



Upheld at The Hague

With the ICJ upholding India's plea on Jadhav, Pakistan must grant consular access

By winning a preliminary order from the International Court of Justice that prevents Pakistan from carrying out the execution of Indian national Kulbhushan Jadhav, India has won the battle of perceptions among members of the international community. It has achieved its immediate objective in approaching the ICJ, which has outlined provisional measures that enjoin Pakistan to take all steps needed to ensure that Mr. Jadhav, a former naval officer under death sentence in Pakistan, is not executed pending adjudication of the matter. Pakistan should now inform the court about the steps it takes to implement the order. The ICJ judges are clear that these provisional measures are binding and create international legal obligations for the country to which they are addressed. The ICJ has rejected Pakistan's objections regarding the urgency of the matter. It rejected Pakistan's own jurisdiction to take up the case and its claim that a 2008 bilateral agreement between the two countries precluded the matter from being raised before the ICJ. At this early stage, the court was unwilling to let doubts over jurisdiction trump the larger, humanitarian issue of Mr. Jadhav's execution. It noted that irreparable prejudice would be caused if the court did not indicate provisional measures, especially in the absence of any assurance from Pakistan that he would not be executed before the final decision.

It may appear to be a complete victory for India on the questions of jurisdiction, urgency and the core charge that Pakistan violated the Vienna Convention. However, this is a preliminary ruling and all issues are open for adjudication at the final stage. For now, the court has taken into account the allegation of denial of consular access, and ruled that *prima facie*, this brought the issue within the purview of Article I of the Optional Protocol to the Vienna Convention, which says disputes regarding the interpretation or application of the Convention would be subject to the 'compulsory jurisdiction' of the ICJ. Further, it has noted that there is no exception to the consular access rule for those allegedly involved in 'espionage'. As an immediate consequence, Pakistan is now under an obligation to grant consular access to Mr. Jadhav. Though it is theoretically possible for Pakistan to ignore the ICJ's order and go ahead with its internal processes for the disposal of appeals and clemency petitions, it is unlikely to do so. Such a course of action would undermine its international credibility. India will have to leverage the moral and diplomatic advantage it has obtained through this ruling to help Mr. Jadhav prove his innocence before a civilian court and win his freedom. Pakistan must act responsibly and abide by the fundamental norms of international law.

Where the jobs are

Public spending and economic policy need to be more attuned to employment creation

News reports over the last few weeks suggest that the Central government may finally be starting to think seriously about jobs. Chief Economic Adviser Arvind Subramanian recently pointed to the need to achieve higher economic growth, in the range of 8% to 10%, to solve the problem of jobless growth. In particular, he flagged the underperformance of the information technology, construction and agricultural sectors, which earlier served as huge job-creators for the economy. It is worth noting that India added just 1.35 lakh jobs in eight labour-intensive sectors in 2015, compared to the 9.3 lakh jobs that were created in 2011, according to Labour Bureau figures. The rate of unemployment grew steadily from 3.8% in 2011-12 to 5% in 2015-16. Union Labour and Employment Minister Bandaru Dattatreya has downplayed the gloomy job situation as being a temporary one. His focus instead is on the new National Employment Policy which, he says, would be released later this year and focus on shifting jobs from the informal to the formal sector. NITI Aayog too has dismissed concerns over jobless growth, saying the real problem is underemployment rather than unemployment. Nevertheless, this month the government set up a high-level task force headed by NITI Aayog Vice-Chairman Arvind Panagariya to obtain reliable data on employment trends to aid policymaking.

The focus on jobs is obviously vital. However, higher economic growth alone will not solve the jobs problem. Jobs can be created when growth comes from the transition of labour from informal sectors like agriculture to the more formal manufacturing and service sectors. Such extensive growth, however, runs the risk of stagnation once the available stock of informal labour is exhausted — as some Southeast Asian countries found out the hard way in the late 1990s. On the other hand, growth can come about without any substantial job-creation in the formal sectors of the economy, but through improvements in productivity. The growth record of several developed economies even after the modernisation of their labour force explains such intensive growth. India should aim at growth that is driven both by improvements in productivity and modernisation of its labour force — especially since better jobs are crucial to improving the lives of millions who are employed, indeed underemployed, in low-paying jobs in the farm sector. Ironically, achieving both those objectives will first require labour reforms — ones that can both boost labour mobility within the formal sector and bring down the barriers businesses face in hiring labour. But incremental labour reforms alone won't work unless these are combined with a step-up in government spending on asset and job-creating areas such as infrastructure, which in turn inspires private investment. Job-creation needs to be an essential axis along which economic and social policies are formulated.

Ending nuclear dependency

The government's go-ahead to 10 indigenous reactors is a timely step towards nuclear energy self-sufficiency



M.R. SRINIVASAN

India now has 22 nuclear power units. The first pair, located in Tarapur, Maharashtra, uses enriched uranium and incorporates U.S. nuclear technology. These two reactors have operated safely and reliably for the past 47 years and supply the lowest cost non-hydro power. The second pair, located in Rajasthan, uses natural uranium and is based on Canadian technology.

The first unit of this pair has been out of service for some years due to deficiencies in some key equipment; the second unit has been operating satisfactorily. Commencing from 1983 and over a span of two and a half decades, India built 16 nuclear power units using its own technology, materials and equipment. These reactors use natural uranium as fuel. Fourteen of them have a size of 220 MW and two are of 540 MW.

Nuclear push in the 2000s

During the period 2000-2010, India designed a nuclear power unit of 700 MW capacity, using natural uranium. Construction work on two such units in Kakrapar (in Gujarat) and two in Rajasthan was taken up. These four units will go into operation in the next three years. Work on two similar units has been taken up at a site in Haryana.

All equipment and materials for these larger units will come from Indian suppliers. In recent years, two 1000 MW VVER power units have come up in Kudankulam, Tamil Nadu, using Russian technology. They use enriched uranium supplied by Russia. In 2016, work on two more such units was com-

menced. When all these units go into operation, India will have 30 reactors with a capacity of 13,000 MW. By then some of the earlier units will be reaching their retirement age.

In the period 2005-2008, the Indian nuclear establishment was focussed on concluding the civil nuclear cooperation agreement with the U.S. India then agreed to build about 10,000 MW of nuclear capacity using U.S. technology. A similar assurance was given to France. Russia and India agreed to install additional units at Kudankulam. The expectation in 2008 was that a rapid increase in Indian nuclear capacity would take place. During 2010-2011, India passed the civil nuclear liability legislation which made a supplier liable for claims under certain circumstances. The U.S. nuclear industry was not prepared to consider any cooperation with India under this condition. In 2016, India came up with the mechanism of an Indian insurance pool that could extend protection to the supplier.

The Fukushima accident of 2011 jolted the nuclear industry globally and the first priority was assessment of safety of nuclear plants in operation all over the world under what was termed as 'Beyond Design Basis' natural events. An unconnected development in the U.S. impacted a nuclear revival there: the availability of shale gas at low prices, in the range of \$2.50 to \$3 per million BTU. In consequence, General Electric de-emphasised the prospects of nuclear energy. Westinghouse designed a 1400 MW enriched uranium reactor (AP1000) complying with the current safety requirements. It managed to get Chinese utilities to build four such units at two sites and they are in an advanced stage of execution.

Westinghouse also secured orders to build four AP1000 reactors in the southern U.S., at two utilities. Unfortunately, these projects



A. SHAIKH/PHOTODISC

suffered great delays and huge cost overruns. Toshiba of Japan, a major owner of Westinghouse, incurred \$7-8 billion in losses due to the nuclear business in the U.S. and is considering selling its successful chip business to accommodate this loss. Westinghouse has filed for bankruptcy and the future of the four nuclear power units under construction in the U.S. is highly uncertain.

Project delays aplenty

Westinghouse representatives discussing their proposal with Nuclear Power Corporation of India Limited (NPCIL) for setting up six AP1000 reactors in Kovvada, Andhra Pradesh, have said that the new ownership would get sorted out, perhaps within a year or so, and they would continue to be seriously interested in the India project. The U.S. government might facilitate a new owner acceptable to it, and the nuclear business may resume in some modified manner.

From an Indian perspective, delays in this project are inevitable and the outcome would be uncertain.

India has been in discussions with Areva of France on building six EPR reactors of 1600 MW at Jaitapur, Maharashtra. The first such reactor in Finland has been greatly delayed and may go into operation in 2018. There is a pending

arbitration case between Finland and France regarding who is to bear the resulting cost increases. A second EPR is under construction in Flamanville, France and that has also suffered delays due to questions regarding the quality of important forgings. Two EPRs in China were making good progress earlier but they also have to address the question of quality of some forgings made in France. Quite independently of these problems, Areva suffered heavy losses post-Fukushima when the uranium market bottomed. Japan, a big buyer of uranium, went out of the market as most of their reactors were shut down in 2011. Only a few have been allowed to restart. The French government has restructured the nuclear business and asked the Electricite de France to take over the nuclear power plant business and let only the fuel and associated activities to be with Areva.

Make in India

Anticipating some of these difficulties, the nuclear community in India has been looking at other options to expand the nuclear capacity. The fleet of pressurised heavy water reactors (PHWR), of our own design and construction, have performed well. During the last five years, the cumulative capacity

factor has been 78%. The reactors have operated continuously for periods exceeding 300 days quite regularly and one of our reactors was on line for 765 days, the second-longest run in the world. The cost of power has been less than from coal in the same region. Given the context, the Union Cabinet's nod on Wednesday for 10 700 MW PHWRs is timely. Indian industry is well placed to supply all the components and materials required for these reactors. Russia is willing to supply two more 1000 MW VVER units for Kudankulam and continue the cooperation to build six 1200 MW VVERs at a second site, to be identified by India.

Our reactor designers at Bhabha Atomic Research Centre and NPCIL have completed the design of a 900 MW reactor using enriched uranium as fuel, designated as the Indian Pressurised Water Reactor (IPWR). Our industry is keen to mobilise and build up the capacity to make components for this design. Enriched uranium fuel can be sourced from international suppliers, as such reactors can be placed under International Atomic Energy Agency safeguards.

By about 2025 or so, India may itself supply enriched uranium from its own enrichment facilities. The government's push for 10 IPWRs will secure India a position of nuclear power plant supplier not only for application in India, but also as a potential exporter. While our earlier plans on expanding nuclear power have not materialised, the alternative plan suggested now, which envisages building 28 units with a total capacity of about 25,000 MW in 15 years from now, can still ensure that nuclear power remains an important part of our strategy to minimise carbon emissions in the long run.

M.R. Srinivasan is former Chairman, Atomic Energy Commission

The courts and matters of faith

We need to make a distinction between matters of conscience and matters of faith



PETER RONALD DESOUBA

There is an uncanny similarity of argument between the Rashtriya Swayamsevak Sangh (RSS) and the All India Muslim Personal Law Board (AIMPLB) on controversies that have to do with belief. This is illustrated best in their respective positions on the Ram Setu and the triple talaq debates.

In 2005, on the Ram Setu issue, the RSS stated that their opposition to the UPA government's plan to dredge a canal between Rameswaram, off the coast of Tamil Nadu, and the islands of Mannar, near Sri Lanka, was a "matter of faith and hence required no substantiation".

Twelve years later the counsel for the AIMPLB has offered a similar argument in the Supreme Court when making his client's case on the practice of triple talaq. A Constitution Bench of five justices is to decide on whether the practice of divorce by triple talaq is consistent with the protections guaranteed to individuals by the Indian Constitution. In opposition

to pleas that the practice be considered unconstitutional, the AIMPLB counsel stated that triple talaq "is a matter of faith. Hence there is no question of constitutional morality and equity".

This argument that matters of faith be given special status needs to be assessed. Why should matters of faith be given immunity from scrutiny?

Three responses can be offered to this question. Let me, on grounds of brevity, refer to them as (i) the special status of faith, (ii) the issue of validity, and (iii) ethical codes in modern democracies.

Special status of faith

At the outset we must acknowledge that faith, as religious belief, must have special status in any constitutional order. It constitutes the core of an individual's sense of self and is the basis of a believer's conscience.

Belief is a matter of personal choice and no external authority, whether state, cultural community, or religious congregation, can tell an individual what her beliefs should be. To do so is to violate the individual's freedom of conscience guaranteed by most constitutional systems and human rights covenants. But on matters of faith, an important distinction has to be made.

All 'matters of conscience' are



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'matters of faith', but not all 'matters of faith' are 'matters of conscience'. It is only matters of conscience that are protected by the freedom-granting provisions of the Constitution. Matters of conscience are individual-centric. They have an ethical core that guides the choices that an individual makes.

They endow the world with meaning and give the individual purpose. In contrast, the 'matters of faith' which the RSS and the AIMPLB are referring to — while they may look similar to 'matters of conscience' — are not so for they are group, not individual, centric. They have a component that is based on evidence, whether this is textual, historical, or empirical. In other words, the belief is continuing on the evidence. For example

it would take the following form: 'we believe X because it is said so in our holy book'.

It is the 'because of' component that demands analytical and scientific scrutiny of the matters of faith. Does the holy book actually say so? Did Lord Ram really build the Setu?

Further, when matters of faith have harmful social consequences, they must be subject to scrutiny since the Constitution guarantees the individual protection from harm.

This is the basis of all social reform in our history.

When the AIMPLB says that triple talaq has evolved in the last 1400 years, it has inadvertently conceded that the practice is not cast in stone. Let the court's intervention be part of that evolution.

The issue of validity

The many advances in linguistics, cultural anthropology, gender studies and, of course, the natural sciences can make the probing of the 'because of' component of the belief very exciting. For example, a textual analysis of a holy book using a study of old and new grammar, or the etymology of the word, or its placement in a sentence are all ways of arriving at the meaning of the statement.

Textual analysis has advanced considerably and hence is avail-

able to determine the validity of the interpretation being offered by scriptural authority. The many schools of Islamic jurisprudence are testimony to this plurality of interpretations.

To that can be added the modern tools of linguistic analysis, gender studies, human rights jurisprudence, and cultural anthropology. The validity of triple talaq must be subject to textual interpretation. Similarly with the Ram Setu claim. It too must be scrutinised by modern science.

Ethical codes in democracies

The most difficult issue in this debate is how to respond to the situation where, after scrutiny, the matter of faith is found to be valid but considered by many in need of change such that it conforms to the contemporary ethics of human rights.

When the counsel for the AIMPLB says that there is "no question of constitutional morality and equity" in matters of faith, he is building a wall, a fashion these days, behind which the orthodox will police their community. Such a wall must not be built. It has no place in a constitutional democracy.

Peter Ronald Desouza is Professor at the Centre for the Study of Developing Societies, New Delhi. Views are personal

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.

Make in n-India

The government's proposal to set up 10 nuclear reactors indigenously looks very grand and ambitious in its scope but is nevertheless achievable ("Cabinet gives nod for 10 indigenous nuclear reactors." May 18). Achieving self-sufficiency in the production of nuclear power has been the Holy Grail of India's nuclear establishment. Our scientists had to work against heavy odds like international sanctions and denial of technology by the West. Since India has been admitted to the nuclear high table thanks to the Indo-U.S. nuclear deal, it makes sense to nudge the domestic industry to realise its potential. There is no reason why the nuclear community cannot rise to the occasion and emulate the successes of the space industry which also has had to face protracted spells of

international non-cooperation.

India's nuclear quest runs contrary to the global pushback against nuclear power. Safety concerns about nuclear power plants persist and the government has to ensure the adherence to strict safety standards. The conflict of interest in having the Atomic Energy Regulatory Board, a government body, overseeing the public sector nuclear power plants will have to be resolved.

V.N. MUKUNDBARAJAN,
Thiruvananthapuram

Triple talaq debate

The present triple talaq debate has divided Muslims into two groups: those against triple talaq and the religious establishment justifying the practice. Definitely, the latter do not enjoy a majority ("Triple talaq not fundamental to Islam," May 16).

Both the Koran and the Hadith spell out the rights of Muslim women. They also clearly lay down the procedure for talaq, a lengthy one which carries enough scope for reconciliation before a complete termination of marriage. Measures like arbitration and counselling during this process are also advised to save the marital relations.

There are some grounds on which talaq can be pronounced but there is a strict procedure laid for it. The process is to take several months and, in the meantime, every possible effort has to be made to save the marriage. Many Indian Muslim men do not follow this. Neither have clerics or the All India Muslim Personal Law Board (AIMPLB) bothered to educate them. Under the circumstances, the only remedy left is scrapping it in

its present form so that those who violate it are punished.

MOKARRAM KHAN,
Bhopal

Elections in Iran

An elected President in Iran commands lesser power than his or her counterparts in other countries ("High-stakes battle," editorial, May 18). The real authority rests with the Supreme Leader. Ever since the Islamic Revolution, Tehran's outlook has been anti-American and it has pursued a foreign policy largely independent of its neighbours. Its support to Syrian President Bashar al-Assad has helped in the success of a joint anti-Islamic State (IS) front. President Hassan Rouhani, with his reformist policies, may not have been a complete success but he was able to get the nuclear deal signed and economic

sanctions eased. At home there was less repression and some increase in GDP growth. The present election may turn out to be against Mr. Rouhani, more so of because of U.S. President Donald Trump's antipathy towards Iran. Whatever be the outcome, India-Iran relations are based on civilisational links, India has consistently stood by Iran and Iran too has

reciprocated. The Chabahar port will enable India to make inroads into Afghanistan and the broader Central Asia. Prime Minister Narendra Modi has to learn that a soft approach towards America may not give us dividends, especially under the stewardship of Mr. Trump.

PARTHASARATHY SEN,
New Delhi

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CORRECTIONS & CLARIFICATIONS:

>>The opening sentence of "₹225-crore Ram museum in Ayodhya" (May 18, 2017) read: "Plans to build a temple dedicated to Lord Ram on the banks of the Sarayu river in Ayodhya continue afoot, with the ... daily feature." It is not a temple that is going to be dedicated to Lord Ram. It is a museum.

>>The OPED page article, "Déjà vu at G7 meet" (Single File, May 16, 2017) erroneously expanded NAFTA as North Atlantic Free Trade Agreement. It should have been North American Free Trade Agreement.

It is the policy of The Hindu to correct significant errors as soon as possible. Please specify the edition (place of publication), date and page. The Readers' Editor's office can be contacted by Telephone: +91-44-28418297/28576300 (11 a.m. to 5 p.m., Monday to Friday); Fax: +91-44-28552963; E-mail: readerseditor@thehindu.co.in; Mail: Readers' Editor, The Hindu, Kasturba Buildings, 859 & 860 Anna Salai, Chennai 600 002, India. All communication must carry the full postal address and telephone number. No personal visits. The Terms of Reference for the Readers' Editor are on www.thehindu.com