

Deregulation as a tool to discipline the State

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Deregulation is among the most consequential administrative reforms undertaken by the state. India's ongoing efforts to simplify procedures, reduce paperwork, and replace imprisonment with monetary penalties mark a decisive shift in governance, enhancing predictability, lowering transaction costs, and signalling trust in citizens and enterprises. The *Jan Vishwas (Amendment of Provisions) Act, 2023* and the *Jan Vishwas (Amendment of Provisions) Bill, 2025* embody this transition from a permission-and-penalty regime to a trust-based government. Yet, beyond these efficiency gains lies a larger question: do they fulfil the true purpose of deregulation? With the Prime Minister calling for deeper reforms and announcing a High-Level Committee on Deregulation, it is evident that India must now move from administrative simplification to a more fundamental rethinking of why and how the state regulates.

The Indian state has often treated deregulation as a form of administrative housekeeping. Redundant provisions are deleted, fines rationalised, and digital portals introduced to replace manual processes. While these measures are laudable, they only modify the form of regulation. The deeper question, the substance of regulation, remains largely untouched.

Born of a socialist ethos, India's regulatory mindset has treated the state as master rather than midwife to enterprise. Control became the default instinct, regulation a tool to discipline rather than to enable. The citizen or firm is treated as a subject whose conduct must be permitted, monitored, or corrected. This logic pervades even modern statutes, producing a culture of compliance without autonomy. The outcome is an administratively lighter but conceptually unchanged state, one that still imagines order as something to be imposed rather than co-created.

True deregulation requires dismantling this epistemology of control. It involves recognising that the purpose of regulation is not to extend state authority but to structure freedom. It is to define boundaries within which enterprise and innovation can safely and predictably occur.

A radical approach must begin from first principles, examining the teleology of regulation and the moral assumptions embedded in law. Three questions are foundational.

First, what is the legitimate objective of regulation? Regulation exists to reconcile freedom with responsibility. It fails when it substitutes bureaucratic uniformity for economic adaptability. The purpose of deregulation is to restore proportion. It is to ensure that scope of government intervention is strictly commensurate with the risk or externality it seeks to address.

Second, what conception of the citizen underlies the law? Many legacy statutes are written for subjects, not citizens. They assume malintent and design enforcement as pre-emption. A modern democratic state must invert this assumption. Regulation should operate on a presumption of good faith, drawing on transparency, disclosure, and deterrence rather than ex ante permission.

Third, what is the epistemic competence of the state in a complex economy? The assumption that central authorities can anticipate all contingencies is an artefact of the command economy. As Friedrich Hayek

demonstrated, information is local, tacit, and continuously evolving. Regulation must therefore be adaptive, iterative, and experimental, guided by evidence and feedback rather than static command. This means, any legislation should define first principles. More and more procedural items should be part of the rules, which is easier to amend.

Translating these philosophical commitments into operational design requires institutional instruments that embed adaptability and accountability in the regulatory process.

First, every proposed regulation should be accompanied by an ex-ante Regulatory Impact Assessment (RIA) quantifying compliance costs, evaluating alternatives, and disclosing trade-offs. RIAs must be made public and subject to independent review. The absence of an RIA should constitute procedural invalidity.

Second, all regulations should contain mandatory expiry or review provisions, typically at five-year intervals. Re-enactment should depend on a demonstrated continuing need, verified through ex post evaluation. This reverses the burden of proof: a regulation must justify its survival, not its repeal.

Third, dispersed subordinate legislation should be consolidated into thematic regulatory codes, updated annually. Codification eliminates duplication, facilitates machine readability, and permits algorithmic monitoring of compliance.

Fourth, performance of regulators should be assessed through transparent metrics such as average time to compliance, inspection-to-violation ratios, and stakeholder satisfaction. Ministries must publish these indicators on digital dashboards reviewed periodically by a central Regulatory Oversight Council.

We are not conflating deregulation with abdication by the state. Rather, regulation should be seen as a tool to discipline the state. It asserts that legitimacy in governance arises from proportionality and clarity rather than volume or coercion. A state that intervenes selectively and transparently governs more effectively than one that legislates indiscriminately.

This philosophy demands a reorientation of bureaucratic incentives. Regulatory agencies must be rewarded not only for issuing new instruments but also for repealing or simplifying existing ones. The metric of success should shift from activity to impact. The goal is not to produce regulation faster but to produce less of it, better.

Such a transformation also requires regulatory humility, i.e., an institutional ethos recognising that no framework is permanently adequate. Economic systems evolve faster than legal systems. The law must therefore institutionalise mechanisms of continual adaptation.

The point is not to tidy up the jungle, but to question why we keep planting it. The most radical act of governance may simply be the willingness to let go, to govern by restraint rather than reach. After all, the state that never knows when to stop governing ends up governing nothing well.

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