



Caste counts

A vision for a just India, and not partisan political gains, should inspire a fresh census

The clamour for a fresh caste census is getting louder in the country. Bihar Chief Minister Nitish Kumar led a delegation of 10 political parties of the State to meet Prime Minister Narendra Modi on Monday. No political party in the country has publicly opposed the demand as yet, and most have supported the call. Mr. Modi listened to the delegation but did not open his mind on the topic. Predictably, there will be more political mobilisation on the issue. The Bharatiya Janata Party has the advantage of being in the saddle and could time an announcement best suited for itself. The last time India's population was enumerated on the basis of caste was in 1931, when it was under colonial rule. There is a strong argument that the colonial census was about creating and reinforcing caste and religious categories in India rather than recording them in a benign manner. Effective governance requires robust data on the governed. The creation of categories is itself a political act. Indian politics and the governance structure are all premised on categories that were firmed up during colonialism. But the salience of caste as the fundamental marker of identity for an Indian has only grown since Independence.

As the democratisation of society deepens, questions are being raised regarding the status of Dalits, tribal communities and a large section of the population that is characterised in the Constitution as Socially and Educationally Backward Classes. Political representation of these communities has increased and their participation in government jobs has risen. It is assumed that particular groups within each category have benefited disproportionately from political and job reservations, and there are demands for sub-quotas. Many communities are demanding inclusion in one category or the other. Some communities are feeling short-changed by the affirmative action steps of the state. With the role of the Government as a big employer diminishing, there is a demand for affirmative action in the private sector. All these questions are being debated without adequate and reliable data, leading to conflicting and often misleading claims. Supporters of a caste census cite these reasons, while sceptics fear it will only widen social rifts. They also point to the multitude of practical problems such an exercise will encounter. What is not debatable, however, is the fact that inequitable distribution of power and wealth endangers the stability of any society. Partisan political gains should not be the motivation for a fresh census. A renewed vision for a just and united India, where all divides are reduced must guide the discussion on a caste census.

In free fall

Unless Lebanon sets aside sectarian politics, it will be unable to have a stable government

Lebanon, which has been battling multiple crises for the last couple of years, is on the brink of an economic collapse. The meltdown that forced the country to default on its bonds in 2019 for the first time since its independence in 1943 was aggravated by last year's Beirut port blast. The explosion that killed over 200 people and wounded about 7,000 others on August 4, 2020 is estimated to have caused damage worth \$15 billion. The blast has also deepened the country's political crisis as Lebanon has been ruled by a caretaker government ever since. The Mediterranean country is now reeling under a severe economic downturn, medicine, food and fuel shortages and rising crimes. Recently, its central bank stated that it could no longer finance fuel imports at subsidised rates citing depleted reserves. Fuel shortages have led to chaotic scenes across the country. Last week, at least 28 people were killed in the country's north when a fuel tank exploded while locals were scrambling for its fuel. UNICEF has warned that millions of Lebanese are facing a severe water shortage. The economic crisis has pushed more than half the population into poverty, while the currency value has fallen by 90%. According to the World Bank, Lebanon's GDP per capita fell by 40% in dollar terms between 2018 and 2020, while real GDP contracted by 20.3% in 2020. The Bank assesses that even with quick reforms, it will take years before the economy gets back to its pre-crisis size.

Since the Beirut blast, President Michel Aoun appointed three Prime Minister-designates. Two of them stepped down after having failed to form a government. According to Lebanon's Constitution, the President should be a Maronite Christian, the Prime Minister a Sunni, and the Parliament Speaker a Shia. Political parties are divided largely along sectarian lines. The PM-designates, who were Sunni politicians or technocrats, often failed to bring together the country's different political factions, including that of President Aoun. In late July, former Prime Minister Najib Mikati was tasked with forming the next government. He is yet to conclude talks with other political blocs. With the country facing a severe fuel shortage, Hezbollah, the powerful Shia militia-cum-political party, has moved to import fuel directly from Iran. Hezbollah says it is trying to ease the country's fuel situation while its opponents say the move is aimed at drawing Lebanon further into the Iranian orbit and could be counterproductive as oil deals with Iran could attract sanctions from the U.S. Lebanon's politicians have sought fresh loans from the IMF, but the fund will release money only if the government commits itself to reforms. For that, Lebanon has to form a government first. Lebanon's political elites should realise that the country is facing a once-in-a-century crisis, set aside their sectarian politics, and come together to form a stable government. If not, nothing can stop the country's free fall.

The ugly face of a crime-fighting move

The implementation of the National Automated Facial Recognition System in India lacks adequate safeguards



FAIZAN MUSTAFA & UTKARSH LEO

In the monsoon session of Parliament, no meaningful debate could take place due to the controversy over Pegasus, the spyware. Some Indian journalists, civil society activists and political leaders, and a top election strategist were possibly under surveillance. There has been no categorical denial by the Government and that the Israeli software was not purchased. But above this, there is a much bigger issue of the privacy of the entire citizenry which has not received much public attention. On June 23, 2021, the Joint Committee examining the Personal Data Protection Bill (2019) was granted a fifth extension by Parliament (<https://bit.ly/388uk4Z>). While informational privacy is not the Government's priority, it has been simultaneously exploring the potential of facial recognition technology.

A prying technology

To empower the Indian police with information technology, India approved implementation of the National Automated Facial Recognition System (NAFRS) to "facilitate investigation of crime and detection of criminals" in a quick and timely manner. On its implementation, it will function as a national-level search platform that will use facial recognition technology to facilitate investigation of crime or for identifying a person of interest (e.g., a criminal) regardless of face mask, makeup, plastic surgery, beard or hair extension.

The technology is absolutely intrusive: computer algorithms map unique facial-landmarks (biometric data) such as shape of the cheekbones, contours of the lips, distance from forehead to chin, and convert these into a numerical code – termed a faceprint. Thus, for the purposes of "verification" or "identification", the system

compares the faceprint generated with a large existing database of faceprints (typically available to law enforcement agencies) through a database on driver's licence or police mugshots). But the real problem is that facial recognition does not return a definitive result – it 'identifies' or 'verifies' only in probabilities (e.g., a 70% likelihood that the person shown on an image is the same person on a watch list). Though the accuracy of facial recognition has improved over the years due to modern machine-learning algorithms, the risk of error and bias still exists. For instance, there is a possibility of producing 'false positives' – a situation where the algorithm finds an incorrect match, even when there is none – resulting in wrongful arrest. Moreover, much research suggests facial recognition software is based on pre-trained models. Therefore, if certain types of faces (such as female, children, ethnic minorities) are under-represented in training datasets, then this bias will negatively impact its performance.

As NAFRS will collect, process, and store sensitive private information: facial biometrics for long periods; if not permanently – it will impact the right to privacy. Accordingly, it is crucial to examine whether its implementation is arbitrary and thus unconstitutional, i.e., is it 'legitimate', 'proportionate to its need' and 'least restrictive'? What is its potential for abuse and misuse with the pending status of the Personal Data Protection Bill (PDPB), and the absence of clear guidelines for its deployment? How does it impact other fundamental rights such as the right to dissent? Should NAFRS be banned or simply regulated?

The Federal Bureau of Investigation in the United States uses facial recognition technology for potential investigative leads; police forces in England use facial recognition to tackle serious violence. In other cases, countries such as China use facial recognition for racial profiling and mass surveillance – to track Uighur Muslims. Policing and law and order being State subjects, some Indian States



have started the use of new technologies without fully appreciating the dangers involved.

Test of 'proportionality'

Facial recognition being an intrusive technology has an impact on the right to privacy. The Constitution of India does not explicitly mention the right to privacy. However, a nine-judge Bench of the Supreme Court, in *Justice K.S. Puttaswamy vs Union of India* (2017) recognised it as a precious fundamental right. Since no fundamental right can be absolute and thus even in respect of privacy, the state may impose reasonable restrictions on the grounds of national integrity, security of the state, public order, etc.

The Supreme Court, in the K.S. Puttaswamy judgment provided a three-fold requirement (known as 1:N matching). In some cases, it is known that the person to be identified exists in the database, whereas, in other scenarios, it is not (for e.g., when persons are checked against watch lists). This is where its deployment becomes hugely worrisome. With the element of error and bias, facial recognition can result in profiling of some overrepresented groups (such as Dalits and minorities) in the criminal justice system.

Further, as anonymity is key to functioning of a liberal democracy, unregulated use of facial recognition technology will disincentivise independent journalism or the right to assemble peacefully without arms, or any other form of civic society activism. Due to its adverse impact on civil liberties, some countries have been cautious with the use of facial recognition technology. The Court of Appeal in the United Kingdom ruled

that it lacks 'legitimacy'. It does not stem from any statutory enactment (such as the DNA Technology (Use and Application) Regulation Bill 2018 proposed to identify offenders or an executive order of the Central Government. Rather, it was merely approved by the Cabinet Committee on Eco-

nomics Affairs in 2009 during United Progressive Alliance rule. Second, and more importantly, even if we assume that there exists a need for NAFRS to tackle modern day crimes, this measure is grossly disproportionate. This is because to satisfy the test of 'proportionality', benefits for the deployment of this technology have to be sufficiently great, and must outweigh the harm. For NAFRS to achieve the objective of 'crime prevention' or 'identification' will require the system to track people on a mass scale – avoiding a CCTV in a public place is fiendishly difficult – resulting in everyone becoming a subject of surveillance: a disproportionate measure. In the absence of a strong data protection law or clear guidelines on where this technology can be used or who can be put on a watch list? And, how long the system will retain sensitive personal data of those the surveilled people, NAFRS will indeed do more harm than good.

Impact on rights

From a technical angle, facial recognition technology can be tasked to 'identify', among other uses, cases. In doing so, one faceprint is compared to many other faceprints stored in a database (known as 1:N matching). In some cases, it is known that the person to be identified exists in the database, whereas, in other scenarios, it is not (for e.g., when persons are checked against watch lists). This is where its deployment becomes hugely worrisome. With the element of error and bias, facial recognition can result in profiling of some overrepresented groups (such as Dalits and minorities) in the criminal justice system.

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the use of facial recognition technology by South Wales as unlawful in the absence of clear guidelines. In the United States, the Facial Recognition and Biometric Technology Moratorium Act of 2020 was introduced in the Senate to prohibit biometric surveillance without statutory authorisation. Similarly, privacy watchdogs in the European Union have called for a ban on facial recognition.

Unchecked pathway

At present, the Information Technology Act 2000, and the Rules framed thereunder offer broad powers to the Central government to infringe privacy in the name of the sovereignty, integrity or the security of the state. The Personal Data Protection Bill 2019 is not much different. It gives the central government unchecked power for the purposes of surveillance – it can exempt any agency of the Government from the application of the proposed law in the name of legitimate state interest.

Without adequate safeguards such as penalties that are dissuasive and sufficiently deterrent, police personnel may routinely use facial recognition technology. In sum, even if facial recognition technology is needed to tackle modern-day criminality in India, without accountability and oversight, facial recognition technology has strong potential for misuse and abuse. In the interest of civil liberties and to save democracy from turning authoritarian, it is important to impose a moratorium on the use of facial recognition technology till we enact a strong and meaningful data protection law, in addition to statutory authorisation of NAFRS and guidelines for deployment. If the Government has the will, it can get any law passed with god speed just like the recently passed 20 Bills including the OBC Bill or three Farm Bills.

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Climate change, a catalyst for Arctic cooperation

Environmental challenges should be a priority for all players in the region, outweighing military and economic issues



TATIANA BELOUSOVA

It is tempting to view the current geopolitics of the Arctic through the lenses of the 'great power competition' and inevitable conflict of interests. Interestingly, the current geopolitical scenario is, to a certain extent, mirrored in the Arctic region as well. This is mainly about the growing tensions between North Atlantic Treaty Organization (NATO) allies and Russia.

There are eight countries that have direct access to the Arctic resources, i.e., Canada, Denmark, Finland, Iceland, Norway, the Russian Federation, Sweden and the United States. In 2013, six Observers joined the Council, including China, Japan, India, Italy, South Korea, and Singapore, bringing their total number to 13.

Security concerns

By the end of the Cold War, the geopolitical tensions and security concerns in the Arctic were almost forgotten. In October 1987, during a visit to the Kola Peninsula, Mikhail Gorbachev, then Secretary-General of the Soviet Communist Party, acknowledged the end of the Cold War era and promoted a 'zone of peace' in the Arctic.

LETTERS TO THE EDITOR

Caste census

The Bihar Chief Minister's meticulously crafted mission, an all-party contingent, to meet Prime Minister Narendra Modi to press for a caste-based census is timely (Page 1, August 24). Since the last such census was undertaken, the country's population has grown exponentially. No political party that has ruled since Independence has thought it wise to take up the job for reasons best known to them. The creation of a comprehensive database on

the numerical strength of each caste in the country will only enable the Government to have a clear picture as well as to evolve appropriate laws and pieces of legislation to extend all mandated welfare-related schemes.

V. JOHAN DHANAKUMAR, Chennai

Opposition unity

The efficacy and success of Opposition unity in India will be found wanting as long as the BJD, TRS, YSRCP, BSP and SP are reluctant to join forces

(Editorial page, "Bonding rites", August 24). Drafting a mutually acceptable common minimum programme will be a Herculean and thankless task for the Opposition front. Another seemingly insurmountable obstacle will be the taming of the 'inflated' egos of the leaders, all wanting to be designated as the Front's leader or prime ministerial candidate. How far the Congress and the strong regional parties are willing to adopt a policy of 'give and take' will be another

ticklish issue. If the parties want to build a credible front against the BJP and entertain any realistic chance of succeeding, they will all have to make selfless sacrifices in order to achieve the common and larger goal.

C.G. KURIAKOSE, Malappuram, Kothamangalam, Kerala

MPs and Bill scrutiny

The Chief Justice of India's assumption is that better the quality of parliamentary debates, the more unambiguous the laws are. This is a debatable

correlation. The question is do our Members of Parliament have the knowledge and expertise to scrutinise bills clause by clause and pick out ambiguities if any? They do not seem to attach any importance to the law's semantic clarity. Even if the draft bills are circulated in advance the MPs do not seem to be keen to do their

CORRECTIONS & CLARIFICATIONS:

The story regarding Finance Minister's direction to Infosys about the new Income Tax filing portal (Aug. 24, 2021) had erroneously referred to Pravin Rao as the CEO of Infosys. He is the COO.

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homework of scrutiny. Parliamentary committees can check the law's indeterminateness only if the MPs can discuss the Bills in a non-partisan manner. Maybe, knowledgeable citizens can play a role in drafting laws.

V.N. MUKUNDARAJAN, Thiruvananthapuram