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Leading from the left

What Joe Biden can learn from Elizabeth Warren and Bharat Ramamurti

Robert Kuttner

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Sen. Elizabeth Warren confers with Bharat Ramamurti during a Banking Committee hearing in July 2014. Ramamurti now serves on the Congressional Oversight Commission created by the CARES Act.

When Ted Kennedy was the Senate's leading progressive, he often surprised colleagues and political savants by making common cause with Republicans to enact progressive legislation. His repeat partners included Nancy Kassebaum, a moderate, but also Orrin Hatch, a staunch conservative. His successes included the 1996 Kennedy-Kassebaum bill that became HIPAA, protecting confidentiality of health records, and the Kennedy-Hatch Act of 1997 creating the Children's Health Insurance Program (CHIP).

Kennedy did this by being personally genial and by relentlessly looking for areas where conservatives, whether via conviction or constituent concerns, might partner with him. You might say that in Kennedy's day, Congress was not so poisonously polarized along partisan lines. But think again.

Ted Kennedy was a bipartisan slouch compared to the senator who now holds his seat, Elizabeth Warren, who has managed to enlist more than a dozen of the most conservative members of the Senate to co-sponsor progressive legislation on the entire range of financial and consumer reforms. This was not splitting the difference; it was bringing around conservatives. Her partners included an improbable rogues' gallery of conservatives who have little else in common with Warren, including Tom Coburn (OK), Bob Corker (TN), Tom Cotton (AR), John Kennedy (LA), Thom Tillis (NC), and David Vitter (LA), as well as moderate Lisa Murkowski (AK).

If Democrats can just persuade a few Republicans that it would not be a bad idea to allow Joe Biden to govern and haggle about the specifics, there's a good model of tacit populism here. Conservatives also have constituents who are hurting. And in her alliances across the poisoned aisle, Warren had a secret weapon—her chief staffer on economic issues, Bharat Ramamurti.

“Our work was so much more effective because Bharat just reached out to everyone,” Warren says. Ramamurti found ways to work with Republicans on consumer legislation, oversight, and regulation, by being alert to areas where Republicans are anti-Wall Street or simply concerned about abuses that hurt their base. His method was to be on the lookout for possible areas of common interest, do deep research, make friends with staffers, get their senators on board, and then find common strategies. After 2014, all of this occurred right under Mitch McConnell's nose, at a time when Republicans controlled the Senate and Warren was a junior minority member of the Banking Committee.

WARREN FIRST CAME TO NATIONAL PROMINENCE as chair of the Congressional Oversight Panel for the \$700 billion emergency bank bailout enacted in October 2008. Democrats added the watchdog panel as a condition of their support. Warren was a Harvard Law professor and a leading expert on bankruptcy abuses, and by extension a scholar on all the ways the rules of capitalism are increasingly rigged against ordinary people. The 2008 financial collapse provided the exclamation point.

As chair, appointed by Senate Majority Leader Harry Reid, Warren turned the obscure panel into an investigative powerhouse. By 2012, Warren had enough political savvy and public profile as a liberal hero to take back the Massachusetts Senate seat once held by Ted Kennedy, which was briefly captured after Kennedy's death in 2009 by Republican Scott Brown.

As the pandemic sent the economy tumbling toward collapse, Congress enacted another bipartisan emergency measure in March 2020, the \$2.2 trillion Coronavirus Aid, Relief, and Economic Security (CARES) Act. Democrats led by Warren made sure to insist that it would include a similar watchdog panel, known as the Congressional Oversight Commission. In April, Senate Democratic leader Chuck Schumer announced the five-member commission's first appointee. By no small coincidence, his name was Bharat Ramamurti.

The Oversight Commission was specifically tasked with monitoring the \$500 billion that Congress gave the Federal Reserve, which was intended to leverage a total of \$5 trillion of credit to hard-pressed households, businesses, and state and local governments. In naming Ramamurti, Schumer, a Wall Street favorite whose politics are not exactly Warren's, was not just doing her a favor. Ramamurti's seven-year stint as top adviser to the Senate's most effective economic-policy entrepreneur made him the ideal person for the job.

Joining Warren's staff as banking counsel in 2013, Ramamurti quickly rose to become Warren's closest collaborator on key economic initiatives, from her wealth tax to her proposed Accountable Capitalism Act, as well as Warren's stunning oversight successes, which included forcing the resignation of two successive CEOs at Wells Fargo at a time when both the Wells board and the regulators were settling for slaps on the wrist. "Bharat has a natural instinct to bring people along," Warren says. "He's very focused on the end goal of creating change, but he doesn't start with the conclusion out loud, he proceeds incrementally. It makes him powerfully effective."

IN 2013, THE STORY BROKE THAT WELLS FARGO had systematically opened more than two million fake customer accounts in order to reap fees, increase profits, and boost the stock price. By 2016, federal regulators had fined Wells Fargo \$185 million over the scandal, the first in a series of penalties. Though the architects of the scheme were the bank's top executives, low- and mid-level staffers who had been pressured to fill new account quotas took the fall.

At an epic oversight hearing, Warren flagged how CEO John Stumpf had hyped the illegal bank's profits in at least 12 calls to investors between 2012 and 2014, after Stumpf had learned of the illegalities, which had never been disclosed in SEC filings, and personally profited to the tune of \$200 million. "You should resign," Warren told him, in a clip viewed more than 60 million times. "You should give back the money you took while this was going on, and you should be criminally investigated by both the Department of Justice and the SEC." A disgraced Stumpf soon was fired. His successor, Tim Sloan, also was forced out under pressure.

To prove Warren's point about regulatory laxity, just last week on November 13, the SEC finally got around to punishing Stumpf, seven years after the fraud became a public issue. They fined him \$2.5 million, or 10 percent of one year's pay. "That'll show him (and other would-be fraudsters)," Ramamurti tweeted.

"The Warren office is incredibly strategic," Ramamurti says. "After Stumpf resigned, we said the Wells board should be held accountable. An academic at Harvard had told us that the Fed can replace board members if they are threatening safety and soundness." Warren pressed the point. In February 2018, the Fed duly required Wells to replace three board members and limited its growth pending evidence of deep internal reform. "Whenever I'm faced with a decision on how hard to push and what strategy should we pursue," adds Ramamurti, "I always think, what would Elizabeth Warren do?"

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Warren's bravura performance on Wells oversight was a classic of the genre. Warren is so effective not just because she knows her banking law and is good speaking off the cuff, but because she does her homework. Warren and Ramamurti had spent several days researching Wells, discussing strategy, and going through multiple drafts of possible lines of questioning.

"Sen. Warren would review and revise all hearing questions before ever showing up in the hearing room," says former Warren tax counsel Jeremy Bearer-Friend. "She's able to pivot and speak extemporaneously because she knows the material so well from having worked so closely with staff. It creates such high morale in the office. You see other senators where the staff has worked all weekend and the boss hasn't even looked at the questions and goes off on a tangent at the hearing."

The Warren office is unusual in the degree of collaboration between the senator and staff. "A lot of the ideas come from her," Ramamurti says. "I'd get emails from her over the weekend with links to pieces she's read. She has an enormous network. There is a huge flow of ideas into the office from people outside."

Another masterpiece of Warren-Ramamurti investigative oversight was the Equifax affair, in which the giant credit bureau allowed millions of consumer records to be hacked. It turned out that the Department of Homeland Security had spotted a glitch in security systems, and given Equifax instructions on how to do an emergency patch. But the company delayed getting it done, and in the meantime hackers struck, compromising the Social Security numbers, passports, and other sensitive credit information of some 145 million Americans.

"All of the incentives were off," says Ramamurti, a close student of how markets are supposed to work. "On average, people got about \$1 in damages for a breach so there wasn't much financial incentive for companies to invest in protecting data. And companies like Equifax made money from identity protection, so data breaches actually gave them another source of revenue."

Working with staffers to Virginia Sen. Mark Warner, a Democrat far more centrist than Warren, Ramamurti devised the Data Breach Prevention and Compensation Act. The act empowered the FTC to fine credit reporting companies \$100 for each consumer whose information was violated, which would have cost Equifax \$1.5 billion, half of which would be paid as restitution directly to

consumers. “The work we did with Warner after the Equifax data breach was Bharat-led all the way,” Warren says.

With a majority-Republican Senate, the legislation did not pass, but it put the big credit reporting companies on notice to clean up their acts. “I’ve always appreciated Bharat’s thoughtful, analytical approach to policy,” says Warner. “He’s demonstrated an ability to work constructively with members and staff from all corners of the Democratic Party.”

And not just Democrats. More surprisingly, Ramamurti learned that sleazy mortgage companies were flooding vets with refinancing offers that mimicked the subprime scandal, and sought out Republican allies. The new loans would have low rates for a few years and then skyrocket. This also hurt the ultimate purchasers of the mortgages, who would incur losses if some vets were able to pre-pay and refinance again.

Calling around, Ramamurti found that Sen. Thom Tillis, who served with Warren on Armed Services as well as Banking, had lots of vets in his state and was a potential partner. “We raised this with Sen. Warren,” he recalls. “She said, go for it.” Working with Tillis staff, the two devised the Protecting Veterans From Predatory Lending Act, introduced in January 2018. The bill requires mortgage lenders to demonstrate “material benefit” or face penalties. It was enacted, ironically, as part of an omnibus deregulation bill.

Warren’s roster of 11 co-sponsors reads like a wish list for a post-Trump era of new bipartisan collaboration: Besides Tillis, sponsors included conservative Republicans Heller, Capito, Burr, Sullivan, Scott—plus centrist and progressive Democrats Schatz, Van Hollen, Tester, Manchin, and Donnelly—senators seldom found on the same side of anything. The bill was endorsed by the American Legion and the VFW. It was classic Warren and Ramamurti. They used an apple pie issue, protecting vets, to shine a light on a systemic abuse of financial capitalism.

“I have rarely met someone who is so good on policy and who has such a good sense of how to move big issues,” says Sara Nelson, international president of the association of flight attendants, who worked with Warren and her staff on making sure that the CARES Act had provisions protecting workers. Ramamurti gives credit to his colleagues in the Warren office, a famous incubator of progressive talent, including her personal staff and her aides on the Armed Services Committee.

Issues once considered fringe, carefully researched by Ramamurti and colleagues and put in play by Warren, are now considered mainstream.

At the time Ramamurti joined Warren’s staff in 2013, the Banking Committee was working on a major housing-finance reform. Sen. Corker shared Warren’s interest in basic reform of Fannie Mae and Freddie Mac, heirs to the government-sponsored secondary mortgage market begun under FDR that had mutated into for-profit machines and partners in subprime abuses. Ramamurti and Corker banking counsel Michael Bright spent several months coming up with a reform that included more than 20 separate legal revisions to expand access to affordable housing and rein in abuses. They got sign-off from their bosses and other key senators of both parties, culminating in a three-day charrette where they drafted the text of the bill that both reined in excesses and increased housing supply.

“I really liked working with him,” says Bright. “We made each other a little smarter, because we were not imprisoned in partisan talking points.” In the end, the measure was blocked by the

leadership of both parties. But Bright, who later became the head of GNMA, was able to carry out some reforms administratively.

The Warren office also found areas of common cause with right-wing populists. A common nemesis is the Fed. Ramamurti discovered that Sen. Vitter, a Tea Party favorite, shared Warren's concerns about the unchecked power of the Federal Reserve. The two co-sponsored the Bailout Prevention Act, reining in the Fed's authority to subsidize too-big-to-fail banks, and specifically repealing a special-interest provision for Goldman Sachs and Morgan Stanley allowing them to do commodities plays prohibited to other giant banks. Ramamurti got endorsements from Cato on the right and Americans for Financial Reform on the left. The bill did not pass, but it built a coalition and set an agenda.

A second Warren-Vitter bill was the Federal Reserve Accountability Act, requiring far greater transparency in Fed disciplinary decisions on banks, including record votes by the Board of Governors on bank sanctions.

The bill was never passed, but the public-vote requirement was implemented by Janet Yellen, the Fed chair. Yellen owed her job in part to the campaign by Warren, Sherrod Brown, and Jeff Merkley to keep Larry Summers from getting the job.

“Bharat has a really good eye for the politics of policy,” says Lindsay Owens, who served as Warren's labor counsel while Ramamurti was banking counsel. “That means he can think about where unlikely alliances and partnerships are.”

An example of Ramamurti's creative bipartisan legislative work combined with investigation and oversight involves an obscure but immensely powerful self-regulation agency called FINRA, which stands for the Financial Industry Regulatory Authority. It is the successor to the more accurately named National Association of Securities Dealers. Basically, the Securities and Exchange Commission has delegated to the industry's own trade association most enforcement of abuses by stockbrokers and dealers. Being industry-controlled, FINRA is a pushover.

When a broker defrauds an investor, there is a FINRA arbitration process. “These are people who may have been cheated out of their life savings. They manage to win in arbitration, but then a lot of the small brokers are thinly capitalized and there is no money to pay the awards,” Ramamurti says. “There's tens of millions of dollars in unpaid awards each year, and we pressed FINRA to create a pool based on fees, or to pay the money themselves, so people got the money they were owed.”

FINRA stonewalled, so Ramamurti and Warren wrote legislative language and enlisted Sen. Kennedy as a co-sponsor of the Compensation for Cheated Investors Act of 2018. Ramamurti learned that Kennedy had been Louisiana state treasurer and had worked on investor protection. The legislation did not pass. FINRA is still considering Warren's proposals, which it could implement by rule.

Ramamurti also investigated FINRA's failure to punish or ban recidivist bad-actor brokers, some of which find it easy to get new jobs because they will work for lower pay. This resulted in a joint letter to FINRA by Warren and Republican Sen. Tom Cotton, demanding a crackdown. And all of this was done while the Republicans controlled the Senate majority.

“There can be a real complacency with being in the minority,” says Bearer-Friend. “Instead, the Warren office approach was to take advantage of every opportunity to legislate, and even when we can’t pass legislation we can do oversight work.” Just this week, Warren and Chuck Grassley pressed the administration to issue rules to carry out their over-the-counter hearing aid act, which was passed and signed into law in 2017. This benign consumer reform actually went after a notorious abuse of economic power that has raised prices and limited choices.

No Democrat—certainly no left-Democrat—can match this record of progressive bipartisanship. Another signature achievement of Warren and Ramamurti has been agenda setting. Issues once considered fringe, carefully researched by Ramamurti and colleagues and put in play by Warren, are now considered mainstream. Biden is talking seriously about reducing student debt. A wealth tax is no longer considered preposterous. Jeremy Bearer-Friend, the former Warren tax counsel who now teaches tax law, says, “Bharat is an attorney who does not even specialize in tax, but he is shaping how tax scholars and advocates think about wealth tax, something that was previously not taken seriously by most scholars.”

RAMAMURTI, WHO IS 38, SPENT HIS EARLY CHILDHOOD in graduate student housing at Peabody Terrace at Harvard, where his father, Ravi, a recent immigrant from Chennai, India, was completing his doctorate in business. His mother, Meena, was raising Bharat and later his two twin siblings, and directing the local Indian school where children of immigrants learned their heritage, language, and culture. When he was five, the family moved to Lexington, Massachusetts. In high school, he was on a debate team that competed nationally, and also found time to create and edit an alternative newspaper, taking care first to find a faculty sponsor so that the administration could not shut it down. After high school, he returned to Harvard as an undergraduate, and then went to Yale Law School.

His career as an aspiring lawyer and policy intellectual was nearly derailed by a stint in 2007 just after law school working for the Red Sox. Ramamurti is a serious baseball fan and devotee of statistics. Thanks to some networking at Yale, where Law Dean Harold Koh was a close friend of Sox Chief Executive Larry Lucchino, he wangled an internship. “They gave me data to massage, looking for patterns, he recalls.” He turned out to be a whiz at baseball number-crunching. His cubicle in the front office was 15 feet from General Manager Theo Epstein. It also happened to be the year the Sox won the series.

“It was really a dream come true for a nerdy baseball fan who grew up in the Boston area—working at Fenway on baseball stats during the day and then going up to the general manager’s box in the evening to watch the games,” he says. “As much as I loved that year, I realized working in baseball long-term wasn’t for me.”

He ended up working at two blue-chip law firms, then taking two clerkships. One was with a conservative Republican federal appellate judge, Janice Rogers Brown of the D.C. Circuit. His work there, meticulous and professional, honed what was to become another Ramamurti trademark, a rare capacity in a deeply polarized political system to engage respectfully with conservatives. After another brief stint with a law firm, Ramamurti hired on as Warren’s banking counsel in 2013. He was promoted in 2015 to director of overall economic strategy and policy. More than any other staffer, he became Warren’s Warren, with a temperament and a skill set very much like Warren’s own.

RAMAMURTI'S SEVEN YEARS WITH WARREN provided an apprenticeship for the position he now holds, where he is at last a principal rather than a staffer. For the Oversight Commission's first few weeks, there were no other appointees, so Ramamurti found himself functioning as de facto chair. The legislation requires one member to be appointed by the House and Senate majorities and minorities, with House Speaker Nancy Pelosi and Senate Leader Mitch McConnell jointly appointing a chair. The commission's other three members are Democrat Donna Shalala, who recently lost her South Florida seat in the House, and Sen. Pat Toomey of Pennsylvania and Rep. French Hill of Arkansas. But McConnell has continued to block naming a chair, so Ramamurti has continued in the role of de facto chair. He does this part time with one staffer paid by the commission and a day job at the Roosevelt Institute directing its project on corporate power.

Ramamurti's previous work set him up, temperamentally as well as in terms of his multiple skills, to do this job effectively—especially his penchant for deep research and ingenuity at seeking common ground. “The commission functions without a chair and it functions without partisan rancor,” says Damon Silvers of the AFL-CIO, who has worked closely with Warren since serving as her deputy chair of the Congressional Oversight Panel beginning in 2008. “A person with lesser skills could have polarized it. In this hyper-partisan environment, everyone comes into the room with their fists up. And yet Bharat was able to make the panel into an effective body that works by consensus, holds hearings, and issues reports.”

Another Ramamurti trademark is a rare capacity in a deeply polarized political system to engage respectfully with conservatives.

With Congress deadlocked over a second direct COVID aid package, the work of the Oversight Commission becomes even more urgent. The Fed is sitting on half a billion dollars, intended by Congress to help states, municipalities, workers, and Main Street businesses, but the Fed's efforts have been directed primarily at propping up the stock and bond markets (which it could do without the extra \$500 billion.) Unless Congress acts to extend its deadline, the Fed's ability to lend this money expires December 31.

In hearings, op-eds, and tweets, Ramamurti has pointed to the double standard. Corporations get government and Federal Reserve funds but are free to pay executive bonuses or lay off workers. Thanks to his efforts at bipartisan collaboration, the Commission did persuade the Fed to slightly lower the interest rate on loans to state and local governments. At a hearing September 21, Ramamurti demanded of a Fed witness why it was charging the state of Kentucky twice the interest rate it had charged Philip Morris, even though the two bodies have the same credit rating.

The six reports of the panel, though carefully couched to preserve bipartisan support, show evidence of Ramamurti's work, flagging the puny support to cities, states, and small businesses, contrasted with some dubious corporate loans. This is an uphill struggle, because the culture of the Fed resists direct lending in favor of bond purchases, and the Fed is allergic to losing money. And under the terms of the CARES Act, major revisions in Fed terms also require the concern of the Treasury. At the commission's September 21 hearing, the Treasury did not even deign to send a witness.

“We disagree on a lot, but we've completed our monthly reports without a chair and with minimal staff, and there has not been a minority report or a dissent,” says Ramamurti. “We've held two hearings. And we've found important areas of agreement—like saying the Fed should

stop its purchase of corporate bonds and that the Treasury's national-security loan to the trucking company YRC deserves more scrutiny."

When Warren chaired a similar panel, there were relentless dissents from her Republican colleagues. "It's astonishing what he's done with the oversight panel, in a highly partisan environment," Warren says.

But Sen. Toomey, who will be Banking Committee chair next year if Republicans hold the Senate, has argued that lending program should expire on schedule, and that the Fed and Treasury lack the authority to extend it. Ramamurti challenged this view both as matter of good policy and law. "It's clear that the Fed and the Treasury have the authority to extend the facilities, and they should," he recently told *The New York Times*. "There is continuing need for municipalities and smaller businesses, and there is a significant chance of market disruption if these facilities are not extended."

Ramamurti still holds out hope that the Fed could lend more to states and municipalities. He has pointed out that the Fed could lend at close to zero interest rates for ten-year terms, pending action by Congress. But prying loose that Fed money in more than token amounts by December 31 remains a long shot, and a serious infusion of public funds awaits the new administration.

Conventionally, the assumption is that Biden will be stymied by Mitch McConnell's determination to make sure his administration fails. But the dramatic increase in COVID cases, the prospect of a worsening economic collapse, and the cratering of state and local finances may bring around enough Republican senators so that Biden can govern. Even better, the success of Warren and Ramamurti in enlisting Republican senators to go after Wall Street abuses suggests that the governing recipe is no mere splitting of the difference but tapping a latent common populism. No less than Donald Trump sounded that note. He just neglected to deliver.