



Strange deal

The new e-commerce policy betrays a muddled view of online and offline retail

The Centre's curiously timed attempt to 'clarify' foreign direct investment norms for e-commerce players could end up scuttling investor interest in the sector that has attracted large foreign players and generated thousands of jobs. The fresh restrictions and the clarifications on certain operational aspects could reinforce investor complaints about India being unpredictable in terms of policies. In March 2016, foreign investment up to 100% was allowed under the automatic route for e-com firms engaged in business-to-business transactions using the marketplace model – one where a firm sets up an enabling IT platform to facilitate trade between sellers and buyers. However, FDI was not allowed where the e-com player owned the inventory of goods to be sold, or for business-to-consumer purposes, barring a few exceptions. Now, the rules have been altered for players like Amazon or Flipkart (majority-owned by Walmart) that have made significant investments in India. The policy, to kick in from February 1, 2019, could require a major overhaul in the business model and shareholding structures of such players. For instance, earlier a single vendor or its group firms couldn't account for over 25% of sales in a marketplace; now the rules bar sales by any entities where the e-com firm has an equity stake. A vendor's inventory will be deemed to be controlled by the e-com player if more than 25% of its purchases are from the latter or related firms. It's not clear how this change will help meet the principle enunciated in the policy note – fairness and the creation of a non-discriminatory, level playing field.

Separately, any specialised back-end support for some sellers must now be extended to all vendors, while discounts, cash-backs and preferential subscription services have been made far trickier to implement. An e-commerce marketplace entity will not mandate any seller to offer a product exclusively on its platform under the new rules. But this doesn't explain what to do when a seller voluntarily opts to sell exclusively on one e-commerce portal over another. The government is clearly keen to quell the long-brewing disquiet among offline retailers over big discount sales and the surge in e-commerce. Yet, it could have waited for the recommendations of a national e-commerce policy task force set up this April. That task force could trigger more policy shifts. India's retail FDI policy remains muddled – with the debate now focussing on online vs offline trade as opposed to big vs small, or a single brand vs multi-brand retail FDI regime. Globally, India has been taking on protectionism, and this month the Finance Minister said free trade is essential so consumers get the best deal everywhere. The same consumer focus and non-protectionist tenets must be applied for internal trade.

Netanyahu's gamble

As Israel heads for a snap poll, corruption allegations will cast a shadow on his campaign

Israel's ruling coalition's decision to dissolve Parliament and hold an early election was no surprise. The government of Prime Minister Benjamin Netanyahu, whose term was scheduled to end next November, has been battling intra-coalition troubles for weeks now. Last month, Avigdor Lieberman, the hawkish Defence Minister, quit and pulled his Yisrael Beiteinu party from the coalition in protest against Mr. Netanyahu's truce with Hamas, the Palestinian militant group that runs the Gaza Strip. That left Mr. Netanyahu with a majority of one seat in the 120-member Knesset. Since then, another crisis convulsed the coalition as a proposed law to regulate the enlistment of ultra-Orthodox men in the military drew flak from religious parties. So far, while all Jewish Israelis are required to serve in the military at age 18, religious students have traditionally got an exemption. The new conscription Bill seeks increased participation of Orthodox Jews. It is required to be passed by January 15, a court-imposed deadline. But the government's ability to muster the numbers for its passage came under serious doubt as both the Opposition parties and the Orthodox Jewish parties within the ruling coalition have taken a stand against it. It is against this background that Mr. Netanyahu opted to force an election, which will be held on April 9.

In the dissolved Knesset, Mr. Netanyahu's right-conservative Likud party had 30 members. The electoral system is based on proportional representation, and the Likud is expected to do well again as there appears to be no opposition figure with a profile to take on Mr. Netanyahu. But the four-time Prime Minister has a mixed track record. While he listed the "great achievements" of his government in areas such as security, economy, transportation, tourism and infrastructure at a Likud meeting, he faces criticism for his handling of the Palestinian issue and the security challenges from war-torn Syria. The Netanyahu government completely spurned peace initiatives, promoted settlements in the West Bank and used heavy force against protesters in both the West Bank and Gaza. The two-state solution, which Mr. Netanyahu derided during the election campaign in 2015, is in peril. In Syria, Israel has carried out a series of attacks against what it calls the Iranian presence, deepening the country's involvement there. Besides, Mr. Netanyahu faces allegations of corruption – he is accused of accepting gifts from billionaire benefactors and reaching illicit deals with media moguls. The Israeli police has recommended indicting the Prime Minister in three cases. If the Attorney-General decides to file a case against him, it could change his electoral chances. Whether Mr. Netanyahu returns to power or not, a fresh mandate should nudge the incumbent towards bold steps to initiate peace with the Palestinians and other powers in Israel's neighbourhood.

Gandhi and the audacity of hope

Amid the normalisation of violence, his record of hope is the best way to acquaint young Indians to him



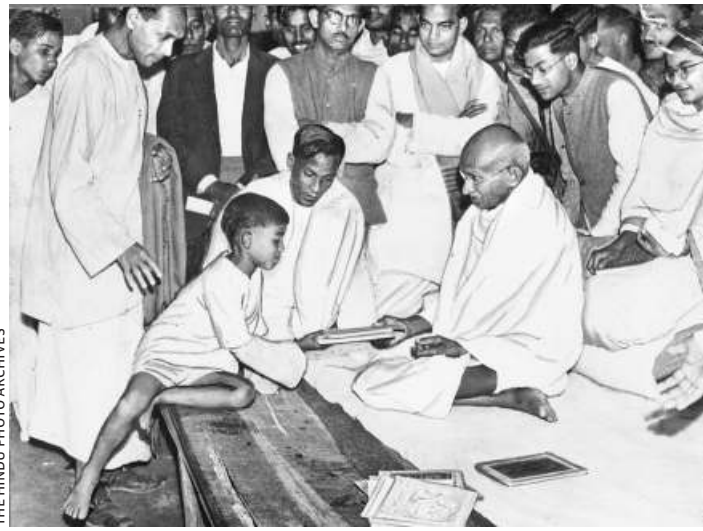
KRISHNA KUMAR

A sharp symmetry between violence and its opposite has remained unnoticed. It surfaced this year in the murder of Saudi Arabian dissident journalist Jamal Khashoggi on Mahatma Gandhi's 149th birth anniversary, i.e. October 2. The United Nations has named this day as the International Day of Non-Violence. That is the day when over a dozen men were reportedly flown from Riyadh to Istanbul to kill one journalist. They executed their mission in a manner for which few parallels can be found, even in Arabian Nights.

In a familiar tale of this global classic of folklore, a man's dismembered body is stitched back together by a tailor. Khashoggi's killers reportedly dissolved his body parts in acid. The mode of killing, the venue and the manner in which the journalist's body was disposed of mark a new normal in the history of violence.

An ignored synchronicity

The motive for this murder continues to be a subject of intelligent guessing. If suppressing a writer's voice was the motive, its success and the reluctant response it received are worthy of inclusion in the annals of modernity. The country renowned for the loudest upholding of the human right to freedom of expression has pre-



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ferred to guard its business interests over guarding this jaded moral edict. The horror got absorbed in the debate over adequacy of evidence about fixing of responsibility. As for us, we as a nation are so occupied with dousing our own internal fires, we ignored the synchronicity of October 2 and the murder in Istanbul.

Apparently, the world we now live in is so used to violence that the manner of killing and disposal of physical remains of a person do not seem all that relevant. In any case, feeling revulsion has little value now as an ethical act. We feel it so frequently that it has lost status among emotions with a moral bearing. Some years ago, I met a small boy who had spent most of his childhood in the kind of colony that is popularly referred to in Delhi as *jhuggi-jhopri*. Although this term is officially used to refer to a slum, it encompasses the attempts to cover the gruesome living conditions of a metropolitan slum by

had turned him into a hollow human at an early age. The possibility of even partial restoration was slim. I tried telling him stories and arousing his interest in things he saw on television. It was a struggle because he had learnt very little about the world during the years he had spent at school. When the 2nd of October came, he asked me why it was a holiday. I told him it was Mahatma Gandhi's birthday. Years have passed but I still remember his puzzled look. Apparently, he had not heard about Mahatma Gandhi. On being told that it was Mahatma's birthday, he asked, "Who will cut the cake?"

Gandhi's cake

I recall being amused by that question, but it gathered irony and meaning with the passage of time. It takes little imagination to guess what happens to such children. Where we ought to apply our ability to imagine and foresee is the social landscape inhabited by a growing number of such children. This is the context in which remembering Gandhi, 70 years after his assassination, might be of some precious help. What would Gandhi have said on being told about the violent habits of the boy who wanted a cake to be cut for him? It is not difficult to imagine Gandhi's commentary. He would point out that roots of violence lay in the conditions that forced the boy's family to migrate from their village in Bulandshahr to a Delhi slum. This diagnosis is consistent with the critique of modern political economy Gandhi offers in his tract, *Hind Swaraj*. This little book portrays the omnipresent culture of violence that propels the pur-

suit of material prosperity at the expense of human bonds and dignity. From Gandhi's point of view, we are in a mess of our own making. Our disdain for rural distress and alienation from vernacular life are silently catching up with us as a nation and spewing violence through different channels. Politics is one such channel where hatred and bigotry have now gained social sanction.

Many of Gandhi's ideas look arcane today. If you discuss Gandhi with young people, they ask, "Is he relevant?" After a recent discussion about Gandhi with children, I have realised that his relevance cannot be established by talking about truth and non-violence. Neither of these familiar items of Gandhi's discourse is easy to communicate. An easier entry into Gandhi's thought and life might be through hope (picture shows Gandhi at a school at Noakhali, West Bengal, for refugee children). His urge to carry on doing something under adverse circumstances arose from the hope that the human urge to find love will ultimately prevail.

'A prisoner of hope'

Judith Brown characterised Gandhi as a 'prisoner of hope' in her 1989 study of his political career. Despite his hope that truth and non-violence shall prevail, he had to witness the holocaust of Partition. However, his own accomplishments and failures provide us no measure to grasp the nature and logic of his hope.

Krishna Kumar is a former director of the NCERT and the author of 'Education, Conflict and Peace'

A law that defeats its purpose

The Transgender Bill omits positive rights and ignores the protections of the 'NALSA' judgment



JAYNA KOTHARI

The Transgender Persons (Protection of Rights) Bill, 2018, passed by the Lok Sabha recently, has caused great alarm. Transgender and intersex activists have protested on the streets, campaigned with parliamentarians and spoken out against the Bill. Is it not an irony that all of this is being done to ensure that the law is not passed? Why is there such a strong resistance to this Bill? Here are the main concerns.

Gender recognition

In the landmark *NALSA v. Union of India* judgment, the Supreme Court laid down that transgender and intersex persons have the constitutional right to self-identify their gender as male, female or transgender even without medical intervention. The court held: "Each person's self-defined sexual orientation and gender identity is integral to their personality and is one of the most basic aspects of self-determination, dignity and freedom and no one shall be forced to undergo medical procedures, including SRS, sterilization

or hormonal therapy, as a requirement for legal recognition of their gender identity". Hence, medical procedures should not be required as a pre-condition for any identity documents for transgender and intersex persons, nor should there be any requirement of a mental health assessment. Requiring a person to submit proof of medical treatment or mental health assessment of their gender identity violates one's right to dignity, the right to be free from unwanted medical treatment and the right to be free from discrimination.

The 2018 Bill in Section 6 establishes a District Screening Committee for the purpose of recognition of transgender persons. This Screening Committee includes a chief medical officer and a psychologist/psychiatrist, which goes to show that medical and psychological tests would be required for grant of change of gender identity. There is no provision in the Bill that gender change would be permitted without medical or psychological treatment.

The Bill also does not allow for recognition of gender identity as male or female. It only allows for an identity certificate as "transgender". This goes against the decision of the Supreme Court, which recognised the right to self-identify oneself as male, female or transgender and would also be forcing intersex persons to get a gender



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identity as "transgender".

The U.K.'s Gender Recognition Act 2004 was the first law in the world allowing people to change gender without surgery. Since then other countries, including Argentina, Ireland and Denmark, have passed laws that allow people to 'self-declare' their gender, rather than seek approval from a panel of medical experts.

Hence the District Screening Committee needs to be removed from the 2018 Bill. The Bill needs to state explicitly that no medical or mental health examination will be required and applicants will simply need to submit an affidavit attesting the request for a change of gender identity.

Reservations not provided

Debates on the Bill have always included the demand for reservations for transgender and intersex persons in educational institutions and in public employment as they

are seen to be crucial for their social inclusion. This was not only mandated by the Supreme Court in *NALSA*, the Rights of Transgender Persons Bill 2014 too provided for 2% reservation.

Surprisingly the 2018 Bill does not provide for any reservation. It provides in Sections 10 and 14 that there would be no discrimination in education and employment, but these rights are meaningless if transgender persons are not able to get access in the first place. Equality would demand that in order for the trans and intersex community to get access to their basic social rights, there should be horizontal reservation in education and employment provided to them. When the new Rights of Persons with Disabilities Act 2016 was passed, it included reservations of 5% and 4% in education and government jobs, respectively. It is surprising therefore that the 2018 Bill has no mention of similar provisions.

Criminalising lives

The Bill in Section 19 makes it a criminal offence for anyone to compel a transgender person into begging. This has serious implications. A large number of people from the trans and intersex community are engaged in begging and sex work due to discrimination and not having any other opportunities. This provision would lead to members of the

trans community being criminalised. When the criminalising of begging itself has been held to be unconstitutional by the Delhi High Court, there is no place for this offence in the 2018 Bill. For too long, gender minorities have been criminalised for being out in the streets and in public, and having this offence in the Bill will lead to further criminalising of transgender lives.

In all these ways the 2018 Bill is seriously flawed. It does not have a whole gamut of positive rights such as the rights of trans and intersex persons to inheritance of property, rights within the family such as adoption and to be free from domestic violence, rights of political participation such as the right to vote and hold public office, and the right to health to include free sex reassignment treatments. It also does not make sexual violence against transgender and intersex persons a criminal offence. The current law on rape is gender specific and transgender persons have no recourse under criminal law for sexual assault.

The Bill is an opportunity to ensure that the constitutional rights of transgender and intersex persons are realised. Let us not lose this opportunity by passing such a flawed legislation.

Jayna Kothari is a senior advocate of the Karnataka High Court

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.

Online monitoring

It is the misuse of online platforms to incite violence and terrorism that have caused law-enforcement authorities to act against those responsible and hiding deeper in a 'maze of digital thickets'. The job of digital surveillance is indeed delicate. As a double-edged weapon that lies between ensuring individual privacy and enabling national security, the proposed rules have to be monitored by competent authorities lest it may lead to the other extreme – of a police raj (Editorial, "Snooping or saving", December 28).

B. GURUMURTHY,
Madurai

India is by no means a police state as the freedom of expression has not been curbed and contrarian views, though not welcome, are still tolerated (OpEd page, "Yes, No, It's Complicated" - "Are India's laws on surveillance a threat?" December 28). However, there are doubts about the new surveillance

policy. The Narendra Modi government, right from the time it assumed office, has been averse to criticism. The surveillance machinery could well swing into action to muzzle both individuals and the media. If the objective of the surveillance is national security and national interest, it is laudable. But where it only has a limited purpose of curbing criticism of the establishment, it only reveals that the government has an Achilles heel somewhere and plenty to hide as well.

C.V. ARAVIND,
Bengaluru

In a world where the word "intelligence agencies" are acquiring importance, it does become imperative to do 'targeted' snooping. If not, how would the NIA have foiled a plot in western U.P. recently? Should India also have its own versions of search engines and social networking sites? It would end up making the Indian state more powerful, but this is not the solution. I think the government needs to

make an all-out effort to clear the entrenched perception that we all are potential targets for surveillance. People need to understand and appreciate that some bit of privacy is lost when it comes to ensuring sovereignty and security.

NIRAJ KUMAR,
New Delhi

Blood transfusion

It is unfortunate that in Tamil Nadu a pregnant woman has tested positive for HIV, and also hepatitis-B, after having been transfused with HIV-positive blood received from a government hospital (Tamil Nadu, "HC takes up case of woman getting HIV-positive blood" and "Lacuna in blood collection will be fixed", both December 28). While the State government should be allowed to investigate the matter comprehensively and fix lapses in the incident, the media must also take care to report the facts responsibly given the sensitivities involved for both the donor and the woman. An incident such as this will affect public

confidence in medical services across the State. The government must also instruct every blood bank in the State to thoroughly check and screen all blood stocks in their possession and certify their quality. There should be adequate checks to ensure safety before transfusion as well. Restoring the health of the donor and the woman should be the priority.

SURYANARAYANAN S.,
Chennai

Tamil Nadu's claim, of high health indices, needs to be scrutinised. The public health data put out by the government machinery need to be analysed critically by the special team given that two viruses were spread through transfusion.

D. E. SUBBARAYAN,
Villupuram, Tamil Nadu

The details of the unfortunate incident made painful readings. Hospitals and blood banks in India should follow stringent guidelines while collecting and processing blood. Quality measures and

control mechanisms must be put in place and reviewed at frequent intervals. Hospital staff must realise the importance of taking care at every stage. The use of cutting-edge technology should also be thought of in parallel.

VASANTHA RAGHAVAN N.,
Chennai

Hate ideology

The Editorial, "The worried Indian" (December 26), represents many of our thoughts. Every citizen of India has the right to express his anxiety over how hate ideology is destroying the democratic fabric of this great country. The hate mongers do not have anything positive to invite people to their fold except depicting those who do not subscribe to the hate ideology as enemies of the nation. It is painful to see

innocent fellow citizens falling into this trap.

A. KHALILUR RAHMAN,
Chennai

Poaching charge

Poaching in reserve forests/wildlife sanctuaries appears to have become a part of "V.I.P. culture" of late ("Golfer Jyoti Randhawa held on poaching charge", December 27). In the first place, how the celebrity involved entered the protected area calls for a sustained inquiry. The news is unpleasant to wildlife activists and those who are struggling for the balanced preservation of the environment. The investigation must be conducted in a transparent manner.

A.M.N. PANDIAN,
Tirunelveli, Tamil Nadu

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CORRECTIONS & CLARIFICATIONS:
In the report, "Business models, investment channels will have to change" (Business page, Dec. 28, 2018), the reported revenue of Cloudtail for the financial year 2017-2018 was erroneously given as ₹7,150. It should have been ₹7,149.21 crore.

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