



## Miles to go

The new bankruptcy code yields its first success, but many wrinkles remain

Good news has finally started to roll out of the refurbished bankruptcy courts. Tata Steel acquired 73% stake in the bankrupt firm Bhushan Steel for about ₹35,000 crore last week, making it the first major resolution of a bankruptcy case under the new Insolvency and Bankruptcy Code (IBC). Bhushan Steel was one among the 12 major accounts referred to the National Company Law Tribunal at the behest of the Reserve Bank of India last year to ease the burden of bad loans on banks. The proceeds from the acquisition will go towards settling almost two-thirds of the total outstanding liabilities of over ₹56,000 crore that Bhushan Steel owes banks. While it may be unwise to read too much into a single case, the Bhushan Steel resolution is nevertheless an encouraging sign for banks because they typically manage to recover only about 25% of their money from defaulters. In fact, between April 2014 and September 2017, the bad loan recovery rate of public sector banks was as low as 11%, with non-performing assets worth ₹2.41 lakh crore written off from their books. The Finance Ministry now expects banks to recover more than ₹1 lakh crore from the resolution of the other cases referred by the RBI to the NCLT. If the banks do indeed recover funds of this scale, it would considerably reduce the burden on taxpayers, who would otherwise have to foot the bill for any recapitalisation of banks. Even more important, speedy resolution would free valuable assets to be used for wealth-creation.

The resolution of one high-profile case, however, should not deflect attention from the many challenges still plaguing the bankruptcy resolution process. The IBC, as the government itself has admitted, remains a work in progress. This is a welcome piece of legislation to the extent that it subsumes a plethora of laws that confused creditors; instead it now offers a more streamlined way to deal with troubled assets. But issues such as the proposed eligibility criteria for bidders have left it bogged down and suppressed its capacity to help out creditors efficiently. Also, the strict time limit for the resolution process as mandated by the IBC is an area that has drawn much attention, and it merits further review in order to balance the twin objectives of speedy resolution and maximising recovery for the lenders. To its credit, the government has been willing to hear out suggestions. It would do well to implement the recommendations of the Insolvency Law Committee which, among other things, has vouched for relaxed bidder eligibility criteria. Going forward, amendments to the bankruptcy code should primarily be driven by the goal of maximising the sale price of stressed assets. This requires a robust market for stressed assets that is free from all kinds of entry barriers.

## Victory amid violence

Trinamool Congress's sweep in the West Bengal panchayat polls comes at a high cost

The exact scale of the ruling Trinamool Congress's victory in the May 14 panchayat elections in West Bengal is still a matter of conjecture, as the fate of the uncontested seats is before the Supreme Court. The next hearing is on July 3. The Opposition, comprising mainly the Left Front and the Bharatiya Janata Party, did not field a candidate in more than a third of the 58,792 seats in the three tiers put together. Should the court clear the TMC's claim to these seats, it will be the first time since the three-tier rural poll was instituted in 1978 that one-third of the seats have been bagged without even a semblance of a fight. When the results of the contested seats were announced on May 17, it was clear that the TMC had outperformed its rivals, bagging two-thirds at the lowest gram panchayat level. Across the three levels, the TMC secured 76% of the contested seats, the proportion that the Left Front had won in the 2003 panchayat election. Some smartly tailored cash transfer schemes directed at the rural poor, combined with a reasonable upgrade of rural-urban infrastructure, appear to have paid off for the ruling party. Yet, instead of being upbeat and relaxed, Chief Minister Mamata Banerjee has sounded defensive, alleging that many interest groups had "ganged up" against her. Her defensiveness drew from the unprecedented violence in the run-up to the polls. Around 50 people were killed; the security provided for the election was clearly insufficient, and lumpen elements had a free run.

The TMC and the BJP accuse each other of fomenting the violence. In West Bengal, panchayat elections have always been marred by trouble. But the kind of ferocity of the violence before and during last week's poll has not been seen since the Left Front was ousted after 34 years in power in 2011. The TMC is run as a tight ship, with the party exercising complete control over its cadre. The State government clearly failed in checking the violence, either on account of incompetence or some deep sense of insecurity. The rise of the BJP in the State is not that sharp, but it appears to be enough to have unsettled the TMC. The BJP captured one-fourth of the contested seats in these panchayat elections. In five years, the BJP's vote share at the gram panchayat level has gone up from 1% to 18%, whereas the Left Front's share dropped from 32% to 5%, and the Congress's from 11% to 3%. In fact, the BJP's growth curve is rather similar to that of the TMC a decade ago, and it has made no secret of its ambition to try to dislodge the TMC in the 2021 Assembly polls. Ms. Banerjee has been extremely vocal in rallying anti-BJP parties to band together at the State and national levels. But it remains to be seen whether her party has, in fact, ended up damaging itself with the no-holds-barred tactics at the ground level in the panchayat polls.

# The classroom as the instructor's castle

The autonomy of the teacher has been cramped, and it reflects in the state of higher education



PULAPRE BALAKRISHNAN

Some months ago, a global leader of the IT industry set sections of India's corporate-sector elite aflutter with the comment that Indians are not creative. It is possible to disagree with the criterion Steve Wozniak, a co-founder of Apple Computer, had adopted while at the same time agreeing with some of his observations. He had predicted that Indians are unlikely to create world-leading IT companies because they lack the creativity to do so and argued that this has to do with the education system.

While building global IT giants may have more to do with an appetite for growing a business rather than anything else, Mr. Wozniak's assessment of India's education system is sharp. He traced the lack of creativity to an education system that rewarded studiousness over independent thought. He also managed an anthropological take when he identified the 'MBA and the Merc' as the mark of success in India's corporate world. For good measure he likened this to the culture of Singapore, but here he may have missed a trick. The per capita income of Singaporeans is quite close to that of Americans. And that country has achieved much of what it set out to do when it struck off on its own, which was to turn a swampy colonial port into a prosperous city state proudly independent of world powers. Also, it has a national leadership more educated and responsible than what the U.S. has currently. Singapore's orderly

society may not be everybody's cup of tea but its history suggests one way we could identify the creativity of a people as a whole. That is, a people are truly creative when they are able to collectively surmount the challenges that their country faces.

### Crisis in higher education

Actually, what India is experiencing in higher education today is far worse than merely the production of studious but creativity-challenged youth. There is abatement of a toxic productivity whereby our universities churn out youth with a poor grasp of the subject matter that they are expected to know and an even poorer understanding of the challenges that India today faces, for which they alone can provide the solutions. This is particularly troubling as public expenditure on education in India favours higher education far more than elsewhere in the world when schooling is severely neglected by comparison. In addition, this is a sector so micro-managed that it answers to former Prime Minister Manmohan Singh's description of the Indian economy in the 1990s as "over regulated and under governed" better than the economy itself. So, neither funded nor neglected can be blamed for the lack of vitality in India's institutions of higher education.

Universities are embedded in society and cannot be expected to naturally rise above them. Close to 50 years ago, Nobel laureate Amartya Sen had spoken of a 'crisis in Indian education' pointing to how India's educational policy had been shaped by the aspiration of its middle class. Creativity is unlikely to have been a part of it. However, it is precisely to ensure that there is no sectional capture of public institutions intended to serve a larger purpose that we have pu-



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blic regulators. While there is more than one regulator for the higher education sector in India, for sheer reach the University Grants Commission (UGC) is unmatched. To say that it has a major responsibility in the state of affairs that we are experiencing in higher education would be an understatement. The government would be advised to follow email discussions of UGC regulations circulating on the Internet right now to garner a sense of how wide the resentment against the body is.

### Journal publication

The bone of contention is the basis on which the regulator identifies 'recognised' journals, publication in which alone earns credit for faculty. Having drawn up such a list a couple of years ago, the Commission appears to have now backtracked. Possibly stung by the claim that an astonishingly high percentage of the journals on its original list are of dubious distinction – the term for which is 'predatory' in that they either solicit articles to be published for a fee or follow no clear refereeing procedure – the UGC has suddenly trimmed the list. This has led to questions of the criterion that has been used.

While predatory journals are not a uniquely Indian problem, the problem appears to be more grave here, and has possibly been aggravated by the UGC's policy of

soliciting recommendations for inclusion of journals in its approved list. The whole process has led to a severe diminishing of credibility for one of the most crucial regulators of the country.

To believe that the problem of dubious journals on the UGC's whitelist is the sole issue awaiting resolution in the university would be naive. This is actually quite recent and just another manifestation of the unaccountable regulation that has had a vandalising effect on the higher education space in the country. A small set of actionable points, not every one of them the responsibility of the UGC, would be as follows.

### Revise the API

The problem of predatory journals emerged after the UGC introduced a quantitative scoring system leading to an Academic Performance Indicator (API) in which publishing is a part. The activities approved for totting up a teacher's API are many, extending beyond teaching and research. This has led to a form of academic entrepreneurship that has very likely demoralised the less entrepreneurial, who are often the more academic and therefore more deserving of being in the university to start with. For this reason, the contents of the API must be revised to include only teaching and research, thus also saving scarce administrative resources. Teaching input can be partly measured by the number of courses taught, but research assessment should avoid the quantitative metric. Instead it should be judged by committees that have reputed and recognisably independent subject experts on it. This is not foolproof but, in the context of the email discussion now on among India's academics, superior to a discredited list of approved journals.

Next, compulsory attendance, which goes against the spirit of learning, must be replaced by credit for classroom participation.

Third, introduce student evaluation of courses to be made public. It needs emphasis that this is meant to be an 'evaluation' and not some 'feedback' to be contemplated upon by the lecturer at leisure. However, it is important to see the process in perspective. Course evaluation is meant to instil in students both a sense of confidence that their view is being solicited and a sense of responsibility in wielding authority early on. It can effectively check truancy among faculty but there should be vigilance against its misuse.

Fourth, the UGC should remove all experience-related considerations to career advancement. The present system leaves the able to stagnate during their best years and the undeserving to believe that time served grants entitlement to promotion. There must be a drastic reduction in the number of hours faculty have to teach. While this may not be much in the research institutes and the Central universities, in India's colleges the teaching load is not merely taxing to the point of lowering productivity but leaves teachers no time to address the burgeoning literature in their disciplines.

Finally, once courses are evaluated by students, the classroom should revert to being the instructor's castle. A pincer movement of corporate interest and political pressure combined with regulatory overdrive have cramped the autonomy of the teacher. The state of higher education in India today partly reflects this.

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# On the great Asian highway

India and China must forge an understanding to cooperate on regional connectivity projects



SYED MUNIR KHASRU

One of the key non-military issues that does not just bedevil India-China relations but also significantly affects many countries in the region is the inability of the two Asian giants to communicate, cooperate and coordinate on matters of regional trade and connectivity which could have benefited all. On that note, one hopes that the stand taken by External Affairs Minister Sushma Swaraj on declining to endorse China's Belt and Road Initiative (BRI) at the just concluded Shanghai Cooperation Organisation (SCO) Foreign Ministers' meeting is more of a strategic bargaining position, and not an instance of obstinate negative regionalism that has been plaguing the region for long.

### The BBIN way

Looking into South Asia, where most multi-country connectivity initiatives are usually deemed to be mere talk shops, one recent positive development has been the trial run, on April 23, of a Bangladesh-Nepal bus service through In-

dia under the Bangladesh-Bhutan-India-Nepal (BBIN) motor vehicles agreement. It shows that the ambition of establishing physical connectivity among the smaller states of South Asia through India can eventually be realised and break the usual political gridlock that characterises the region. Although Bhutan failed to ratify the agreement due to opposition from its parliament, instead of halting progress, the country asked other stakeholders to move ahead and expressed hope of joining the initiative if and once it gets clearance from the parliament. Bhutan's positive go-ahead not only demonstrated the immense potential to be realised through simple cooperation but also showed that it is possible to implement pragmatic plans even when all members are not able to participate at the same time.

Poor connectivity is the major reason why intra-regional trade is among the lowest in South Asia. South Asia, with its 1.8 billion population, is only capable of conducting around 5% intraregional trade as connectivity remains a constant barrier. Non-tariff barriers (NTBs) continue to plague the region and addressing infrastructure deficits can do away with 80% of the NTBs. In addition to enhancing trade, connectivity can significantly improve people-to-people interaction leading to better un-



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derstanding, greater tolerance and closer diplomatic relations in the region.

States in South and Southeast Asia are involved in multiple regional initiatives led by India and China but are unable to get the benefit due to their slow progress. The South Asian Association for Regional Cooperation remains moribund with little hope of it becoming functional in the near future. The Bay of Bengal too remains among the least integrated regions in spite of having immense potential of enhancing trade through utilisation of its ports and waterways. The India-led Bay of Bengal Initiative for Multi-Sectoral Technical and Economic Cooperation (BIMSTEC) involving Bangladesh, Bhutan, India, Myanmar, Nepal, Sri Lanka, and Thailand, has made little progress. Serving as a funnel to the Malacca Straits, one of the world's busiest waterways, the Bay of Bengal has now become one of the most important strategic hotspots for global trade and all countries in BIMSTEC are

losing out due to this prolonged period of dormancy. In all this time, the organisation has only had meetings, negotiations and leaders' summit and stalled free trade agreement negotiations. However, there has been some progress through the establishment of the BIMSTEC Energy Centre and a task force on Trans Power Exchange and Development Projects, which was established to develop a memorandum of understanding for the establishment of the BIMSTEC Grid Interconnection.

On the other hand, China is leading its own regional ambition with its BRI. A portion of the Maritime Silk Route crosses the Bay of Bengal and involves Bangladesh, Myanmar and Sri Lanka. Both China and India are pursuing regional initiatives on their own which could lead to benefit for all involved states. Regional agendas could have been pursued efficiently if the initiatives were complementary rather than competing. If the BRI, BIMSTEC and BBIN were developed through coordination and consultation, led by the two Asian giants, the projects under the schemes could have been implemented more efficiently. With the minimum required cooperation in pursuing regional initiatives, India and China can significantly enhance trade, investment and connectivity in the region.

This would not only would be a win-win for the two giants but also enormously benefit smaller countries.

### Make good in Qingdao

As Prime Minister Narendra Modi and Chinese President Xi Jinping meet again, after the Wuhan informal summit, in June for the SCO summit in Qingdao, China, they have an opportunity to forge a pragmatic understanding on the efficacy of regional initiatives through greater communication, enhanced cooperation and better coordination. In the end, slow moving regional projects end up hurting most the resource-constrained citizenry of the region who are deprived from the benefits emanating from well-thought-out and carefully strategised regional connectivity projects. Caught in the quagmire of continental, regional and sub-regional geopolitics, the smaller states are losing out and having to pay the price of missed economic opportunities as the two Asian giants shake hands but seldom see eye to eye even on matters of common economic and strategic interests. Mr. Modi and Mr. Xi must seize the chance to change this.

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## LETTERS TO THE EDITOR

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### The Karnataka result

Among the ingenious arguments advanced before the Supreme Court, from the government's side, was that the provisions of the anti-defection law would take effect only after the elected representatives were sworn in. Added to this was the 15-day time frame. Fortunately, the Supreme Court would have none of this and laid down the rules, saving us a fortnight-long spectacle of allegations and counter-allegations of inducements, forced confinement and kidnappings – an ugly episode that would have brought Indian democracy to its nadir. Do the people who think up such clever points not realise that they were close to opening a Pandora's box in their greed to win the tussle? Or is it that they don't care? The Supreme Court needs to be showered with

wholesome praise for truly saving our democracy.

S.K.N. NAIR,  
Thiruvananthapuram

■ The case of the Karnataka Assembly floor test 2018 is one of the illustrious moments in India's history when the Supreme Court, the enshrined guardian of democratic values, stepped in at the most crucial moment and set the rock solid goalposts and rules. The three pivotal rulings, that there be a swift floor test and an open vote, and that the entire proceedings be telecast live, not only extinguished the BJP's plans to play foul and it also discouraged the fence-sitters from the Congress-JD(S) side from falling prey to enticements. Though it remains to be seen whether the coalition will last, the BJP's lament that its single largest party status reflects the people's choice is not

logical. Besides, in most other democracies, the Congress with its larger vote share would have been deemed the first choice.

SHAM SANKAR,  
Thiruvananthapuram

■ The Supreme Court's timely intervention shows that it had its ear firmly to the ground. The Governor appears to have deliberately read the Bommai case literally and not constitutionally. Had he read it constitutionally, he could not have avoided calling the Congress-JD(S) combine, being in the majority. Though the controversy was avoidable, the denouement was inevitable – B.S. Yeddyurappa being sent back to the pavilion. This case reinforces the fact that the Supreme Court is the court of last resort.

N.G.R. PRASAD,  
RAM SIDDHARTHA,  
Chennai

■ There is no doubt that after promising 'Acche Din' and better governance, the Bharatiya Janata Party has gone astray. In its blinkered quest for power, its diametrically opposite view in Karnataka of calling the post-poll alliance "opportunistic" while it had no compunctions in using the same formula to grab power in many States with amiable Governors dancing to its tune is laughable. However, by yielding the Chief Minister's post to a junior regional partner solely in order to keep the BJP at bay, the Congress has diminished its own stature as a national party. The rest of the Opposition could now fight the next elections projecting someone like Sharad Pawar of the National Congress Party as the common leader, given his wider acceptability.

V. SUBRAMANIAN,  
Chennai

■ The post-poll alliance between the Congress and JD(S) is an example of opportunistic politics. The two parties fought the elections with a different agenda and policy. Now, motivated by the sole agenda of keeping the BJP out at any cost and desperate to cling on to power by any means (at least in the case of the Congress), both parties have sunk low in ethics. For the Congress, the desperation is so evident that it is even willing to play second fiddle. The people's mandate was definitely not for the Congress and it should have chosen to sit in the opposition.

CHANCHAL NANDY,  
Durgapur, West Bengal

### Better court processes

The reasons and suggestions put forth in the article, "Steering reform in clogged courts" (Editorial page, May 21), are not practical. Laws

require certain time-consuming procedures to be followed and a failure to do so will only lead to a miscarriage of justice which will end up in the filing of more appeals. Two solutions are: more number of courts should be constituted, and out-of-court settlements such as mediation and arbitration must be vigorously encouraged. Litigants must be sensitised about the advantages in pursuing these methods. Matrimonial disputes and claims for compensation in road accidents have been rising. While a number of motor vehicle cases are settled in lok adalats, contested matrimonial proceedings go on for years. Tackling pendency in courts is not as easy as dealing with clogged road traffic.

V. LAKSHMANAN,  
Tirupur, Tamil Nadu

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