

The Business

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Pak-China FTA

China and Pakistan are close to a deal on balance of payment support of \$2.5 billion as a commercial loan rather than a concessional loan (or grant) and finalisation of the second phase of the Free Trade Agreement (FTA). Subsequent to Prime Minister Imran Khan's visit to China, Federal Finance Minister Asad Umer in a joint press conference on 6 November 2018 with Foreign Minister Shah Mehmud Qureshi stated that "China has agreed in principle to extend an economic relief package to Pakistan." However reports not contradicted by the government at the time revealed that while the Pakistan delegation requested balance of payment support at concessional interest rates yet the Chinese refused to accede to this demand and urged the government to first formulate a reform agenda to allow the Chinese to assess whether it was feasible to support it. Disturbingly to this day the PTI government has not shared its economic reform agenda targeted towards macro-economic stabilization, necessitating containment of the budget deficit, and instead the focus has been on acquiring loans from friendly countries to meet the yawning current account deficit of around \$19 billion.

There has thus been no serious attempt to either raise revenue or reduce expenditure and instead the government presented an industrial promotion package that envisages higher and not lower expenditure. This is not to state that the industrial promotion is not a worthy objective just that the state of the economy requires focus on stabilising key macroeconomic variables at this time. China as a long-term member of development financial institutions, with reduced reliance on borrowing from these multilaterals as its foreign exchange reserves soared, would, unlike Saudi Arabia and the United Arab Emirates, require a viable strategy before it agrees to extend balance of payment support. Unlike the United States Export Import Bank and other export credit agencies, Chinese banks rarely reveal information on specific financing agreements; and it is also rare for the recipients of such financing to fully disclose the details of the finance they receive from China.

It is unclear what government would agree to in terms of the rate of return on the loan for balance of payment support or the FTA. It is necessary for the government to procure loans from friendly countries at rates that are competitive and there is little doubt that if China is lending at commercial rates the International Monetary Fund presents a better option. Additionally, if the Chinese disagree to allowing Pakistani exports unfettered access to their markets and limit our exports to a mere \$2 to 3 billion at best there is a need for looking at the second phase of the FTA from new but informed perspective.



Freedom: The great debate

BABAR SATTAR

When the fundamental rights to 'liberty' and 'dignity' guaranteed by Articles 9 and 14 of the constitution have limited real-life utility, the heavily conditioned Article 19 promising free speech is dead in the water.

Why? Because we are a society where deference to authority is ingrained at every stage of one's socialisation, where 'freedom' is a dirty word, where dissent is an antonym for respect and where the state makes no bones of its resolve to maximise its power by controlling speech. The PTI's threat of controlling social media, therefore, makes folks nervous.

Article 19 makes free speech and expression subject to "reasonable restrictions imposed by law in the interest of the glory of Islam or the integrity, security or defense of Pakistan...friendly relations with foreign states, public order, decency or morality, or in relation to contempt of court, commission of or incitement to an offense." With such overarching justifications for censorship, free speech could only have found protection if the reasonable restriction requirement had been strictly construed and enforced by our courts. And that hasn't happened.

Article 19 was inscribed within the Prevention of Electronic Crimes Act, vesting in the Pakistan Telecommunication Authority "power to remove or block or issue directions for removal or blocking of access to any information through any information system if it considers it necessary in the interest of the glory of Islam or the integrity, security or defense of Pakistan or any part thereof, public order, decency or morality, or in relation to contempt of court or commission of or incitement to an offence under this Act". This was the handiwork of the PML-N.

When PECA was being considered by parliament many had cautioned that it would criminalise conduct that shouldn't be criminalised, equip investigation agencies and the PTA with overbroad and unguided powers susceptible to abuse and chill free speech. While civil society was calling out PECA for being a disaster, the then IT minister, Anusha Rehman, was labelling critics as enemy agents driven by nefarious agendas. Now when free speech will be clamped by the PTI in exercise of PECA powers, the PML-N will be at the forefront making noises.

In 2015-16, the PML-N was drunk on power. As the state's visible face, it believed PECA would be a power tool it would control. Back then, Imran Khan spoke up against online censorship. Dr Arif Alvi and Asad Umar were amongst opposition MNAs most supportive of having checks and balances built into PECA. While roles stand reversed, the underlying motivation is consistent. Today, the PTI mistakenly sees censorship as a power tool that it will control. It

is our friend Fawad Chaudhry's turn to lecture us on how our freedom to speak puts the West to shame. Those outside the power elite can see Islamabad's bewitching effect on those within the echelons of power. Islamabad creates a mesmerising illusion that you will be here forever. The PML-N thought it would arm itself with PECA to cut its critics to size. The PTI probably thinks the same now. But power really belongs to the state — and it hits whoever stumbles on its wrong side, as the PTI may ultimately discover too. Justice Holmes noted in *Abrams v US* that, "to allow opposition by speech seems to indicate that you think the speech impotent...But when men have realized that time has upset many fighting faiths, they may come to believe even more than they believe the very foundations of their own conduct that the ultimate good desired is better reached by free trade in ideas — that the best test of truth is the power of the thought to let itself accepted in the competition of the market." It is thus perfectly logical to try to control speech if you are interested in only power and not the truth.

As a historical matter, our state has remained interested in monopolising power without being inconvenienced by the truth. The focus on controlling speech has thus been a constant. But was it ever as bad as it is now? Today, one cannot write or speak in a way that challenges the approved narrative. Here are two simple tests: note newsworthy events revealed by social media that don't make newspaper headlines or evening talk shows; and count the number of individual YouTube channels opened by mainstream journalists.

So where does the problem lie? Do we have bad laws? Is there a gap between law and its implementation? Do we have unaccountable power structures? Or do we have a cultural ethos that eschews liberty? The safest answer would probably be 'all of the above'. It isn't that our judges are unable to aptly define 'reasonable restriction'. As far back as 1958, it was held in *East and West Steamship Company vs Pakistan* that "a 'reasonable restriction'... is one which is imposed with due regard to the public requirement which it is designed to meet."

That "anything which is arbitrary or excessive will of course be outside the bounds of reasons in the relevant regard, but in considering the disadvantage imposed upon the subject in relation to the advantage which the public derives, it is necessary that the court should have a clear appreciation of the public need which is to be met and where the statute prescribes a restraint upon the individual, the court should consider whether it is a reasonable restraint, in the sense of not bearing excessively on the subject and at the same time being the minimum that is required to preserve the public interest." Likewise, the judiciary has at times been extremely articulate about the need for fundamental rights to trump all else. In

Pakistan Muslim League v Federation (PLD 2007 SC 642) it was stated that, "the idea behind the concept of fundamental rights is that the preservation of certain basic human rights against state interference is an indispensable condition of free society" and that "a restriction is unreasonable if it is for an indefinite or an unlimited period or a disproportionate to the mischief sought to be prevented or if the law imposing the restrictions has not provided any safeguard against arbitrary exercise of power".

On free speech Justice Mumib Akhtar held in *All Pakistan Muslim League vs Govt of Sindh* that, "fundamental rights have been placed in the constitution not merely to protect acts, conduct and views that we may approve of but also, and especially, to protect views with which we may disagree or which we may even find unpleasant or unacceptable. In the context of freedom of speech (and expression of views at a political meeting is one form of speech), which of course engages Article 19, what therefore is protected is not merely speech that the listener may approve of or agree with, but also speech that he may disagree with or even hate." Such rulings, while a breath of fresh air, unfortunately remain exceptions to the rule. The rule is that critical speech will be penalised for threatening security, integrity, defence and the morale of state institutions by not treating the policies, actions and judgments of those who hold power within those institutions as immune to criticism; for jeopardising foreign relations if it criticises foreign policy; for undermining the morality or glory of Islam if it calls out the bigotry of religious elites; and for endangering public order if it censures the ruling political regime.

And if all else fails, the argument against irreverent and audacious speech is that free speech is one thing and 'maadar pidar azaadi' quite another. And that is the crux of the matter. We can rewrite Article 19, we can expunge Section 34 from PECA and other censorship enabling provisions, we can evolve progressive jurisprudence, and we can devise procedural mechanisms to guard against abuse of authority. But how do we begin doing any of this when our state and society share an aversion for independent human agency that questions entrenched ideas, norms and customs? Here is the counsel of Hazrat Ali (AS) for parents: "Do not raise your children the way [your] parents raised you, they were born for a different time." If you wish to raise kids such that at the age of maturity they act as your clones incapable of entertaining ideas you eschew or making choices different from yours, you believe in a form of paternalism that is destructive for human liberty and autonomy and freedom of thought and conscience. The relationship between 'azaadi' and 'maadar pidar azaadi' is this: if you can't accept the latter, you don't stand for the former.

Losing the plot

IRFAN HUSAIN

It isn't often that Imran Khan's ruling PTI and the PPP agree on anything. But they are on the same page when it comes to resisting the privatisation of loss-making white elephants that are sucking up state resources at a furious rate.

The figures are scary: between them, state owned enterprises (SOEs) have accumulated losses of Rs1.3 trillion, with their total debt and liabilities rising by 23.5 per cent last year. Together, they employ around 500,000 people. Keeping Wapda and PIA afloat cost the government Rs277 billion in 2017-18.

Given the huge subsidies and loans many SOEs get, it should not be a difficult decision to privatise them as soon as possible. And yet, successive governments have failed to get rid of them due to agitation by employees, or judicial interference in the privatisation process. Now it seems there is little appetite among local and foreign investors to get their fingers burned yet again.

Speaking at the recent World Government Summit in Dubai, Imran Khan wistfully recalled the days when PIA had helped Emirates Airlines get off the ground. This is a similar refrain to the one about South Korea using our five-year plan in the 1950s to jump-start its economy. Indeed, there is no shortage of believers who recall the days of the caliphate.

But in the here and now, we need to deal with the fact that the national airline is haemorrhaging cash at the rate of \$30 million a month, and has debts totalling \$2bn. It would be a brave investor who would take on such liabilities, especially when PIA has a militant union that resists privatisation tooth and nail. With 18,000 workers, the airline is grossly overstaffed.

This government has recently dropped Pakistan Steel Mills from its list of SOEs to be privatised, promising to produce a "restructuring plan" soon. Been there, done that. The basic problem with PSM is that the infrastructure was designed for an annual output of 3m tons, whereas the actual production capacity at the outset was geared for 1.1m tons.

The idea was that capacity would be increased, bringing down unit cost. But the government never managed to find the capital to expand production, and so the PSM continued to accumulate losses until it stopped production over two years ago due to non-payment of its gas bills. Although it has fallen silent, its 18,000 employees still have to be paid.

Quite apart from these numbers, there is a lot of foot-dragging over privatisation among the civil and military bureaucracies. SOEs allow officers to get senior jobs on deputation; here, they are entitled to special allowances and perks. Retired generals, admirals and air marshals have cornered PSM, PIA, Wapda, the Pakistan National Shipping Corporation and other SOEs. Despite their ignorance of finance, they announce their ambition to turn their enterprises around, only to run into the wall of economic reality.

Political parties want to retain their grip on SOEs so they can give their supporters jobs they are unqualified for. In fact, this is a major reason for the losses some of these companies are racking up. Also, crooked politicians use their clout to give front companies lucrative contracts. Ministers in charge of SOEs like ports have been known to get expensive plots of land allotted to front men.

The state invests in enterprises for a variety of reasons. Often, utilities like water, gas and electricity are managed by governments. Or the state steps in when the private sector does not find a sector attractive, or needs too large an investment over too long a gestation period. The state often gets into the armament business for strategic reasons.

But once an SOE is up and running, the usual practice is for the state to disinvest, and let the private sector take over. However, this does not mean that privatisation is always a good thing: in the UK, the sale of water, gas and electricity distribution has meant rising prices to consumers coupled with bloated salary packages and bonuses to top executives. In Pakistan, many privatised entities were gutted, and the land and machinery sold. But at least the taxpayer did not have to cover their losses.

This is an equation many people — some of our judges included — do not seem to grasp. It doesn't really matter if an entrepreneur makes a profit; what matters is that he doesn't pass on his losses to the state. So when the previous government offered to sell PIA for a rupee, a chief justice expressed his anger at this seeming generosity. He was unaware of the accumulated losses that would have to be borne by the buyer.

This kind of fiscal ignorance, combined with official reluctance, will keep the government throwing good money after bad. Ultimately, we need to ask whether SOEs are being run for consumers and taxpayers, or for their staff.

CPEC and the 'Great Game'

MUNIR AKRAM

Over the past year, the Western media, echoed by many in India and some in Pakistan, has conducted an extensive campaign of criticism against the China-Pakistan Economic Corridor (CPEC) project. It has been variously asserted that the project is building roads that are not needed; it will only facilitate China's trade and bring little benefit to Pakistan; it will burden Pakistan with enormous foreign debt, and so on.

This campaign gained momentum after US Defence Secretary James Mattis remarked that CPEC would traverse 'disputed territory' (meaning Gilgit-Baltistan) and former US Secretary of State Rex Tillerson questioned the financial structure of projects under China's Belt and Road Initiative. US opposition to CPEC seemed to be confirmed when in July the current Secretary of State Mike Pompeo argued that an IMF financing programme for Pakistan should not be used to repay Chinese 'bond holders' and banks.

The US stance was interpreted widely as part of its strategic confrontation

with China (spanning trade, technology, the South China Sea) and an additional point of pressure to secure Pakistan's compliance with American demands on Afghanistan.

The state secretary's remarks doubled the doubts within the incoming Pakistani government about the wisdom of approaching the IMF to achieve the urgently required stabilisation of Pakistan's economy, especially its external imbalances. In an interview, Finance Minister Asad Umar stated that "if we choose not to go to the IMF", it will not be because of the expected 'economic pain' but because of 'non-economic' and 'national security' considerations.

Prior to the elections, PTI leaders had spoken of the need to review some of the CPEC projects and to prioritise the social objectives espoused by the party. China was naturally anxious that between this desire for a review by the new government and the Western media onslaught, the CPEC project, which is the flagship of President Xi Jinping's Belt and Road Initiative, may be derailed.

CPEC was a major item on Chinese Foreign Minister Wang Yi's agenda for

his recent visit and talks with the new Pakistani government. Any doubts regarding Pakistan's position on CPEC were laid to rest in the public and private assurances conveyed by the prime minister, foreign minister and the COAS to the Chinese foreign minister.

But the Western media has persisted in its campaign. The Financial Times published an article entitled 'Pakistan rethinks its role in Xi's Belt and Road plan', printed the day after the Chinese foreign minister's visit. It quoted purported remarks by Pakistan's trade adviser expressing disquiet about the 'disadvantages' of some CPEC agreements which Pakistan intends to 'renegotiate'. The commerce ministry immediately issued a strong rebuttal stating that there was "complete unanimity" between China and Pakistan on CPEC's future direction and affirmed the Pakistani government's commitment to CPEC. Even after this, the Wall Street Journal offered an article asserting that Pakistan is 'pressing' China 'to realign the goals' of CPEC 'to take on poverty-alleviating initiatives and build factories'. In fact, the projects included under CPEC were those identified by

the previous PML-N government. China has consistently expressed readiness to reflect the priorities of the new government for social infrastructure and poverty alleviation projects. An agreement to make these and other adjustments was in fact reached a day ago by Pakistan's planning minister and deputy head of China's National Development and Reform Commission.

Meanwhile, Pakistan's information minister told the press that during his talks in Islamabad, the US secretary of state had assured that the US will not block an IMF financing programme for Pakistan. This implies a lifting of US objections to the servicing of Chinese debt (which is a fraction of debt to Western financial sources).

A video, circulating on the internet, evidently sponsored by the Wall Street Journal, projects Pakistan and CPEC as the fulcrum of US-China strategic competition. Yet, the Western media may be 'more royal than the king' if not dead wrong. Rather than being the focus of competition, Pakistan and Afghanistan may be one area where the US and China could cooperate rather than compete. The US has several tactical and

strategic reasons to cooperate with China and support CPEC. First, the US needs China's support to realise a political settlement in Afghanistan. The US and China are both working in parallel to improve Pakistan-Afghanistan relations. China also has close contacts with the Afghan Taliban. It desires, like the US, to eliminate all terrorism emanating from Afghanistan. It can make large investments in Afghanistan. And it can moderate any disruption of a political settlement by Iran, Pakistan and even Russia.

Second, the extension of CPEC to Afghanistan would contribute to its 'connectivity' to Central Asia, China and beyond, and foster its development and stability. Moreover, if India joins CPEC (eventually), it will gain access to Afghanistan and Central Asia (which Pakistan has staunchly resisted so far). Both objectives are part of the US strategy for South Asia. While noting the new Pakistani government's commitment to CPEC, the Chinese foreign ministry spokesman significantly added that the construction of CPEC "can absorb third party participation and benefit the entire region". Third, CPEC is essential

for the stabilisation and growth of the Pakistani economy. The US will no doubt pressure Pakistan to do its bidding on Afghanistan. It will push Pakistan to bend, not break. In the ultimate analysis, a 'failed' nuclear Pakistan is not a palatable prospect for either the US or China. China's assumption of the onus for Pakistan's economic stabilisation is not a bad bargain for the US. These considerations may not be accepted at present by vengeful US generals, intelligence operatives and ideologues, smarting from their failure in Afghanistan.

They are better understood by US foreign policy professionals. Indeed, the Obama administration expressed support for CPEC. The major opposition to CPEC, going forward, will emanate from a chauvinistic Indian regime which sees the sponsorship of terrorism in Balochistan and unrest in Gilgit-Baltistan as a smart strategy to restrain Pakistan's support for the Kashmiri freedom struggle. Yet, given the tectonic shifts in strategic alignments in the entire Asian homeland, and the opportunities for an economy-led normalisation across the region, India may be shooting itself in the foot.