## A deeper malady

Address the breakdown in internal controls and supervisory mechanisms in banks

Barely days after news of the ₹11,500 crore fraud at Punjab National Bank broke, another but very different scam of a ₹3,695 crore wilful loan default has surfaced. The Central Bureau of Investigation has registered a case against three directors of a Kanpur-based company, and others including unknown bank officials, on allegations of cheating a consortium of banks by siphoning off loans disbursed to the company. If the two cases must be compared, the similarities lie in the breakdown in internal control mechanisms and in the supervisory failure at the banks. In the case of Kanpur-based Rotomac Global, it had availed credit limits from a consortium of seven public sector banks. Given that the facility was made available from 2008 (in the case of Bank of Baroda, which filed the complaint with the CBI), and was used for a range of seemingly unrelated transactions including the import of gems and jewellery and the export of wheat, it is especially surprising that it took such a long time for this diversion of funds to surface as a criminal complaint. It is one thing for individual bank officials to have been complicit in the commission of frauds as has been claimed in the PNB case but quite another for supervisory cadre and risk detection and management systems to have delayed taking remedial action as they did in the Rotomac case. It took too long for the criminal complaints to be filed against the defaulters. On Bank of Baroda's website Rotomac was listed as its top defaulter almost a year ago; the account had been classified as an NPA in 2015.

In the case of the Punjab National Bank fraud, letters of undertaking were issued bypassing the bank's reporting system; the three-tier audit failed to detect the malfeasance. In contrast, BoB was not oblivious of the Rotomac default and took unconscionably long to act. It is important to determine why the Reserve Bank of India, which is vested with keeping an eye on bank books, was unable to take prompt corrective action in this case. Rather than routinely reiterate the importance of strengthening corporate governance in public sector banks and promising to infuse greater professionalism, transparency and accountability, it is time the Centre, the major shareholder in these institutions, takes serious steps to translate this intent into action. Any improvement in the functioning of the PSBs cannot be undertaken without empowering bank managements and securing their independence from political interference while enforcing strict accountability for lapses. To restore the depositor's faith in the banking system, the government, the RBI and the judiciary must ensure that prompt and salutary action is taken. The economic cost of doing otherwise is too painful to imagine.

## The value of life

Will the Florida mass shooting finally lead to regulation of gun ownership in the U.S.?

After decades of campaigning to bring about common-sense gun control in the U.S., it appears that a group of children may succeed where even Presidents have failed. Following Friday's deadly school shooting in Parkland, Florida, in which 17 people including 14 students were killed, survivors took to the streets in a relatively rare show of anger directed at President Donald Trump and Congress for not doing more to promote gun control. Their courage is to be doubly applauded, for they appear undaunted by the depressing history of America's 227-year-old lethal love affair with guns, built on the constitutional right to bear arms, overlaid with a myriad state-level laws that make gun ownership easy. After the devastating school shooting in Newtown, Connecticut, in December 2012, a tearful Barack Obama, then President, mooted legislation to tighten the regulation of gun ownership. That was speedily seen off by conservative lawmakers. With the failure of all 17 of his attempts to bring common-sense gun control to the floor of Congress, his parting gift to the incoming Trump administration was to close loopholes in gun laws through executive actions that would expand background checks for gun ownership and boost funding for federal enforcement agencies. Mr. Trump nullified those actions in February 2017, as he had promised to do during his election campaign.

The fact that school shootings do not lead to gun control reform shows how powerful the gun lobby is. The National Rifle Association contributes over $4 million each year to lawmakers in Washington to ensure their agenda is prioritised, and sizeable dark flows of pro-gun money likely reach Congress under cover of the Citizens United campaign finance law of 2010. But that is a drop in the ocean for most Congressmen and Senators, whose individual coffers can exceed $10 million. The immense pressure for gun rights thus goes beyond funding. It stems in greater measure from the pro-gun lobbies' ability to mobilise large numbers of voters, who feel strongly about the Second Amendment, whether for personal security, to defend themselves from the "tyranny of government" or to hunt wildlife. This ingrained "gun culture" is exacerbated by the light-touch regulation of gun ownership, which leads to more mass shootings. While the U.S. has 270 million guns – more than 112 per 100 people – and has had 90 mass shooters during 1966-2012, no other country has more than 46 million guns or 18 mass shooters. A 2015 study found that across countries, after controlling for mental health, racial diversity, video game playing and baseline levels of societal violence, it was the extent of gun ownership that determined the odds of mass shootings. At its heart, the U.S. debate on gun laws will only turn on the fundamental value attributed to human life. At the present juncture, it is clear what that value is.

# The politics of AI

Private capital must be made to pay if it wants to use people's personal data for commercial gain

G. SAMPATH

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Public discourse around artificial intelligence (AI) is often hijacked by themes that belong in fantasy rather than the real world. Iconic AI from pop culture such as HAL 9000 and Agent Smith epitomise a Manichaean obsession with the idea of 'superintelligence' ('the Singularity') that could prove to be good or evil, vested as it is with the power to turn humans into either immortals or slaves oppressed by parasitic machines. But the Singularity is not what humanity needs to worry about right now.

Machine learning (a more precise term for AI) will certainly continue to surpass human capabilities in specific domains such as medical diagnosis and facial recognition. But an AI that can match human intelligence in all respects is unlikely because it is impossible for AI technology to replicate that which makes human intelligence what it is – its embodiment in a biological substrate refined by millions of years of evolutionary feedback loops.

### The Big Data leap

This doesn't mean the advent of AI is no cause for concern. International Data Corporation, the market intelligence agency, estimates that worldwide spending on AI solutions will grow to $57.6 billion by 2021. The lion's share of the investments is being made by the Big Five: Alphabet, Amazon, Apple, Facebook and Microsoft.

Given the scale of investment that it is attracting from the Big Five, all hailing from the most profitable sector of global capitalism (technology), it's clear that AI is critical for future profitability. This is in keeping with the dynamic of late capitalism that began in the 1970s.

Capitalism faced a crisis of profitability in the 1970s. Opinions differ regarding its causes, but the global elite had no doubts about the solution: financialisation and globalisation. Also known as the "neo-liberal turn", it helped solve the problem of falling rates of profit by empowering capital to flow across national borders to wherever the returns were the highest, buy up state-owned assets and enterprises cheaply, and use labour arbitrage to appropriate a greater share of produced value.

The outcome of all this was a diminishing share of wages in profits. So, to prop up demand and keep the economy on the growth path, consumer spending was sustained through debt, which entailed further financialisation of the economy. It was around this time, in the 1990s, that capitalism welcomed its newest saviour: digitalisation.

If financialisation and globalisation made it possible for corporates to tap into markets anywhere in the world, digitalisation gave them the means to do so. Uber is the perfect example of what capitalism wants to be when financialisation, globalisation and digitalisation come together. Huge volumes of financial capital bankrolled Uber through year after year of huge losses as it expanded across the globe, offering rides at prices that disrupted local transportation markets. But it owned no vehicles, employed no drivers. What it did own was data about customers and commute patterns, and a proprietary algorithm that put them to good use.

### The oil is data

AI thus heralds the next phase of digital capitalism where capital accumulation is powered by the 'oil' of the networked economy: data. To take an obvious example, traditionally the world's leading content producers, newspapers and television channels, received the bulk of advertising revenue. But in 2017, 25% of global ad revenue and 60% of online advertising were gobbled up by two companies that produce no content at all: Facebook and Google.

So where does their value come from? Well, both are platforms: one is a search platform and the other is a social networking platform. As Nick Srnicek argues in *Platform Capitalism*, businesses structured as platforms are the digital equivalent of oil rigs, ideally placed to mine the networked economy's most valuable resource by inserting themselves between different sets of users, turning every interaction into a data point, and feeding it all into an algorithm.

From this perspective, India's own data-mining initiative, the Aadhaar project, is an ambitious attempt to run a single pipeline through multiple oil rigs with the aim of securing free and unlimited access to an endless stream of personal data that could be monetised by whoever controls it.

Platform businesses leverage their ability to scale-up the digitisation of a given activity (Uber digitises taxi rides while Airbnb digitises hospitality) to quickly build monopolies that, in turn, boost their ability to collect more data. Unlike what we've heard for a long time about Facebook and Google, this data-collecting spree is not about selling it for money or using it to target advertisements better. Rather, it is about using them to train algorithms. Once a platform is in place to ensure a steady supply of fresh data to train an algorithm, the company can eventually move to a position where it can offer an array of AI solutions for which, unlike online search or social networking, you have to pay.

### Need for compensation

All this foregrounds two inter-related issues that citizens must consider carefully: data ownership and labour protection. Put bluntly, the platform-based, chargeable AI services being rolled out by the likes of Amazon and Google were not only made possible by user-generated data, but they often border on rent-seeking. So, there is no reason why people should continue to surrender ownership of their personal data without due compensation.

The time has come to put in place a new data ownership regime so that private capital is made to pay if it wants to use people's personal data for commercial gain.

Second, AI is set to eliminate thousands of skilled jobs in the services sector – from paralegals and sales executives to drivers and radiologists. Unlike what unfolded in the 20th century when the loss of blue-collar jobs to automation was offset by a boom in service sector employment, the rise of AI isn't about to open up a great number of jobs in any new sector, which is why tech tycoons such as Elon Musk are advocating a universal basic income.

And yet, every time someone writes a Facebook post or types into Google search, she is not only giving away data about herself, she is also bringing that data into existence, in addition to continually reproducing her physical self so that she can go on being both a producer of data and the agent ensuring that the databases feeding the AI remain populated and active.

So, contrary to neoclassical economic wisdom, AI cannot sever the link between labour and economic value, though it does substitute dead labour (capital) for living labour. A more equitable distribution of the profits derived from data is essential to ensure that the original owner-producers of data get their due share.

Ultimately, the AI-enabled digitalised economy cannot survive without the 'oil' that can only come from non-AI (human) sources. Unless citizens exercise political control over how data is mined and used, even without the rise of a 'superintelligence,' the bulk of humanity risks being reduced to little more than hyper-connected sheep, kept well-fed and well-entertained on (plat)farms under the supervision of AI well-trained to optimise the production of digital wool.

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# For cleaner, fairer elections

Removing opacity in party funding and campaign finance is still a work in progress

ARADHYA SETHIA

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Electoral reforms in the hands of politicians is a classic example of a fox guarding the henhouse. While there are many policies that both major parties disagree with each other on, they form a remarkable tag team when it comes to electoral reforms. Unsurprisingly, the Supreme Court, over the last few decades, has readily stepped in to introduce electoral reforms. However, most of these interventions are directed at candidates, and rarely at the parties. The Supreme Court's recent decision on information disclosure (*Lok Prahari v. Union of India*) paves a way for future constitutional interventions in India's party funding regime, including the scheme of electoral bonds.

### An extension

In 2002, the Supreme Court, in a landmark decision in *Association for Democratic Reforms v. Union of India (ADR)*, mandated the disclosure of information relating to criminal antecedents, educational qualification, and personal assets of a candidate contesting elections. Sixteen years later, the court has extended the disclosure obligation to further include information relating to sources of income of candidates and their "associates", and government contracts where candidates or their associates have direct or indirect interests.

The principled basis of the court's decision is that voters' right to know about their candidate is an extension of their freedom of expression; voters cannot be said to have freely expressed themselves (by voting) without having appropriate information about the candidates. They should have the opportunity of receiving relevant information "to make an appropriate choice of his representative in the Legislature". What *Lok Prahari* does is that it extends the ADR decision to include information about the candidate's "associates"; relevant information for voters is no more limited to the candidate's personal information. What does this decision tell us about party funding?

If there is one piece of information that a voter is most deprived of in India, it is that about party funding. While the scheme of electoral bonds has received much attention, another significant facilitator of opacity is an obscure, yet significant provision of the Representation of the People Act, 1951: Section 29C(1)(a). The provision exempts political parties from disclosing the source of any contribution below ₹20,000. This gives political parties a convenient loophole to hide their funding sources by breaking contributions into smaller sums, even ₹19,999 each. As a result, a vast majority of donations to political parties come from sources unknown to voters. The new scheme of electoral bonds takes away even the facade of disclosure requirements that used to exist in earlier law.

Is the information about party funding relevant for a voter in choosing a candidate? Upholding the constitutionality of disclosure requirements for funding sources in *Buckley v. Valeo*, the U.S. Supreme Court held, "The sources of a candidate's financial support also alert the voter to the interests to which a candidate is most likely to be responsive." Therefore, it is essential for voters to know the funding sources of their candidates. Parties in India play at least two crucial roles in the election of candidates, namely financial support to candidates, and, more importantly, setting the agenda. Not much needs to be said about direct and indirect ways in which parties financially support their candidates.

### Another point for disclosure

However, even if one assumes that parties do not fund their candidates, there is another rationale for disclosure of party-funding sources. Parties occupy a special space in India when it comes to agenda setting. By virtue of a strong anti-defection law in India, all elected legislators are bound by their party agenda. If an elected legislator refuses to toe the party line, she can be disqualified. In *Kihoto Hollohan v. Zachillhu And Others*, the Supreme Court, upholding the anti-defection amendment, noted: "A person who gets elected as a candidate set up by a political party is so elected on the basis of the programme of that political party." Parties cannot lay claim to the representation of a candidate, and at the same time argue that information about party funding is not relevant for voters. In short, you cannot have your cake and eat it too.

As a matter of policy, one may argue that strict transparency norms may not always be desirable. However, as a matter of legal principle, the court's recent judgment in *Lok Prahari*, read along with our constitutional structure, strikes a blow against the provisions discouraging transparency in party funding. If the court's jurisprudence is consistently applied, the scheme of electoral bonds could be declared unconstitutional.

*Aradhya Sethia is an LLM candidate and resident fellow at Yale Law School*

## 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.

### Scams and public banks

The list of government sector banks facing loan defaults only seems to be growing longer ("CBI books head of Rotomac pens for ₹3,695 crore default", February 20). There appears to be a lack of controls in sanctioning loans and following procedures in loan recovery. While an ordinary citizen is put through an obstacle course to borrow small sums, there appears to be no such issue for big borrowers with clout. Quick sanctioning of loans is welcome but not at the cost of bypassing checks and balances. The role of internal and external auditors needs to be investigated as well. With such a multitude of frauds and non-performing assets, has the time come to privatise government sector banks?

D.B.N. MURTHY,
Bengaluru

■ The recent exposure of huge corporate defaults has become an occasion to bash government-owned banks and their staff as being inept and dishonest. People don't seem to realise the strategic role played by public sector banks in the economy. Unlike private sector banks that focus on less risky, personal segment loans, public banks lend to the productive sectors such as agriculture, small and medium industries and businesses. These banks fulfil social commitments such as catering to unbanked areas and lending to the weaker sections under government-sponsored schemes. They also finance huge infrastructural projects that cause an asset-liability mismatch in their balance sheets.

Nothing can be more reckless than talk of privatising public sector banks. It is like asking the government to hand over India's space and nuclear industries to the private sector. If public banks are privatised, vital sectors of the economy will lose access to affordable credit. Class banking will replace mass banking as the defining paradigm of the banking sector. The government and the Reserve Bank of India will have to equip public banks with the wherewithal to improve their professional efficiency and to put in place robust mechanisms to check insider corruption ("CEA rues breakdown of banking controls, rules" and "AIBEA flays call for privatisation", both February 20).

V.N. MUKUNDARAJAN,
Thiruvananthapuram

■ It is amusing to find advocates of bank privatisation scaling up their pitch by citing the Nirav Modi episode. The advent of the neo-liberal economy has been accentuating the frenzy for capital amidst the greed of individuals. No one is looking at the roots of the evil. The monumental contributions of nationalised banks in the growth of the country cannot be erased easily. Let exemplary punishment be meted out to those abetting the offenders. The issue is not about the ownership of the institution.

S.V. VENUGOPALAN,
Chennai

■ That the financial burden of businessmen-turned-glorified fraudsters have piled on the economic foundation of the country is huge is a foregone conclusion. This will eventually be spread on the larger population and extracted through covert taxes and policies coated in fiscal jargon. This fatalistic cycle is no longer shocking. But what angers and frustrates many of us is the modus operandi that these high-profile individuals use to sneak out of the country. They appear to be tipped off in the nick of time and reach faraway shores beyond the so-called long arm of the law. Authorities, ministers and politicians who trade allegations are only creating a miasma and fooling us all. The only question we have is this: How could they all flee in time? No amount of fiery speeches or vows about having them extradited and the guilty punished will answer this.

SHAM SANKAR,
Thiruvananthapuram

### The right word?

Media reports of increasing instances of elephants being relocated after man-animal conflict often use language that needs a check. Examples of words and phrases such as "killer elephant", "snuffed out the life of three persons", "terrorised residents", "wreaked terror", "killing spree", "struck again", "chased by elephant and killed" give the impression that these elephants are on some premeditated conspiracy to kill people. With increasing development, there is untold pressure on traditional animal corridors. Because of their sheer size and behavioural biology, elephants require large habitats which till a few decades ago were forested areas. They are among the most affected species now and increasingly being painted the "villains" wherever man-animal interface occurs. Of course when human casualties occur, we need to focus on and address the issue, and come up with management interventions. One hopes that the language used in the media is the language of "science" and not of "fiction".

ANU P. JAMES,
Dehradun, Uttarakhand

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