



## Dealing with data

Public inputs are vital in framing a robust law to protect individual data

The dawn of the information age opened up great opportunities for the beneficial use of data. It also enhanced the perils of unregulated and arbitrary use of personal data. Unauthorised leaks, hacking and other cyber crimes have rendered data bases vulnerable. But it is the conflict between the massive scope for progress provided by the digital era and the fear of loss of individual autonomy that is foregrounded in any debates about data protection laws. It is against this backdrop that the White Paper made public by the Justice B.N. Srikrishna Committee to elicit views from the public on the shape and substance of a comprehensive data protection law assumes significance. To some, in this era of Big Data analytics and automated, algorithm-based processing of zettabytes of information, the fear that their personal data may be unprotected may conjure up visions of a dystopian world in which individual liberties are compromised. Therefore, it would be appropriate to draw up a law using the rights-based approach of the European Union's General Data Protection Regulation, 2016, in which data protection is comprehensive and exemptions limited. Some may prefer the American model in which the norms are stringent for government departments processing personal information, while private entities have to abide by the norms of giving notice and receiving consent. An enlightened citizenry will only help itself in participating in the search for a good data protection framework.

India does not have a separate law for data protection, though Section 43A of the Information Technology Act provides a measure of legal protection of personal information. In 2012, the Justice A.P. Shah Committee recommended a set of principles for a legal framework for protecting privacy. Drawn from OECD guidelines, these principles were centred on sufficient notice and disclosure to citizens when data are collected, limitations on data collection and use, and norms related to data security and accountability. The Srikrishna Committee has also flagged seven major principles. It wants the law to be technology-agnostic and enshrine the principle of informed consent. It favours data minimisation and accountability of those who process and control data. It privileges a holistic approach as the law would apply to both government and private entities, but with "differential obligations". This is where the law requires careful drafting and strictly defined concepts. It is legitimate to collect personal data in the public interest, but this information should be protected and used only for the purposes it was collected. Above all, the law must provide for a suitably empowered statutory authority to enforce its promised protection to citizens' data.

## Irish recovery

Leo Varadkar's government averts a potential collapse, but question marks remain

The resignation of Frances Fitzgerald, Ireland's Deputy Prime Minister, has averted the risk of an early election and saved the minority government of the Fine Gael party. Ms. Fitzgerald becomes the second political casualty in less than a year of a long-standing scandal, after former premier and highly regarded centre-right leader, Enda Kenny, was forced to step down as Prime Minister in May. The specific allegation against Ms. Fitzgerald was that as the Minister for Justice in the previous administration she did not take action despite having knowledge about an attempt by an ex-chief of police to discredit a whistleblower. She had claimed that she had no authority to intervene in the matter when a judicial inquiry was under way. But once Sinn Fein, the headline party of the left, moved a vote of no-confidence this month, her exit was inevitable. While Prime Minister Leo Varadkar initially defended his deputy, the opposition Fianna Fáil, on whose support the Fine Gael minority government depends, moved a motion against her. Ms. Fitzgerald's resignation has averted the collapse of the government for now. The reprieve Mr. Varadkar has earned has come at a critical stage in Ireland's negotiations in the European Union over the implications of Britain's exit from the bloc. At issue is the maintenance of the status quo of open borders with Northern Ireland, which underpins the landmark 1998 Good Friday agreement. Britain's withdrawal from the EU customs union could lead to the reintroduction of security checkpoints.

Agreement on the status of the Irish boundary is one of the three EU preconditions for Brexit negotiations to move to the next phase, to discussions on a free-trade agreement between London and Brussels. There has been greater progress on the other two elements of the terms of Britain's divorce – a financial settlement and the reciprocal rights of U.K. and EU citizens. The future of the Irish border is intertwined with the nature and shape of the U.K.'s relationship with the bloc, and clarity could take some time coming. Mr. Varadkar's insistence on obtaining written assurances on how London proposes to prevent a hard border and the threat to block Brexit talks are possibly aimed at domestic audiences. Dublin has even demanded that post-Brexit, Northern Ireland be integrated into an EU regulatory regime. London's conservative government, propped up by the Democratic Unionist Party, may view this as no more than political posturing by an equally weak government across the border. The broader reality is that Britain is Ireland's largest market, and the gateway for sizeable exports to Europe and the rest of the world. In the current state of Brexit negotiations, a spirit of reasonable accommodation could well define the future.



SUHASINI HAIDAR

The Pope has been in South Asia this week, with the focus of his stops in Bangladesh and Myanmar on the reconciliation and rehabilitation of more than 836,000 Rohingya (including 623,000 since August, according to the UN's International Organisation for Migration) who have fled gruesome violence in Myanmar.

### Flurry of diplomatic activity

The Pope is by no means alone. In the past month, the U.S. sent Secretary of State Rex Tillerson to Myanmar, while a senior State Department team as well as the British and Canadian international development ministers travelled to Rohingya camps in Bangladesh's Cox's Bazar. Singapore's Foreign Minister has made trips to Naypyidaw and Dhaka, exploring a role for ASEAN countries to help in the crisis. And earlier this month, Bangladesh Foreign Minister Abul Hasan Mahmood Ali took the European Union's Foreign Affairs High Representative along with the German, Swedish and Japanese Foreign Ministers for a survey of the refugee camps. No Indian leader has, however, visited them.

In a rare shift of position from not involving itself in the internal politics of another country, China decided to play a mediatory role in the issue, and Foreign Minister Wang Yi went to Dhaka to meet Prime Minister Sheikh Hasina on November 18, and then to Naypyidaw to meet President Htin Kyaw. Within days, Bangladesh and Myanmar announced an agreement to begin the repatriation of Rohingya refugees back to Rakhine province in about two months, as part of what Mr. Wang

called a three-phase solution. It is significant that within the same week, Myanmar Army Chief Min Aung Hlaing visited China for more talks on the Rohingya crisis, while the country's other power centre, State Counsellor Aung San Suu Kyi, is now headed to Beijing for three days.

### Biggest nation, smallest voice

In this flurry of diplomatic activity, it would be natural to ask why India has been so soft-footed and silent in comparison. As the subcontinent's biggest nation, neighbour to both Bangladesh and Myanmar, as well as the country most likely to be affected if the numbers of Rohingya refugees continue to grow, India in fact should be showing the most initiative in this crisis. Instead, through a series of blunders that began with Prime Minister Narendra Modi's own visit to Myanmar, India has allowed its voice to be muffled. Even as hundreds of thousands were fleeing violence at home, Mr. Modi refused to refer to the Rohingya in his press statements in Naypyidaw in early September. Nor did India refer to anything other than the terror strike by the Arakan Rohingya Salvation Army while discussing the violence in Rakhine. It wasn't until two days later, and after some prodding from Ms. Hasina, that the Indian foreign office even issued a statement of concern over the refugee crisis that had reached alarming proportions, something the U.S. has now called a clear case of "ethnic cleansing". Moreover, in Bali, India refused to endorse a 50-nation parliamentary conference's declaration because it referenced the Rohingya. Every other South Asian country, including Buddhist-majority Bhutan and Sri Lanka, endorsed the Bali declaration.

Later in September, the government began to dispatch humanitarian aid in an operation rather grandly named "Operation *Insani-*



REUTERS

yat (Humanity)", but was only one of several countries including the U.S., Turkey, Azerbaijan, Malaysia and others to do so. The government's consignment to Myanmar of a mere 3,000 "family bags" last week also slipped notice given the large numbers of those displaced inside Rakhine and in desperate need of assistance. The Indian effort, coupled with Foreign Minister Sushma Swaraj's visit to Bangladesh, where she didn't even spare time for a trip to the camps, stands out not just in stark contrast to other nations, but to India's own record. In every way, the Rohingya crisis is mammoth, with around a million men, women and children in Bangladesh and Myanmar living perilously. India, which has a tradition of rushing humanitarian aid and medical assistance, doctors and volunteers to other nations – for example, after the 2004 tsunami, the 2008 Cyclone Nargis that hit Myanmar, and the 2015 Nepal earthquake – has been seen to visibly hold back during the Rohingya crisis.

### Position at the UN

Meanwhile, at the UN too, India's voice has been consistently muted, ceding space to other countries to take the lead on the issue. The U.K., for example, hosted a meeting on the sidelines of the UN General Assembly with Myanmar's National Security Adviser and Ban-

gladesh's Foreign Minister, attended by senior officials from Indonesia, Turkey, Australia, Canada, Sweden, Denmark and the U.S. At the UNGA's Third Committee vote, India abstained on a resolution calling for an end to military action, one of 26 abstentions on the proposal to send a UN fact-finding mission to Myanmar – 135 countries voted in favour of the resolution. While India's vote is consistent with its position on interventionist resolutions, it doesn't mark itself out for principled leadership of any kind. If anything, the votes have had a bearing on India's standing in Bangladesh, one of its closest allies in the region, whose leadership is struggling to cope with the flow of refugees as Ms. Hasina braces for a tough election next year.

In short, all of India's actions since the outbreak of this round of violence in Myanmar have negated its position as a regional, subcontinental and Asian leader. Regaining that stature will require a more proactive stance in being part of the solution to the crisis.

To begin with, the impression that the government's decision to push out nearly 40,000 Rohingya living in India since 2012 is guided by its domestic political compulsions is not conducive to India's international ambitions. Therefore, it may be necessary for India to put its own concerns about repa-

triation on hold until it is able to work with both Bangladesh and Myanmar on the issue, preferably in a trilateral format. This should have been easier for India than for China, given it already works with them on regional issues as a part of BIMSTEC.

### Spell out the refugee policy

The government must also iron out internal contradictions on India's refugee policy. Even though it is not a signatory to any UN refugee convention, India has a proud tradition of giving a home to neighbours in distress: from Tibetans in 1960s to East Pakistanis in the 1970s, from Sri Lankans in the 1980s to the Afghans in the 1990s. More recently, the Modi government even changed its long-term visa rules to help minorities fleeing violence from neighbouring Afghanistan, Bangladesh and Pakistan. If India now says it cannot help Rohingya, who are a minority in Myanmar, it is either saying that Rohingya are not Myanmarese or that Myanmar is not a neighbour, both of which contradict previous positions. The government's argument in court that Rohingya refugees pose a terrorist threat wasn't used for Sri Lankans or Afghans. India also has a unique position as a country that is home to every religion practised in the region and must play to this strength.

For all these reasons, India, which has high stakes in global and regional governance, must ensure its voice is heard on the Rohingya crisis. Mumbling as part of a chorus while one of the biggest human tragedies is unfolding across two of India's borders does not behove a nation with global leadership aspirations. Those questioning India's push for a Security Council seat have often cited its record as a fence sitter at the UN. All those critics must be silenced now by clarity in India's position on an issue where abstentions cannot suffice.

# Some animals are more equal than others

It is time we gave priority to animals on the basis of the threat perception



USHA RAI

When a tiger dies in a national park, it makes it to the front pages of newspapers, and bureaucrats and animal lovers go into a huddle to avert another tiger death. There is similar concern over the death and destruction of habitats of other large mammals like elephants, rhinos, leopards and snow leopards because they attract tourists and bring in revenue. These larger-than-life species are also our window to the outside world.

### The forgotten ones

However, several smaller species die, or are near extinction, or are threatened in India. These include the the Great Indian Bustard, the house sparrow, the shy Indian pangolin, the caracal, the slender loris and the star tortoise, which do not evoke the same public outcry or action. The National Board for Wildlife in 2012 identified more

than 15 species, including the magnificent Hangul of Kashmir and the Barasingha of Madhya Pradesh, as critically endangered.

Are we suffering from what M.K. Ranjitsinh, one of India's leading authorities on wildlife, calls mega species myopia? No one wants to remove the tiger from its exalted position as the first among equals. It is true that in protecting the tiger we are protecting an ecosystem. The big cat dominates the high grasslands. But what about the animals in the dry grasslands, the mountains? It is true that excellent conservation work has led to greater sighting of the snow leopard in the snowy reaches of Ladakh and Himachal Pradesh, but should not this support extend to its prey base and the less glamorous species of the region?

The hog deer, which are prolific breeders, were the principal food of the tiger in the grasslands of Corbett National Park in the sixties. There was an abundance of them and it was a major species of the park, vital for the survival of the tiger. Now there may be just 20 of them in Corbett and no one seems concerned. Though the pre-



ASAD RAHMANI

ferred food of the tiger is the chital, there were not enough of them in the sixties to provide sustenance for the tiger, so the focus was on the hog deer.

One of the rarest species and undoubtedly one of the most endangered is the Great Indian Bustard, which is the State bird of Rajasthan. Endemic to Jaisalmer and Pokhran, its habitat was severely damaged by the nuclear tests in 1974 and 1998. Their numbers may be down to 60 in their home turf, says Mr. Ranjitsinh. In Gujarat, not a single adult male has been sighted. In the Naliya area of Kutch, the last bastion of the bustard in the State, power lines are pushing out the

bird. In Maharashtra too, they are missing. The world population of the bird may be just 80.

The mouse deer (scientific name Chevrotain) is a miniature, just a foot high and tiptoes like a ballerina. It can be found in the Sal forests of south India, Madhya Pradesh and West Bengal. Mouse deer meat is said to be delectable and before the Wildlife Act came into existence, it cost thrice the price of any other meat. The mouse deer raises its young in the hollow of the fallen Sal, but unfortunately these trees are used as fuel wood.

The caracal has disappeared from the Kuno sanctuary of Madhya Pradesh. However, there are records of it being seen in Ranthambore in Rajasthan and in Kutch, Gujarat. It is feared that the Malabar civet cat may have gone into extinction.

### Traded or killed

The pangolin, which can be found all over India, seems doomed because its scales, which are said to have medicinal value and are more expensive than gold, are sheared ruthlessly. Its meat too is in demand in China. Illegal trade

continues not just in parts where there are tigers but also in parts where there are musk deer, otter, mongoose and other animals.

The slender loris, a nocturnal animal found in the Western Ghats, and the tortoise are traded in the pet market.

Now with reports of nomadic Gujjars making forays into Dachigam, the Hangul, the only deer species of its kind, is down to around 200. Manipur's State animal, the brow-antlered deer or Sangai, which lives on the floating morass of Loktak Lake, is also fighting for survival with numbers down to around 200. However, with Sangai festivals and Sangai tour services, Manipur is going all out to protect them.

With so many small animals on the verge of extinction, it is time we gave priority to animals on the basis of the threat perception to them. Today, we have the expertise to save them but lack the political will. They are perched on a precipice and unless we act, they will become as dead as the dodo.

Usha Rai is a Delhi-based journalist

## LETTERS TO THE EDITOR

Letters emailed to letters@thehindu.co.in must carry the full postal address and the full name or the name with initials.

### Gujarat battle

It is amusing that Congress vice-president Rahul Gandhi is asking Prime Minister Narendra Modi to give accounts of the BJP's 22-year rule in Gujarat, forgetting the fact that the party has been repeatedly voted into power only because the people endorse its policies ("Account for your 22 years", Nov. 30). Victory in Gujarat is essential for Mr. Gandhi, but it appears that he lacks a strategy to fight the elections. While he highlights national issues like demonetisation and promises routine sops like quota in employment, he fails to realise that Gujaratis are development-oriented, which is what the BJP's policies underscore.

KSHIRASAGARA BALAJI RAO, Hyderabad

With the electoral battle heating up in Gujarat, it

would be interesting if Mr. Modi and Mr. Gandhi were allowed to debate on one platform, as is done in the U.S. presidential elections. Rather than lash out at each other, if they could elaborate on their aims, development strategies, alliance policies, etc., this could help voters understand the parties and their leaders better.

A.J. RANGARAJAN, Chennai

Rahul Gandhi's visit to the Somnath temple has turned into a full-blown political row. The reason is not far to seek. The BJP believes that it is its sole prerogative to tap Hindu religious identity for political gain. As a party thriving on the encroachment of religion into politics, it cannot countenance any other party or leader seeking to beat it at its own game. The BJP raises the question of

Mr. Gandhi's religion after managing to show his name in the register it says is meant for "non-Hindus" for fear that his temple-hopping might neutralise the advantage of being seen as a pro-Hindu party. It hopes to stem the tide of growing popular support for the Congress on Mr. Modi's turf if it succeeds in portraying Mr. Gandhi more as a Catholic than as a Hindu despite the Congress's assertion that he is a Shiv bhakt. To reach a situation where being not a Hindu is regarded as a disqualification to contest an election is to pronounce secular politics dead.

G. DAVID MILTON, Maruthancode, Tamil Nadu

### Behind schedule

The recent World Health Organisation report is worrying ("India unlikely to cut malaria burden by half in 2020", Nov. 30). Malaria

is a major public health problem in India, but it is preventable and curable. The challenges in eradicating malaria include poor surveillance, low funding, rapid urbanisation, increased migration, and development of drug resistance. India can learn lessons from Sri Lanka and the Maldives, which eliminated the disease in 2016. Sri Lanka adopted a multidimensional approach. It allowed spraying in 99% of households, distributed insecticide-treated mosquito nets, and created awareness.

P. ALARMELMANGAI, Chennai

### Save the Internet

Net Neutrality revolves around three basic features: all sites must be equally accessible, all sites must be accessible at the same

speed, and all sites must have the same cost of access ("A neutral Internet", Nov. 30). Net neutrality is extremely vital for innovation and creativity. Article 21 provides for the right to privacy, so providers shouldn't have any right to prevent users from accessing lawful Internet content. Without Net

**CORRECTIONS & CLARIFICATIONS:** >>In the Editorial page article titled "Let Hadiya take charge of her life" (Nov. 30, 2017), the name of the Kerala State Women's Commission's lawyer was given as P. Dinesh. It should have been P.V. Dinesh.

>>In the Op-Ed page article titled "Against gender rights" (Nov. 30, 2017), the penultimate paragraph should be recast to read: "The Ministry's decision to re-introduce the 2016 Bill goes to show that the promise of democracy is often an empty lie. Earlier too, in 2015, the Ministry invited comments on the 2015 Bill for 15 days and then introduced the 2016 Bill without disclosing the comments received. This disregarded the pre-legislative consultative policy which requires Ministries to grant a minimum of 30 days for public comments and to place a summary of feedback/comments received from the public/other stakeholders on their website."

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