



In inflation’s shadow

The RBI has stressed the need for vigilance on price stability amid fresh uncertainties

The Reserve Bank of India’s decision to keep the repo rate unchanged was no surprise given the focus with which the Monetary Policy Committee has approached its mandate: of keeping inflation in check. With the relevant measure of price gains, the Consumer Price Index, reflecting an acceleration in inflation for a sixth straight month in December, and that at the fastest pace in 17 months, the bank’s rate-setting panel must have had little difficulty in choosing to remain on hold. This was probably best exemplified by the reversal in stance of the six-member panel’s hitherto most dovish member, Ravindra H. Dholakia, to vote to stand pat on interest rates. This the MPC did while retaining a ‘neutral stance’, which gives it the flexibility to change gears in either direction. The RBI’s nominee, Michael Debabrata Patra, in fact voted to head off incipient price pressures by raising the policy rate by 25 basis points. Laying out the factors informing its decision, the RBI once again spotlighted the less than reassuring outlook for price stability. For starters, “an unusual pick-up in food prices in November”, combined with a “less than usual” softening in the winter seasonal food price moderation, meant headline inflation averaged 4.6% in the third quarter. The RBI had in December made a projection for inflation in the range of 4.3-4.7% in the six months through March 2018. With pump prices of petrol and diesel having risen sharply in January, the RBI has now been forced to raise its estimate for retail price gains in the fourth quarter to 5.1%.

Extending the time horizon beyond the current fiscal, the inflation scenario gets even more worrying. Clouding the outlook are multiple uncertainties. These include the staggered impact of HRA increases by various State governments that may induce second order effects on prices; the pick-up in global growth, a factor the RBI also cites as a positive for the economy, that may push up crude oil and commodity prices worldwide; the Budget’s proposed changes to the minimum support price norms for crops as well as the proposals to increase customs duty on a range of goods; and the fiscal slippage, which could not only fan inflation but also risks increasing borrowing costs. The normalisation of monetary policy by advanced economies could spell a decisive end to global ‘easy money’ conditions and may trigger some flight of capital from emerging markets including India. The upshot is that the RBI sees CPI inflation hovering in the 5.1-5.6% range in the first six months of the new fiscal before moderating to 4.5-4.6% in the second half, subject to a big assumption: a normal monsoon in 2018. Under the looming shadow of inflationary risks, the RBI has again reasserted the need for unwavering vigilance on the price stability front.

Khap menace

It is a sad comment that courts need to keep curbing interference in love and marriage

Each time the Supreme Court feels impelled to remind khap panchayats and the society at large that they have no business interfering in the life choices of individuals regarding marriage and love, it is an implicit commentary on our times. The frequency with which one hears the court’s warnings against groups and individuals obstructing inter-faith or inter-caste relationships reaffirms the fact that the social milieu continues to be under the sway of the medieval-minded. The court’s latest observations that khap panchayats should not act as though they are conscience-keepers of society and that no one should interfere in relationships between adults came while it was hearing a writ petition seeking a ban on such community organisations and guidelines to put an end to “honour killings”. In 2011, the highest court termed such khaps “kangaroo courts”, declared them illegal and wanted them stamped out ruthlessly. Similar observations were made in other cases too, some of them in the context of “honour killings”. It is a grave misfortune that parents and self-appointed guardians of social mores continue to use coercion and harassment, and even resort to murderous violence, as a means to enforce their exclusionary and feudal prejudices. The recent murder of Ankit Saxena, a photographer who was in love with a Muslim girl, allegedly by members of her family, is one more extreme indication of families choosing the penal consequences of violence over the perceived dishonour caused by an inter-religious relationship. While the popular narrative situates community pride as a source of unconscionable violence in rural India, such murders are a reality in cities and among educated and presumably socially advanced sections too.

The other dimension is that these khap organisations in north India seek to enforce age-old taboos such as the prohibition on *sagothra* marriages among Hindus. Their grouse is that the present law on Hindu marriage allows *sapinda* relationships up to a particular degree; they would prefer a limitless bar on any degree of such relationship in lineal ascendancy, which would prevent any marriage with one presumed to be descended from an ancestor belonging to the same *gothra*. Such views can only be eradicated with a change in social attitudes. The Law Commission in 2012 prepared a draft bill to prohibit interference in marriage alliances. Key provisions that seek to address the problem of khap panchayats in this draft say such informal groups would be treated as an ‘unlawful assembly’ and decisions that amount to harassment, social boycott, discrimination or incitement to violence should be punishable with a minimum sentence. Whether the solution is social transformation or legislative change, high-handed mediation or interference should brook no sympathy.

Call to democracy

The Maldives crisis highlights a long-standing debate: has being a democracy shaped India’s approach to the region?



ZORAWAR DAULET SINGH

An interesting feature of Southern Asia for decades has been the existence of a liberal democracy in India, in a region inhabited largely by non-plural or mixed regimes. A commitment to political and civil liberties, human rights, social and economic freedoms, and, a secular ethos are the hallmarks of India’s Constitution. The commitment to internal diversity and pluralism has shaped the outlook towards international politics as well. Many in the West, who felt that India’s identity as a democracy had been muted during the Cold War, expected that the ‘end of history’ thesis would also apply to India, that its leaders and elites would finally recognise the post-Cold War consensus around liberal democracy and capitalism and that this would define India’s international identity and emerging role.

Concert of democracies

In 2000, India joined the Community of Democracies, a body of over 100 countries that endorsed the virtues of liberal political values. In his speech to the joint session of Congress in Washington in that same year, the then Prime Minister, Atal Bihari Vajpayee, spoke about giving “practical shape” to the “shared belief that democracies can be friends, partners and allies” and suggested “advancing democracy” as one of the future possibilities of India-U.S. cooperation.

We saw similar rhetoric from the Foreign Ministry and the United Progressive Alliance leadership as well. In 2005, India and the U.S. jointly launched the UN Democracy Fund, which aimed to strengthen democratic institutions across the world. Standing beside the U.S. President, India’s then Prime Minister Manmohan Singh had remarked, “For us, the democratic ideal is a common heritage of mankind. Those fortunate to enjoy its fruits have a responsibility to share its benefits with others.” Both resolved “to create an international environment conducive to the promotion of democratic values...”

A more complex reality

In practice, however, Indian statecraft has been more complex. While Indian leaders and elites have accepted the norms of a representative liberal democracy and a free-market economy, how and whether these ideas should become a universal norm and marketed abroad remain deeply contested. Note, for example, then Foreign Minister Pranab Mukherjee’s remarks in 2007 in the context of protests in neighbouring



Myanmar: “India is a democracy and it wants democracy to flourish everywhere. But we are not interested in exporting our own ideology.” An influential think tank study (NonAlignment 2.0) in 2012 echoed a similar belief: “We are committed to democratic practices and are convinced that robust democracies are a surer guarantee of security in our neighbourhood and beyond. Yet we do not ‘promote’ democracy or see it as an ideological concept that serves as a polarising axis in world politics.”

Broadly, there have been two strands of ideas that have shaped how Indian policymakers and strategists have historically thought about the internal affairs of regional states. The traditional Nehruvian approach prescribed a light Indian footprint into the sovereign realms of other states and also one where pressure and coercion were to be minimised in that engagement process. This approach underwent dramatic changes in the post-Nehru period, when an alternative worldview came to the fore – one that had fewer inhibitions about interfering or even promoting regime transformations in the neighbourhood. Consequently, we

Biologics, patents and drug prices

India’s rejection of secondary patents has kept blockbuster medicines affordable for many

FEROZ ALI & SUDARSAN RAJAGOPAL

The global sales of the world’s best-selling prescription drug, Humira, continue to grow even after the expiry of the patent over its main ingredient, adalimumab, a biologic used for the treatment of arthritis. By 2020, AbbVie Inc, makers of Humira, expects its sales to touch \$21 billion – a figure that will surpass India’s pharmaceutical exports for that year. But success has its price. In 2015, faced with the imminent expiry of the patent for Humira’s main ingredient, AbbVie reassured investors that the “Broad U.S. Humira Patent Estate” – a list of 75 secondary patents in the U.S. for new indications, new methods of treatment, new formulations, and the like – would take care of the problem.

But what was the problem? Patents offer their owners market exclusivity for a limited period of time. For medicines, this exclusivity should last as long as the primary patent – which relates to the active pharmaceutical ingredient (API) of the medicine – is in effect, typically 20 years. The end of patent exclusivity is referred to as a patent cliff, because drug prices fall steeply afterwards – by as much as 80% – owing to generic competition.

But the threat of this precipitous fall in profits drives pharmaceutical companies to find new ways to postpone their exclusivity by filing secondary patents for derivatives and variants of the API,

such as a physical variant of the API, a new formulation, a dosage regimen, or a new method of administering the medicine. The secondary patents prop up before the expiry of a primary patent thereby stretching the exclusivity beyond 20 years, a practice that is called “evergreening”. This strategy is most lucrative when employed in the context of so-called blockbuster medicines, which reap annual revenues exceeding \$1 billion.

Secondary patents

The Humira patent estate now comprises secondary patents. While it is hard to comprehend how real estate can grow, the genius of patent law allows the intellectual property estate to expand by filing more secondary patents. Over the years, AbbVie has increased the price of Humira in the U.S. by 100%, while steadily filing a large number of secondary patents. While the complexity of biologics – drugs made from complex molecules manufactured using living cells – allows for filing more patents, the patent laws too play a role. The U.S. recognises and encourages secondary patents. India, however, does not, which means that while Humira costs \$1,300 (\$85,000) in the U.S., the same treatment costs only \$200 (\$13,500) in India, thanks to the rejection of secondary patents on Humira by the Indian Patent Office (IPO) and the consequent introduction of cheaper versions.

The rejection of a secondary pa-



tent for Novartis’ Glivec, a crucial leukaemia cure, was famously upheld by the Supreme Court of India in 2013, while the same was granted in the U.S. Consequently, the cost of a monthly dose of the medicine in the U.S. was ₹1.6 lakh, while the cost of the generic was ₹11,100 in India. Likewise, Spiriva, a medicine for asthma, enjoys patent protection until 2021 in the U.S., largely due to secondary patents. All of these secondary patents were rejected in India. As a result, while the monthly cost of the medicine in the U.S. is over ₹19,100, it costs a mere ₹250 in India.

Good patent law

In our study of more than 1,700 rejections for pharmaceutical patents at the IPO spanning the last decade, we identified a subset of applications that sought protection in the form of secondary patents for blockbuster medicines. Our study sheds new light on how Indian patent law helps thwart evergreening practices by phar-

maceutical companies. Secondary patents for several blockbuster medicines have been rejected by the IPO dramatically expanding access to medicines for important health problems such as cancer, AIDS, asthma and cardiovascular diseases.

None of this would have been possible without some remarkable innovations in Indian patent law. To be deemed patentable, applications for secondary patents have to clear significant hurdles. As per Section 2(1)(ja) of the Patents Act, the product in question must feature a technical advance over what came before that’s not obvious to a skilled person. Because secondary patents for pharmaceuticals are often sought for trivial variants, they typically fail to qualify as an invention. Further, when a medicine is merely a variant of a known substance, Section 3(d) necessitates a demonstration of improvement in its therapeutic efficacy. The provision also bars patents for new uses and new properties of known substances. This additional requirement is unique to Indian law, and along with Section 2(1)(ja), ensures that bad patents stay out of the system.

We found that secondary patents were rejected largely due to the stringent thresholds imposed by Sections 2(1)(ja) and 3(d). Section 3(d) is not our only defence against secondary patents. It is complemented by other exceptions to patentability: Section 3(e) ensures that patents for combinations of known substances are al-

lowed only if there is synergistic effect, while Section 3(i) ensures that no exclusivity can be claimed over methods of treatment. Together, Sections 3(d), 3(e) and 3(i) have been instrumental in rejecting close to 1,000 secondary patents for pharmaceuticals we studied.

After the Cold War

These provisions also extend to biologics, the new big players in the therapeutics marketplace. More lucrative than small molecule medicines, biologics are no stranger to the lure of secondary patenting for extending patent terms. For instance, a quarter of the secondary patents for Humira, a biologic, are directed towards new uses and methods of treatment. Thanks to the provisions in the patent law, Humira enjoys no patent protection in India, since AbbVie restricted their Indian filings to only cover their secondary patents. Blockbuster medicines are crucial to the success of public health. But they have been gamed, and rendered inaccessible to the people and governments who need them. In order for these medicines to be accessible, there can be no surer way than to enact strong standards that put bad patents where they belong.

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LETTERS TO THE EDITOR

Letters emailed to letters@thehindu.co.in must carry the full postal address and the full name or the name with initials.

Great escape

The report, “LeT militant escapes from hospital” (February 7), once again highlights how the security apparatus can be breached at will by terrorists. It is noteworthy that he managed to escape despite the security net outside the hospital. The government should think about having a separate provision to facilitate the medical check-up of dangerous elements. Such incidents only hamper the fight against terror.

VIRAJ DESHPANDE,
Badlapur, Thane, Maharashtra

Loss of innocence

The report of a headmaster being stabbed by a student is disturbing (Tamil Nadu, “Tirupattur student carried knife for a week”, February 7). Perhaps, the boy was influenced by reports of similar incidents

in the U.S., of gunmen attacking teachers and students. The company a student keeps is very important and any negative influence of their peer group is bound to influence their behaviour. One has heard of unacceptable class behaviour in the West. Is this now finding its way into India? Perhaps it can be attributed to a lack of moral instruction. Steps need to be taken before things become worse.

SHEFA RAFTI,
Coimbatore

■ Reports of teachers being stabbed and students ending the lives of fellow students in washrooms are chilling. While the gun-wielding culture in schools in the West no longer surprises, I am afraid of something similar affecting India.

There are already reports of railway stations becoming the new areas for college students in Chennai to settle scores using deadly weapons. What is happening? In the school incident, was the headmaster wrong in asking the student to “come to school with a tidy appearance”? The answer is a definite no. The earlier practice of having ‘moral classes’ in schools/colleges appears to have been abandoned. One would also blame all this on the violent and negative scenes in many of our films and television serials which give young people ideas. There needs to be close and frequent interaction among teachers, parents and students. Success in life is not gauged by only scoring high marks.

A. JAINULABDEEN,
Chennai

Collegium, consultation

While one must appreciate most of what Prashant Bhushan has said in his article, “A roster of questions” (February 7), his statement that the collegium system “laid the foundation of consultative procedures for appointment of judges” may not be right. The moment the Supreme Court excluded another constitutional pillar, the executive, from the selection process of judges, it marked the beginning of the end of consultation. Even when there was an amendment to the Constitution to include the Leader of the Opposition among others, the Supreme Court, in a recent judgment, struck it down – with the exception of Justice Chelameshwar – on the ground that consultation with any body other than the

judiciary in the matter of selection would strike at the very root of the independence of the judiciary. The word “consent” was substituted into the grammar of law by the Supreme Court for consultation. Gradually, the consultative process, even among senior judges, in the matter of selection of judges and roster preparation (which is a sensitive issue) came under the scanner when the four senior-most judges rebelled. There is now a situation

where there is no effective consultation or collective decision-making in other matters as well, right from the decision in the collegium case where the Supreme Court has said that it will only consult itself – which is no consultation. The remedy lies within the Supreme Court and the creation of public opinion after the four judges laid bare the festering issues.

N.G.R. PRASAD,
Chennai

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CORRECTIONS & CLARIFICATIONS:

Editing error: In the report headlined “Karnataka finds its way into debate” (Feb. 7, 2018), there was a reference to *Ujjwala Yojana* (a scheme for distribution of LPG cylinders). It should have been *Ujaala Yojana* (of providing subsidised LED bulbs).

It is the policy of The Hindu to correct significant errors as soon as possible. Please specify the edition (place of publication), date and page. The Readers’ Editor’s office can be contacted by Telephone: +91-44-28418297/28576300 (11 a.m. to 5 p.m., Monday to Friday); Fax: +91-44-28552963; E-mail: readerseditor@thehindu.co.in; Mail: Readers’ Editor, The Hindu, Kasturi Buildings, 859 & 860 Anna Salai, Chennai 600 002, India. All communication must carry the full postal address and telephone number. No personal visits. The Terms of Reference for the Readers’ Editor are on www.thehindu.com