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Switch to IPO auction

The Securities and Exchange Board of India (Sebi) order on the "IPO scam" has been repeatedly amended by Sebi itself, and has received adverse rulings in many courts. In particular, the Securities Appellate Tribunal (SAT) ruled that Sebi did not have the powers to give instructions to the promoters of the National Securities Depository Ltd (NSDL) on revamping its management team. On the one hand, this is a welcome development, for it reaffirms the institution building that has taken place at the NSDL. The NSDL is shaping up as a centralised database capacity with useful applications in other areas such as tax administration and the creation of a database for market participants and investors (MAPIN). Sebi was clearly overreaching itself when the existence of multiple applications at IPOs was used to claim that the promoters of the NSDL should revamp the NSDL management team.

However, much more important lessons need to be drawn from the collapse of this deeply flawed order. India is increasingly becoming a stock market dominated financial system, and the top functionaries at Sebi and MoF need to apply themselves to strengthening the enforcement process. The first issue is the infamous "ex parte order".

Sebi has the powers to give instructions to market participants when there is a rare emergency. This authority is being misused. An informal thumb rule needs to be agreed upon, where each Sebi chairman has only one use of this bramhastra in his three-year tenure.

The second issue is that of professionalism and clarity of processes. A fixed process needs to be agreed upon, where the first step is to ensure that a well-drafted show-cause notice is sent—in private—to the accused. Sebi should look at

the UK and the US for role models for how these legal documents are drafted, with near mathematical precision and a complete absence of florid language. The release of this show-cause notice to the public constitutes libel, for it is a mere accusation. Next, a quasi-judicial hearing needs to take place in private within Sebi, where the investigators argue as the "prosecution", and a dedicated "bench" of two board members listen to the defence, and award a penalty. There should be a full separation between this "bench" within Sebi and the board member(s) who handle investigations. Such internal checks and balances will reduce the outright mistakes that have been coming out in Sebi orders owing to prosecutorial zeal.

The third point is that it makes much sense to take on one entity at a time, instead of writing one jumbo order about 24 entities. If (say) Sebi had first done Karvy through the above process, then the flaws of Sebi's positions would have rapidly surfaced, which would have informed Sebi's actions against the other 23. By doing a low-quality jumbo order against 24 entities, Sebi has lost the battle, for this order is being torn to bits by courts all across the country. It is better to work in milestones of five pages of top-quality order at a time, and actually win battles.

The last point is about recognising that regulatory capacity is scarce. There is only so much that Sebi can do. Retail quota in IPOs is a policy mistake, which is now generating a huge waste of time on the part of Sebi and myriad finance companies owing to the "IPO scam". It is far better to fix the underlying policy mistake, by switching the IPO market to a pure auction, so that questions of multiple applications just do not arise.

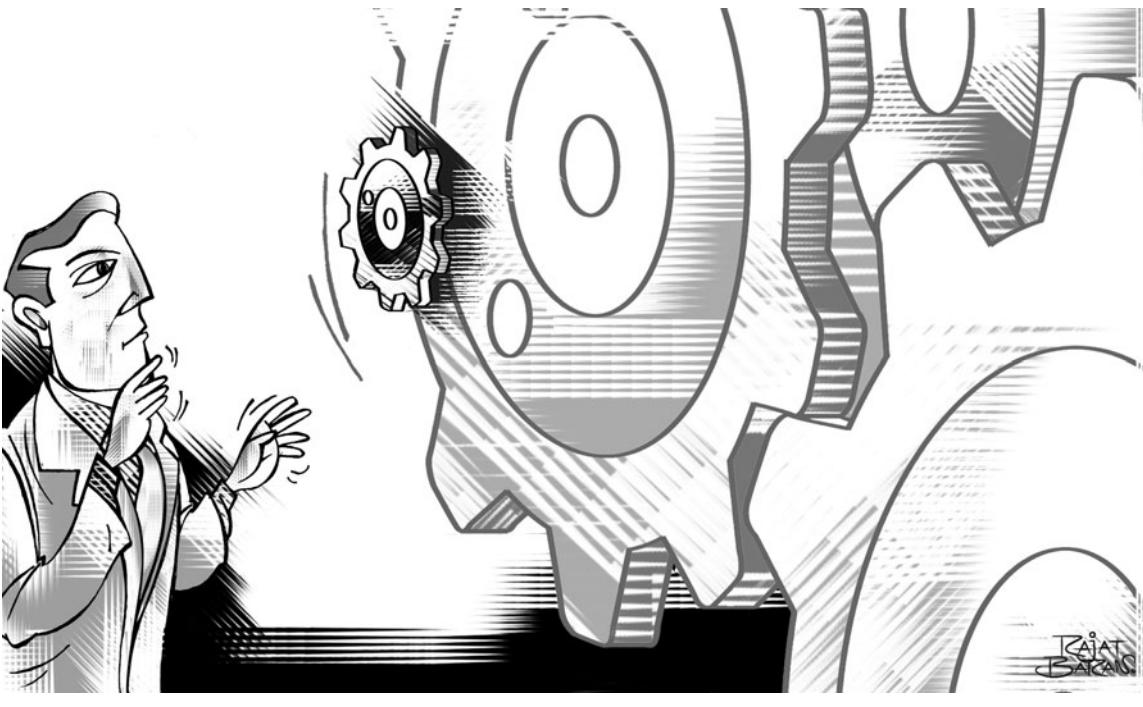
Wrong move

A great deal is being made of the fact that India has nominated an Indian to the post of the Secretary General of the United Nations. The post will fall vacant at the end of this year, when the current Secretary General, Kofi Annan, retires. The election to the post will be held in October. Even if the Indian nominee loses—as seems most likely unless the US throws its weight behind him (and perhaps even then)—he will become a household name in India in the four months that remain until the election. That would be a significant personal gain for the candidate but what would India have gained? Perhaps only a great deal of opprobrium.

It has been a tradition at the UN that the post of the Secretary General is usually occupied by an eminent person from smaller countries. Even in this election, there will be candidates from Sri Lanka and Thailand, to name just two Asian neighbours. The latter's candidate, in fact, is a former deputy prime minister. To date there is no record of anyone from a country as large as India having become the Secretary General. One can only wonder why India has chosen to depart from this time-honoured tradition. The candidate himself is saying that he wants to reform the UN, something in which India has a lot of interest of course. But its interest is mostly restricted to the Security Council, where it wants to become a permanent member with a veto. Whether an Indian

as the Secretary General is the best way of achieving this aim is open to serious doubt. Everyone knows which country actually decides these things and what its preferences and strategy are. So UN reform as a reason for putting up an Indian candidate is a non-starter.

Could it be, then, that as Pakistan (which has said it will nominate a Pakistani to fight the election) has suggested India has given up hopes for the next couple of decades of becoming a permanent member of the Security Council? The Indian ambassador to the UN has said that the two are not linked. Technically, he is right. But diplomacy is not about technicalities. It is about deal-making. So the country is entitled to ask, what's cooking or what has been cooked? Why the sudden announcement? Is it linked to something else? If so, what? What does India expect to gain, especially if it means incurring the displeasure of Thailand, Sri Lanka and others? And if this be the case, was this the best candidate available? If so, why? Would India not have been better off supporting an Asian candidate from a smaller country? These are legitimate questions that spring to the mind of anyone who follows international diplomacy. In the absence of a satisfactory explanation—and none seems possible—everyone will assume the worst, that is, regard the Pakistani explanation as being the most plausible one. India should have acted differently. Sometimes, dignity and eventual gains lie in restraint.



Small may be beautiful

India's reformers may take up this slogan for indirectly introducing market forces into the provision of both physical and social infrastructure, says DEEPAK LAL

In my last column I had promised to look at some alternatives to the centralised provision of physical and social infrastructure which is leading to the creation of a PPP cum Reservations Raj. The essence of these solutions is based on the recognition that the technocratic answer to the provision of this infrastructure based on the prevalence of economies of scale (as in electricity) or questions of equity (as in health and education) has manifestly failed in India because of its predatory State. As India is now governed by shifting coalitions of "rent-seekers", who are reluctant to embrace the privatisation which would remove the sources of these "rents", the only solution may be a relatively inefficient one in purely technological terms. This essentially legalises the informal provision of these services in what has been termed the informal private sector.

The basic model is that of the spread of cable television in urban centres in India. Private entrepreneurs in a locality set up satellite dishes, which provided cable TV services to subscribing households in the locality through cables provided by the dish owner. Barun Mitra of the Liberty Institute reports in the Heritage Foundation's 2006 *Index of Economic Freedom* on the local parallel private electricity grids being run in many parts of urban In-

dia. Shop owners in an area collaboratively set up kerosene or diesel generators to supply electricity to the 50 to 100 participating shops. The fee is based on the number of light bulbs connected for a certain number of hours each evening. Though the cost is much higher than if there was a reliable supply from the official grid, the shopkeepers can decide whether the higher costs are set off by the benefits from attracting customers during peak shopping hours. Similarly, at the officially unauthorised Sainik Farms in Delhi, without electricity from the official grid, private entrepreneurs have set up generators to create an informal grid. Of course, the cost per unit of electricity is many times that of official provision. But, in both cases the private supply, though more expensive, is more reliable than official supply.

All these examples show first, that public failures are being remedied—though at high cost—by private initiatives. Second, if the unreliable and inadequate public provision was to be replaced by efficient private provision through technically optimally-sized private generating plants and grids, there would be enormous gains in what economists call "consumers surplus". But failing both the provision of a reliable public supply and the current political feasibility of its privatisation,

as a second-best solution it is desirable that these informal grids should be legalised. This might then lead, as has happened with the local cable TV systems, to a takeover of the inefficient smaller informal systems by private entrepreneurs, who can create larger private grids in competition with the public system. Of course, in time as the price of fossil fuels continues to rise, at some price solar cell technology will become competitive. The gargantuan public system of provision would be under serious threat, as has happened with the development of mobile telephony and the pressures that has put on the previous state monopolies in providing telephone services.

Similarly, in the provision of public health and education, the Indian state's failure is manifest. As the work of James Tooley and his associates has shown, the poorest in India are overcoming this failure in providing quality education by turning to private education. On some estimates, about 50 percent of the poorest children in urban areas are in neighbourhood private schools run by charities and private entrepreneurs. Similarly in health, nearly 80 percent of the overall health expenditure of 6 percent of GDP is on private health care. Thus, India has succeeded in turning JS Mill's principle on merit goods on its head. Mill had maintained that for health

Northern Ireland: lessons for Kashmir

Dublin, Ireland: Last week in Dublin, I pored over the Automobile Association map opened on the bonnet of my rented Toyota. Getting to Belfast seemed easy enough; it was a 115-mile drive, on the M-1 motorway. I was more anxious about the paperwork. Crossing into Northern Ireland, where Belfast had historically been the epicentre of a bitter separatist struggle, meant leaving Ireland for the United Kingdom. (Protestant-majority Northern Ireland remained with Great Britain when Catholic-majority Ireland wrested independence in 1922.) I wondered whether my single-entry visa would allow me back into Ireland, to catch my flight out from Dublin.

But I needn't have worried. Over the next four days, visas may as well not have existed. I observed for myself that, despite some political roadblocks, an imaginative approach to separation has successfully ended violence in the area. Interestingly, the Northern Ireland settlement bears remarkable similarities to what's being proposed for Jammu and Kashmir (J&K): making borders irrelevant.

Throughout my four-day drive across Ireland, just once, in a delightful Northern Irish village called Belcoo, did I hear mention of an international border. I asked my bed-and-breakfast landlady where to get a good Irish dinner. "Across the border," she replied, "at Blacklion". I drove a couple of kilometres into the Republic of Ireland—there were no border controls anywhere—at some marvellous salmon at Blacklion, paid my

bill in euros, and drove back to my bed in the United Kingdom. By now I was no longer worrying about my visa.

Until just eight years ago, this would have been a pipe dream, much like nipping across from Uri for dinner in Muzaffarabad. Ireland was partitioned along religious lines; for decades, the Irish Republican Army (IRA) tied up large sections of the British Army in a virulent insurgency. The Catholic sections of Belfast were as welcoming of British Army soldiers as Srinagar is of Indian security forces. And like the Kashmiri insurgency for India, Northern Ireland had come to be the UK's Achilles heel in international forums.

The Northern Ireland peace initiative that began in the early 1990s and culminated in the Good Friday Agreement of April 10, 1998, took patient bargaining, skilful diplomacy and confidence building at every step. A British declaration that they had "no selfish strategic or economic interest in Northern Ireland" provided the initial impetus in 1993, leading to negotiations between the governments of Britain and Ireland along with a US facilitator.

The main complication came from deep rifts within Northern Irish opinion itself, since Catholic and Protestant militant groups (the "paramilitaries") saw each other as the true enemy.

Moving through this minefield took real political will. In London, there was always political consensus on Northern Ireland, across party lines. In 1997, newly elected Prime Minister Tony Blair became convinced that the UK's loss of prestige in international forums was far more damaging than any dilution of Britain's control over Northern Ireland. He had an ally in the new Irish Prime Minister, Bertie Ahern, who in Dublin skillfully pushed through changes in Ireland's constitution. Ireland put aside its claim that "the national territory consists of the whole island of Ireland, its islands and the territorial seas," its constitution instead acknowledging that, pending the reunification with Northern Ireland, "the laws enacted by that (Northern Ireland) Parliament shall have the like area and extent of application as the laws of Republic of Ireland".

As will be the case in Kashmir, the single-greatest factor in the settlement was the ending of violence. The paramilitaries and their political wings crucially realised that, while violence could build up leverage and influence, a final settlement required the ending of violence. Back-channel discussions with Sinn Fein, the IRA's political wing, led to an IRA ceasefire in 1994. To avoid being politically margin-

alised, the loyalist (pro-Britain) groups had to respond with a ceasefire of their own.

Like the Irish paramilitaries before the ceasefire, Kashmiri militant groups are today excluded from the peace process by their reluctance to end violence, even conditionally. India's understandable insistence on a total ceasefire means that genuine Kashmiri groups like the Hizbul Mujahideen will have to take the difficult step of detaching themselves from any transnational jihad. If they do not—if an armed struggle allows violence to become an end in itself—the political aim could get lost forever.

In Northern Ireland today, there are only winners. Although the assembly meant to govern the territory today stands suspended thanks to political divisions, the lack of lawmaking hasn't led to lawlessness. Since the Good Friday agreement, the peace process has weaned itself away from politics; while the political process has broken down, the peace process is alive and well. Paramilitaries continue to disarm, day-to-day governance is conducted by a joint Ireland and UK-led North-South Ministerial Council, and the border between those two countries now exists only in name.

As Sinn Fein says, "The Good Friday Agreement did not give us what we wanted but it paved the way." Perhaps someday Northern Ireland may peacefully reunite with Ireland. The settlement closes no doors.

Lessons for Kashmir here?

I took two writers to create three interesting bylines. Kalpana Swaminathan is a surgeon working in Bombay. She is also the author of several books. *Ambrosia for Afters, Bougainvillea House, Cryptic Death and The Page Three Murders*, as well as several children's books, including *Ordinary Mr Pai* and *Jaldi and Friends*.

Ishrat Syed, also a surgeon, rarely writes on his own, though he has collaborated often with Kalpana Swaminathan. They write together as Kalpish Ratna, and before I learned it was a common byline, I marvelled at the erudition of this extraordinary person. In articles and reviews, she appeared to tackle literature, science, health and food with élan as well as toss off the odd guide to energy healing. This month, Kalpish Ratna came out with *Nyagrodha*, the first part of *The Ficus Chronicles*. Volume One of the

Chronicles does a thoroughly entertaining mashup of *The Panchatantra*, where the trials of three children are woven together with retellings of the old tales.

Nyagrodha testifies to the seamless nature of the collaboration between Syed and Swaminathan. It starts with the name itself; as the blurb explains, "Kalpish Ratna" is an anagram of their first names, which blends two languages, Persian and Sanskrit. Translated, it means: "the pleasures of imagination".

Nyagrodha takes its structure from the fig tree; stories set down roots and grow into new stories. The tales of Khokla the Jackal, Ton'Tona the turtle or Bazburg the crane are nested within the overarching stories of the three children and the running narrative of Simha the lion, whose friendship with Jeev the bull is threatened by the scheming of Charak the jackal.

SPEAKING VOLUMES

Nilanjana S Roy



Swaminathan and Syed are rare among authors. The most successful collaborations have been in the arena of pulp and popular fiction; from Barbara Cartland to Tom Clancy, many writers have relied on researcher-writers who will flesh out their plots and add the necessary verisimilitude. But successful literary collaborations are rare: to pull off co-authorship in a work where

imagination and style are key factors requires an understanding that goes far beyond most normal working relationships.

It's not that hard to do a one-off, as Terry Pratchett and Neil Gaiman did with *Good Omens* several years ago. Pratchett explained: "By the time we'd gone through all the drafts, it had been written by some sort of composite entity." Gaiman spoke of waking up and seeing the red light flashing on his answering machine, carrying a message from Pratchett: "Get up, get up, you bastard. I've just written a good bit." Pratchett and Gaiman weren't tempted to collaborate again—they were both happy returning to their own work, even though they enjoyed the

experiment.

These were successful collaborations, where both authors are happy to give each other credit. It's when the dividing line between assistance and authorship blurs that difficult questions arise. In 1998, D T Max examined the legacy of master short story writer, Raymond Carver, against the controversial claims made by Gordon Lish, Carver's editor. Lish felt that his contributions to Carver's works had been overlooked. Going through the archives, Max found that Lish's contribution was indeed considerable—in some cases, he had written the actual ending, he had slashed many stories by a third

or a half. "In most cases Lish's handwriting became part of Carver's next draft, which became the published story," writes Max.

But Max was clear that Lish was not the co-author of Carver's stories. He had performed the functions of an über-editor, in the same way that Ezra Pound had shaped T S Eliot's *The Waste Land*, but there was no question that Carver was the author. In *Mockingbird*, a recent and brilliant biography of Harper Lee, Charles J Shields raises far more awkward questions about Lee's contribution to Truman Capote's *In Cold Blood*. Lee, who'd known Capote since childhood, accompanied him on his research trips and conducted interviews for

him. Capote used her notes—and her perspective—often with only minor changes. By the time *In Cold Blood* was published, Lee's *To Kill a Mockingbird* had won the Pulitzer, and perhaps that was one reason why Capote acknowledged her help only cursorily.

Shields never comes right out and says it, but anyone who reads *Mockingbird* will be left with a sense of terrible discomfort. *In Cold Blood* has Capote's voice, his style—but so much of it is seen through Lee's eyes. She may not have wanted a co-author's credit, but she deserved the respect due to a collaborator, and she never really got it. In the light of *Mockingbird*, now when I see a phrase like "In Cold Blood, authored by Truman Capote", it puts a question mark around the idea of authorship itself.

nilanjanasroy@gmail.com