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REGULATION v. NATIONALISATION

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The forms of the intervention of the State in the economic life of society are numerous. In dealing with economic life, government is not confined to the exercise of governmental power through regulation alone. One of the most effective methods of governmental intervention is (1) the creation by the state, or (2) the taking over by the state of enterprises of an industrial or commercial nature.

In India, unlike in U.K., extension of public ownership by means of nationalisation of existing enterprises was never accorded high priority. We can trace this policy of the government through its several industrial policy statements. The Industrial Policy Resolutions of 1948 and 1956 aimed at greater production and the proper distribution of wealth so produced in order to establish a society - wherein justice and equality of opportunity would prevail. Both resolutions, therefore, envisaged a greater role for the state in the economic development of the country. The resolution of 1948 however, made it clear that in view of the limited resources at the disposal of the government, it should concentrate on the expansion of the units of production under its control rather than nationalise existing units in the private sector. This approach was reiterated by the Planning Commission in 1950. It said "Nationalisation of existing enterprises which means acquisition by the government of existing productive assets has in our view, only a low priority especially as most of the purposes of such a transfer of ownership can be served by judicious regulation."

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Subsequent to the Industrial Policy Statement of 1948, various legislative measures were enacted to devise the means for 'judicious regulation.' The Industries (Development and Regulation) Act, was passed in 1951, to secure optimum utilisation of investible resources for the benefit of balanced industrial development of the different parts of the country and to secure proper development of various sectors of industries. Till 1953, the Act was confined to the licencing powers, so far as regulation aspect was concerned. But in that year, through an amending Act, powers were also taken to cause investigation to be made into the affairs of any industrial unit and to take over its management, if it was running in a manner highly detrimental to the industry concerned or the public interest.

Another important legislative measure, the Essential Commodities Act, in the direction of 'judicious regulation' was enacted in 1956 to regulate the prices and distribution of scarce commodities.

In 1956, the old Companies Act was repealed and a new Act was passed to regulate the form, organisation and management of individual units to prevent concentration of managerial control, high managerial remunerations and the like.

In the case of banks the controversy between regulation and nationalisation has always occupied a prominent place both inside and outside the Parliament. The measures taken by the government in the name of 'Social Control' appear to have put a temporary halt to this controversy.

The need for stricter regulatory measures to prevent monopolistic and restrictive practices and concentration of wealth was realised by the government only recently. On the basis of the recommendations made by the Monopolies Inquiry Commission in 1964, the government recently introduced a Bill in the Lok Sabha to fill the lacuna in the regulatory measures over the private sector in this direction.

II

Nationalisation in India: Failure of Regulatory Measures as a Prerequisite.

By and large the motivation for government ownership depends upon the kind of political and economic value to which a society adheres. If a society is committed to the tenets of socialism, then government ownership may be justified as an objective of that system. In Communist States there is a deliberate and almost complete ownership and management of all economic activities by the state. This is the result of a doctrinaire approach to the role of state. In non-Communist states no single motive has been responsible for the increase in government ownership. In some cases, government has entered the field because the enterprise was too large for private capital or because the rewards were too small or too speculative to attract private capital, in others it seemed undesirable to leave a monopoly, however, well regulated, in private hands. The failure of private enterprise has also been the occasion for public ownership. In certain areas where private ownership originally prevailed and the enterprise has become unprofitable, government has taken it over in order to continue the service. In some cases, public ownership and operation have been stimulated by the revelation of abuses and malpractices under private enterprise and by the failure of regulation to correct these evils.

In the industrially advanced countries of Europe and even in U.S.A. the momentum toward public ownership was quickened during the late thirties as a result of the disillusionment with the performance of the private enterprise and realisation of the limitations in the efficacy of regulatory measures to establish a sound system of economy. The fields in which regulation of private business has been found ineffective are central banking, transportation and communications, and public utilities. The result is that in nearly all countries the central banks are now owned by governments. And in some countries, commercial banks and insurance companies have also been nationalised. Railroad outside the U.S.A. have long been public undertakings. Civil aviation, electricity and water supply have been brought under public ownership in many parts of the world. Post and telegraphic services are owned and operated by almost all the governments of modern times.

In India there has been no undue nationalisation. The inherent right of the state to acquire any existing industrial undertaking (called Eminent Domain) is incorporated in the Constitution, but it was used very sparingly. The few nationalisation schemes that were undertaken by the government were motivated by pragmatic considerations and economic expediency. In fact it is alleged that public ownership in India has not been advocated "either for democratising power hitherto held without corresponding responsibility in the hands of the few, or for increasing the productive efficiency of decaying industries, safeguarding consumers against monopoly exploitation, protecting public interest already in danger or for escaping from the costly burdens of regulating private enterprise."*

Since independence, only three nationalisations of considerable importance were undertaken at the All-India level. In 1953, the air transportation was nationalised. This step was taken to put the industry on sound footing. The air transport industry of India was in poor financial condition, poorly organised and inefficient. Many Airlines were pressing the government for financial assistance. There was need for expanding the services and integrating them with the country's air force. Moreover, virtually every country in the world, excepting the U.S. had assumed public ownership of this important public service.

In 1955 the Imperial Bank was taken over under public ownership. This step was found to be necessary in the public interest. The Reserve Bank of India undertook a comprehensive survey of rural credit in 1951-52 as part of agricultural development programmes which revealed a rather deplorable situation. The imperial Bank, the largest private bank in India with branches throughout the country, was not providing adequate rural credit facilities for Indian agriculture. Rather than establish new and overlapping banking facilities, the Government of India decided to take over the Imperial Bank for this purpose.

In 1956 the Government of India nationalised the Life Insurance business. It was found that the concept of trusteeship which should be the cornerstone of life insurance seemed extensively lacking. The government

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* P. Prasad: quoted from Ignacy Sachs "Patterns of Public Sector in Underdeveloped Economies."

felt that no legislative fence would prove high enough to prevent malpractices and that nationalisation was the only remedy. The inefficient and corrupt management of some companies entailed losses to policy holders. In 1953, the country was shaken by the Dalmia scandal wherein it was revealed that Mr. Dalmia had used funds of his life insurance company for other purposes in his industrial empire. At this time the government of India was seeking means of marshaling the savings of the country for economic development and for financing the Second Five Year Plan programmes.

At the state government level, nationalisation of Kolar Gold mines by Mysore State was perhaps the most conroversial of the lot. There was far less socio-economic justification for it. Subsequent events stand testimony to this statement.

Road transport and electricity undertaking were taken under the public ownership by many state governments on grounds of economic expediency.

In earlier stages of industrial development many state governments and the central government assisted various industrial undertakings with large sums of money. Subsequently when these private undertakings failed to muster the necessary resources for expansion and development, the state and the central government had to take over these concerns under public ownership. Examples of such 'forced' takeovers arethe NEPA, the Hindustan Shipyard, the Praga Tools, Nahan Foundry etc. The recent addition is the Jayanti Shipping Company.

Nationalisation has also been resorted to in the case of derelict industries. The decision of the Government of India to establish a corporation to manage the 'sick' textile mills is a good example.

Under the Industries Development and Regulation Act, the Central Government had taken over for direct management and control certain industrial undertakings on grounds of (i) financial troubles encountered by the management and thereby a financial breakdown; (ii) huge losses due to high cost of production and poor realisation and incompetent management; (iii) on unemployment relief scheme basis to provide for the local labour who depends on the employment provided by the mills.

The net result of these takeovers is that the public sector in India is burdened with 'white elephants' whose performance must necessarily be of a very low order, atleast in the immediate future.

III

In the present Indian context both moral and economic considerations put a fundamental restraint on the desirability of the government taking over a concern on grounds of inefficiency and malpractices, or the ineffectiveness of the regulatory measures to remedy the situation. In India inefficiency and malpractices are not confined to the private business alone. Numerous instances can be cited to show inefficiency and malpractices in the public sector undertakings also. The result is that the enthusiasm shown by the public in favour of nationalisation immediately after independence is no more evident. In other parts of the world, notably in U.K., during the late forties and early fifties the tide of nationalisation reached its high point, but with disillusionment of fifties on account of poor performance of the nationalised undertakings, it started to recede. Today the burden of proof is upon the government to show that it would produce better results by taking over a concern from the private hands. This sounds to be a conservative approach, but unfortunately it appears to be the correct stand when purely socialistic considerations are not given much prominence by the vokaries of public ownership.

The causes of the ineffectiveness of the regulatory measures in producing the desired results should also be investigated. If the regulatory measures are such that it is very difficult to comply or the administrative set up is such that it cannot administer them impartially and with competence, the case for nationalisation is very much weakened, since it is doubtful whether such a set up will be in a position to manage the nationalised undertaking in the interest of the community.

Professor Gadgil's rightful indignation is shared by all when he suggests for expropriation without compensation in the situations disclosed by the Bose Commission on the Dalmia-Jain concerns. In the course of the findings of the Commission, it has been found that "a group of business men has acted together in the past, in all kinds of devious, patently unfair or even illegal ways, and has, as a result, not only made large gains for its members, but has also enabled them to attain to such dominant economic position that a part of the old groups, as such, and most of its members individually, are today among the most powerful and prosperous business concerns and business men in India."*

I would like to extend this condemnation against those persons or the system which allowed these groups to polluate the economic life of the nation. If we assume that private business also is responsible for causing the breakdown of regulatory measures aimed at preventing inefficiency and concentration of wealth and power and in general evolving an economic system- wherein justice and equality of opportunity would prevail, then our 'mixed economy' has to undergo a drastic change.

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