, professional and political goals.

Learn from an international network of academic experts through an innovative, exciting and inspiring curriculum.

Open to individuals from any sector, any discipline, any place. If you are studying or working in politics, media, civil service, non-government organisations, law, advocacy, regulatory affairs and international business, expertise in public policy will set you apart from the rest.

Financial assistance available for deserving candidates.

Term starts February 2013. Apply by January 7th, 2013  
<http://takshashila.org.in/education>