

# FINANCIAL TIMES

## Free India's government from the shackles of the state

*The country needs the right for its government to privatise, writes Swaminathan Aiyar*

By Swaminathan Aiyar

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Successive Indian governments have experimented with rights-based policies – the right to information, education, work and food. But what the country really needs is a right to privatise – and this right is needed by its government, not its citizens.

In most countries the state has an unquestioned right to sell what it owns. In India, central and state governments can freely sell land or buildings but court decisions restrict their right to sell a majority of their shares in companies that have been nationalised by acts of parliament. This affects a big chunk of government holdings and the entire economy – oil, banks, insurance, coal – and has led to fiscal strains, undercapitalised banks and fuel shortages.

The government of 1999-2004, which was led by the Hindu nationalist Bharatiya Janata party, attempted to privatise both Hindustan Petroleum Corporation and Bharat Petroleum Corporation. But the courts ruled that the companies could not be sold by executive action: fresh legislation was necessary. The government lacked a majority in the Upper House and so did not pursue it.

India's coal industry was nationalised in the 1970s. Private companies can be licensed to produce coal for their own consumption but not for commercial sale. Only government companies are allowed to do so. Coal India, an inefficient government leviathan, has failed dismally to meet rising coal demand as the economy has expanded. Power plants, for example, are idling for want of coal. But without fresh legislation, essential private mining is prohibited.

Indira Gandhi nationalised banks in two rounds, first in 1969 and then 1980. Private-sector banks emerged after India's 1991 economic reforms, which opened up the economy, but government banks still control 70 per cent of all lending. They have sold minority stakes to the public, and are listed. Yet they are reeling under non-performing loans, and badly need recapitalisation. Stiff Basel III rules have deepened the problem by ordering higher capital requirements. Indian banks need almost Rs6tn (\$100bn) of fresh capital by 2018.

Where will this come from? The combined deficit of the central and state governments has been 7-9 per cent of gross domestic product for years, one reason for India's high, sticky inflation. Rating agencies have threatened to downgrade India to below investment grade unless the fiscal deficit is curbed. But given the strains on the economy, the government lacks the cash it needs to

recapitalise its banks. They could raise fresh capital from equity markets but that would lower the government's stake to less than 50 per cent, and fall foul of the courts.

Infrastructure is India's Achilles heel. In the old socialist days, the government built virtually all of it. But in the past decade much has been built via public-private partnerships, with private companies providing much of the debt and equity. However, infrastructure today is a mess. Many projects have been stalled by lack of environmental clearance or land acquisition problems. Many power plants lie idle for want of fuel. Traffic has fallen well short of projections, so many road projects are unviable.

Private infrastructure companies are highly leveraged and deep in the red. Indeed, their inability to repay loans has threatened the viability of the banks that lent them the money in the first place. The public-private partnership model is broken, and in future the state will have to provide a much larger share of infrastructure finance, even as it retreats from some other areas of the economy.

But how? The government finds it difficult to meet its expenses, let alone inject trillions of rupees into infrastructure and bank recapitalisation. One solution would be for the government to raise large sums by privatising some state-owned companies, and by auctioning coal blocks to private developers. But it is constrained by court decisions that mean it does not have the right to privatise freely.

It is ridiculous that the government has an untrammelled right to sell land, buildings and natural resources, but not its company shares. Narendra Modi's new government should push for a new law that would repeal the old nationalisations, allow private ownership of state-owned assets and give it the right to sell any assets it wants. Only this will give it the fiscal and policy freedom that it – and the economy – so badly needs.

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