



Sage advice

Raghuram Rajan's suggestions on preventing a financial crisis must be heeded

Former RBI Governor Raghuram Rajan's note of caution on the next financial crisis that could be building up needs to be taken in all seriousness. In his note to Parliament's Estimates Committee on bank non-performing assets (NPAs), Mr. Rajan has flagged three major sources of potential trouble: Mudra credit, which is basically small-ticket loans granted to micro and small enterprises; lending to farmers through Kisan Credit Cards; and contingent liabilities under the Credit Guarantee Scheme for MSMEs, run by the Small Industries Development Bank of India. The disbursement under Mudra loans alone is ₹6.37 lakh crore, which is over 7% of the total outstanding bank credit. These loans have been sanctioned under the Pradhan Mantri Mudra Yojana, which aims to 'fund the unfunded', and is a signature scheme of the NDA government. Given that these are small loans up to ₹10 lakh each, with the borrowers mostly from the informal sector, banks have to monitor them very closely. It is debatable whether banks have the resources and manpower to do this when they are chasing the bigger borrowers for business and, increasingly these days, recoveries. The risk is that these small-ticket loans will drop under the radar and build into a large credit issue in course of time. The same logic holds true for crop loans made through Kisan Credit Cards.

Mr. Rajan's advice on loan waivers has been made by him and others in the past. But the political class has chosen to turn a deaf ear to this advice, vitiating the credit culture and creating a moral hazard where farmer-borrowers assume that their loans will invariably be waived off. The former RBI Governor has strongly defended the RBI against criticism, often unfair, over its policies on NPA recognition and resolution. He rightly termed as "ludicrous" the allegations that the economy slowed down because of the RBI. Recognition is the first step in a clean-up, and unless banks are cleaned of their non-performing loans, they cannot make fresh loans. The Central government should also take note of some forward-looking statements that Mr. Rajan has made on the governance of banks. Among his suggestions to avert a recurrence of the current mess are, professionalising bank boards with appointments done by an independent Banks Board Bureau; inducting talent from outside banks to make up for the deficit within; revising compensation structures to attract the best talent; and ensuring that banks are not left without a leader at the top. It is a comment on the state of our polity that despite the important issues that Mr. Rajan raised, political parties have chosen to pick only the points that are convenient to them – about the period when these bad loans were made and the purported inaction over a list of high-profile fraud cases highlighted by him.

Uganda's new hope

A musician-turned-politician is challenging the political status quo

Ugandan President Yoweri Museveni has been apotheosised among African leaders by comparisons to Nelson Mandela or by labels such as "beacon of hope". But a crackdown on political dissent last month in Arua, a town in northwestern Uganda, suggests that his regime may be gradually turning it into a *de facto* one-party state. It began on August 13, when Mr. Museveni was campaigning in Arua for a by-election. In a different part of town, a musician-turned-politician named Robert Kyagulanyi Ssentamu – known by his stage name Bobi Wine – also drew large crowds. Then, even as Mr. Museveni was leaving the area, his motorcade was stoned, allegedly by Bobi Wine's supporters. The reprisal was swift and brutal. Police used teargas and shots on the crowds and security personnel "brutalised" Opposition members. Although street protests took place in the capital, Kampala, immediately after news broke of the events in Arua, civil unrest escalated after it became known that Bobi Wine and several other MPs had been arrested and apparently ill-treated in custody. When Bobi Wine appeared in court several days later, he was on crutches; but he won a reprieve by getting bail. On the surface, the Museveni government may have created the illusion that it has smoothed over the violent episode, yet there is an open challenge from Bobi Wine that could shake the ruling National Resistance Movement (NRM) to its very core.

The rise of Bobi Wine represents the yearning for a new Uganda among the country's youth. Since the time he entered the presidency in 1986, Mr. Museveni has presided over what has been called a "movement system", one in which all political candidates are forced to stand as individuals rather than as members of national political parties. This means not only that a democratic multi-party system is banned, but that local issues come to the fore far more than national ones. This passed muster during the last decades of the 20th century because the NRM primarily relied on the support of rural voters who focussed on local issues that affected them the most. Now a new generation of young Ugandans are united by the growing preponderance of social media, platforms that enable fierce debates over burning issues in national, not only local, politics. Social media is also making it harder for the Museveni regime to keep facts hidden – starkly evidenced in the way images of Bobi Wine, lying apparently bruised and beaten on a hospital bed, went viral and stoked anger across the country. In this brave new world of information connectivity, Bobi Wine and his ilk have a chance to focus attention on the pressing challenges that Uganda faces, including high unemployment rates, lack of economic opportunities, and rising crime. They must hope Mr. Museveni won't take to their plans unkindly.

Drawing a curtain on the past

In striking down Section 377, the Supreme Court has recognised the Constitution's extraordinary transformative power



SUHRITH PARTHASARATHY

In a rousing address to the Constituent Assembly on November 25, 1949, Dr. B.R. Ambedkar laid out his transformative vision for the Constitution. The document, he said, ought to serve as a lodestar in the endeavour to make India not merely a political but also a social democracy. He saw liberty, equality and fraternity as principles of life, as a collective "union of trinity". "To divorce one from the other," he said, "is to defeat the very purpose of democracy." Now, 71 years after Independence, these values that Ambedkar saw as integral to India's republic, find new meaning in a remarkable judgment of the Supreme Court in *Navtej Singh Johar v. Union of India*. Not only has the court struck down the wretchedly wicked Section 377 of the Indian Penal Code, insofar as it criminalises homosexuality, but it has also recognised the Constitution's enormous and extraordinary transformative power. In doing so, the court has provided us with a deep expression of democratic hope. And perhaps we can finally believe, as Nehru said, in his famous midnight speech, that "the past is over, and it is the future that beckons to us now".

Macaulay's shadow

Plainly read, Section 377 punishes with imprisonment for life or for a term of up to 10 years any person who voluntarily has "carnal intercourse against the order of nature with any man, woman or animal". Over the years, the term, "against the order of nature", has been

used to persecute members of the LGBTQ community, treating any non-procreative sexual act by them as acts of crime. Thomas Macaulay, the law's drafter, despised the idea of even a debate on the legislation's language. "We are unwilling to insert, either in the text, or in the notes, anything which could give rise to public discussion on this revolting subject," he wrote in his chapter on "unnatural offences". "...We are decidedly of the opinion that the injury which would be done to the morals of the community by such discussion would far more than compensate for any benefits which might be derived from legislative measures framed with the greatest precision."

Like many other colonial-era laws, therefore, Section 377 was inserted with a view to upholding a distinctly Victorian notion of public morality. But post-Independence, the law remained on the books, as an edict that the Indian state saw as intrinsic to the enforcement of its own societal mores. The criminal law, the government believed, was a legitimate vehicle through which it could impose and entrench in society its own ideas of what constituted a good life. Societal morality, to it, trumped constitutional guarantees of equality and liberty.

Long road to freedom

In July 2009, however, the Delhi High Court, in a judgment delivered by a bench comprising Chief Justice A.P. Shah and Justice S. Muralidhar, rejected this vision, and declared Section 377, insofar as it criminalised homosexuality, unconstitutional. In the court's belief, the law was patently discriminatory. It offended not only a slew of explicitly guaranteed fundamental rights – in this case, Articles 14, 15, 19 and 21 – but also what the judgment described as



"constitutional morality". "Moral indignation, however strong, is not a valid basis for overriding individual's fundamental rights of dignity and privacy," the court wrote. "In our scheme of things, constitutional morality must outweigh the argument of public morality, even if it be the majoritarian view."

At the time this was a grand statement to make. Indeed, barely four years later, the Supreme Court reversed the findings in *Naz*, and rendered the judgment's radical vision nugatory. In a shattering verdict, the court, in *Suresh Kumar Koushal*, once again declared homosexuality an offence. LGBTQ persons, to the court, constituted only a "minuscule minority", and they enjoyed, in the court's belief, neither a right to be treated as equals nor a right to ethical independence, a freedom to decide for themselves how they wanted to lead their lives.

But now, in *Navtej Singh Johar*, the court has restored both the quotidian and the outstanding glories of the judgment in *Naz*. Unexceptionally, Section 377, it has found, infringes the guarantee of equality in Article 14, the promise against discrimination in Article 15, the right to free expression contained in Article 19, and the pledges of human dignity and privacy inherent in Article 21. But, perhaps, more critically, the court has taken inspiration from *Naz* in bringing to the heart of constitu-

tional interpretation a theory that seeks to find how best to understand what equal moral status in society really demands, a theory that engages profoundly with India's social and political history.

Interpreting the Constitution

The question of how to interpret a constitution, any constitution, is an age-old one. The Indian Constitution couches its guarantee of fundamental rights in abstract terms. For instance, the Constitution doesn't expressly tell us what equality, in Article 14, means. Does it mean merely a formal equality, or does it promise a more substantive equality, demanding the state's proactive participation?

Until now, in the absence of a coherent theory of interpretation, judges have vacillated in answering such questions. But the four separate opinions in *Navtej Singh Johar*, written respectively by Chief Justice of India Dipak Misra and Justices R.F. Nariman, D.Y. Chandrachud and Indu Malhotra, collectively espouse an interpretive model that gives to India's history its full consideration. The Constitution "was burdened with the challenge of 'drawing a curtain on the past' of social inequality and prejudices," Justice Chandrachud wrote, invoking Professor Uday Mehta. The document, therefore, was an "attempt to reverse the socializing of prejudice, discrimination and power hegemony in a disjointed society." Or, as Chief Justice Misra put it: "The adoption of the Constitution was, in a way, an instrument or agency for achieving constitutional morality and [a] means to discourage the prevalent social morality at that time. A country or a society which embraces constitutional morality has at its core the well-founded idea of inclusiveness." The idea, therefore, is, similar to what the South African courts

have held, to eliminate all forms of discrimination from the social structure, and to usher society from degrading practices of the past into an egalitarian future.

There is a danger, many believe, that this theory of interpretation could allow judges to turn into philosopher-kings, allowing them to impose their moral convictions on society. But, as Ronald Dworkin has observed, a strategy of interpretation which partakes a consideration of both text and history is really a "strategy for lawyers and judges acting in good faith, which is all any interpretive strategy can be".

Future disputes will certainly have to be guided by the court's general rule prescribed in *Navtej Singh Johar*. The court has already reserved its judgment in a number of cases that will tell us how it intends on applying this theory. Its decision in cases concerning the entry of women into the Sabarimala temple, on the practice of female genital mutilation of minor girls in the Dawoodi Bohra community, on the validity of the Indian Penal Code's adultery law, will all prove telling. Yet, much like the challenge to Section 377, the issues at the core of these cases are scarcely controversial as a matter of pure constitutional interpretation. Ultimately, therefore, the true value of *Navtej Singh Johar* will only be seen when the court sees this theory as integral to its ability to judge clashes between the naked power of the state and personal liberty, to cases such as the challenge to the Aadhaar programme, which seek to reverse the transformation that the Constitution brings. There too, as Chief Justice Misra has written, the court must be "guided by the conception of constitutional morality".

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An education that is in sync

The concept of general education and specialised education proceeding together needs to be widely adopted in India



R.B. GROVER

Higher education in India has grown exponentially in recent years. A survey by the All India Survey on Higher Education published in July this year shows that the gross enrolment ratio (GER) was 25.8% in 2017-18, up from 10% in 2004-05. GER is the ratio (expressed as percentage), of the total enrolment within a country in a specific level of education, regardless of age, to the population in the official age group corresponding to this level of education.

For higher education, the survey calculates the ratio for the age group 18 to 23 years. Internationally, the age group 18 to 22 is also used. For India, the Survey gives the corresponding figure as 30%. Though the GER for higher education in India is still less than what it is in developed countries, the growth rate is still quite impressive. The next step is to ensure that the outcome of academic programmes by higher education institutes (HEIs) is acceptable.

The debate in the media on higher education is often focussed on issues related to governance and autonomy – but these are not the only important issues. There needs to be a debate on the content of higher education in HEIs. Just after Independence, a com-

mission comprising educationists from India, the U.K. and the U.S., and chaired by Dr. S. Radhakrishnan, was formed "to report on Indian University Education and suggest improvements and extensions that may be desirable to suit present and future requirements of the country". Its report filed after its deliberations (December 1948-August 1949) came to be known as the Radhakrishnan Commission Report (RCR). Philosophical deliberations in the report that are related to the content of higher education are still relevant today.

A template

The RCR recommended a well-balanced education with 'general', 'liberal' and 'occupational' components. Without all-round general (including liberal) education, one could not be expected to play roles expected of a citizen outside one's immediate professional sphere. The report advocated that general education and specialised/professional education should proceed together. The study of languages should be given equal importance as one communicated to the outside world only through the medium of language. Therefore, a lack of communication skills could be a handicap.

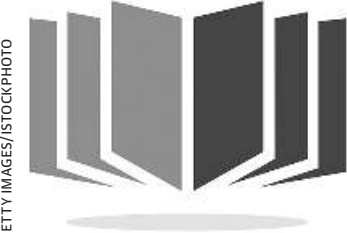
The RCR drew inspiration from the emphasis on general education in universities in the U.S. It cited a lecture by Einstein (1931) where he said: "The development of general ability for independent thinking and judgement should always be placed foremost, not the acquisition of special knowledge.

If a person masters the fundamentals of his subject and has learned to think and work independently, he will surely find his way..."

The American parallel

Recently this year, the National Academies Press (NAP) of the U.S. which represents the national academies of sciences, engineering and medicine published the report, "The Integration of the Humanities and Arts with Sciences, Engineering, and Medicine in Higher Education: Branches from the Same Tree". One is immediately struck by the importance attached to the integration of Sciences, Technology, Engineering, Mathematics and Medicine and humanities in university teaching in both the RCR and NAP reports.

As in the NAP's report, the purpose of higher education is to prepare graduates for work and life, as well as active and engaged citizenship – achieved only through the acquisition of knowledge, skills and competencies related to the profession they chose to specialise in and also written and oral communication skills, ability to work as a team, ethical decision making, critical thinking, and ability to apply knowledge in real world settings. The RCR, in turn, talked about including general education as an essential element. But the NAP report goes much beyond what the RCR states and advocates integrating the teaching of humanities in STEM. It says that surveys show that employers now seek graduates with more than just technical capabilities or in-depth knowledge in a particular



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subject.

Problems in a real-life setting are interdisciplinary and require an appreciation of related fields. The NAP report acknowledges that disciplinary specialisation has resulted in many developments but also points out that emerging problems are multi-disciplinary. This can be seen in two examples: rising demand for energy, and continuing advances in technology. The use of energy on a large scale and the continued availability of energy in an environmental-friendly manner are challenges which cannot be addressed by narrow specialists. There are technical advances every day, influencing everyday life in diverse ways. This is also leading to concerns about privacy, technology-driven social and workforce changes, and the evolving need for individuals to retrain themselves to remain in employment. In such a scenario, it is important that professionals study the impact of innovations on society in a holistic manner.

The NAP report says: "The aggregate evidence reviewed by the committee shows that certain educational experiences that integrate the arts and humanities with

STEM at the undergraduate level are associated with increased critical thinking abilities, higher order thinking and deeper learning, content mastery, creative problem solving, teamwork and communication skills."

The reality

Let us examine the current scene in India against such a backdrop. HEIs are far from integrated. As far as the inclusion of elements of general education in the curriculum for undergraduates is concerned, the situation is mixed. Several engineering, and science education and research institutes have embedded general education programmes at the undergraduate level. Such programmes are missing in most university-affiliated science colleges. Rather, there are institutions that cater to a single stream which precludes the possibility of even an informal interaction between students and faculty with different specialisations. The focus of undergraduate education should be on classical disciplines, with enough credits for general education. Focus on specialisation can wait until the post graduate level.

In 1959, C.P. Snow spoke about "The Two Cultures". It is time to bridge the divide between the two cultures in the education system and evolve a third culture where the two sides understand and appreciate each other.

R.B. Grover, Emeritus Professor and former Vice Chancellor, Homi Bhabha National Institute, is a Member of the Atomic Energy Commission

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Banking sector crisis

I was able to relate the report, "Small loans could turn bad: Rajan" (Page 1, September 12), with my practical experience as an official at one of the largest public sector banks. A week ago, a pensioner who was with a government department and drawing a monthly sum of around ₹47,000, approached us for a pension loan. On making inquiries about his outstanding bank dues, he said he had one, an agricultural loan of around ₹2.2 lakh, and was completely convinced that it would be waived by the State government. The point why I am highlighting this is that borrowers are

convinced that debt waiver announcements will happen come what may, which is impacting the repayment culture in our country. Governments should refrain from such populist measures which overburden the public exchequer and have the potential to impact the banking sector. Scientific methodologies should be considered in identifying those who are eligible to borrow money.

B. SANKARANARAYANA, Kalaburagi, Karnataka

Regional diplomacy

The assertion by the former Sri Lankan President, Mahinda Rajapaksa, that his country sought Chinese

assistance to develop its economy after making the offers first to India shows that the weakness in our economy is being exploited by China (OpEd page, "The Wednesday Interview", September 12). Apart from Sri Lanka we have now lost traditional friends, the Maldives and Nepal, to Chinese influence. India must take steps to address their concerns. New Delhi should make all efforts to keep the relationships on an even keel.

B. SUNDAR RAMAN, Coimbatore

Opposition's strategy

The article, "Imitating to flatter" (Editorial page, September 12), appears to

be a simplistic view of the politics prevalent in India, implicitly suggesting that the victory of the incumbent government is a foregone conclusion due to an ineffective Opposition presence. The view is partly tenable but the situation on the ground is fast changing in the face of an aggressive Opposition. The bravado of the BJP and NDA in the face of surging fuel prices and a falling rupee could face hurdles.

DEEPAK SINGHAL, Noida

■ The Opposition's "feeble and piecemeal response" to the BJP is not at all surprising as its main plank is purely

anti-Modi. As long as the parties that are opposed to the BJP fail to find a common credible leader and adopt a mutually acceptable agenda, all their diatribes against the Prime Minister will end up only as a cry in the wilderness. The crux of the matter is that they are not inclined to accept Congress president Rahul Gandhi as at least half-a-dozen leaders in the Opposition's ranks nurse prime ministerial ambitions. If the Bharatiya Janata Party-led NDA fails to muster a majority in the 2019 polls, any post-poll alliance among the Opposition parties could prove disastrous.

C.G. KURIAKOSE, Kothamangalam, Kerala

Readers speak

A number of letters have been published, many by senior citizens on their long and cherished association with *The Hindu* (Page 1, "Let us know you better", September 1). I began reading the daily from 1951 and it was my companion in various cities. Now, in a senior citizens' home, I have time to read the paper more closely. I notice that the local readers' mail column does not appear most of the time. Many of us find this an important forum to air our views and problems.

ANDANALLUR SUBDARAM GOPALAKRISHNAN, Coimbatore

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