



Going grey

Will being put on the watch list force Pakistan to withdraw state support to terror groups?

The Financial Action Task Force (FATF) that monitors countries on action taken against terror-financing and money-laundering has decided to place Pakistan back on its watch list, or “greylist”, from June. The decision is both appropriate and overdue, given Pakistan’s blatant violation of its obligations to crack down on groups banned by the Security Council 1267 sanctions committee that monitors groups affiliated to the Taliban (which originally included al-Qaeda affiliated groups), such as the Lashkar-e-Taiba, Jaish-e-Mohammed and the Haqqani network. Their leaders like Hafiz Saeed and Masood Azhar continue to hold public rallies and freely garner support and donations. In the process, both the LeT and JeM, which continue to praise and claim credit for terror attacks in India, have grown their bases in Pakistan, with fortress-like headquarters in Muridke and Bahawalpur that the authorities turn a blind eye to. By doing this, successive Pakistani governments have jeopardised ties with India, and shown disregard for the outcry against terrorism worldwide. One violation was a Pakistani court’s bail to Zakir-Rehman Lakhvi, LeT operational commander and a key planner of the November 2008 Mumbai terror attacks. Under the 1267 sanctions ruling, banned entities can get no funds, yet Lakhvi received the bail amount, and the authorities have since lost track of him.

It is surprising, then, that the first round of talks of the International Cooperation Review Group that makes its recommendations to the FATF plenary failed to reach the consensus needed to list Pakistan, despite a formidable team of the U.S., U.K., France and Germany proposing the resolution against it. That the initial support for Pakistan came from China, Saudi Arabia, Turkey and the Gulf Cooperation Council countries is cause for concern in New Delhi, given the recent diplomatic outreach by India. Equally significant, however, is China’s turnaround in the plenary session two days later, when it dropped objections to the resolution, indicating that its support for Pakistan is negotiable and not set in stone. The FATF listing will not miraculously change Pakistan’s behaviour, and this is not the first time it has been listed as a country with “strategic deficiencies” in countering terror-financing and money-laundering. However, if the greylisting comes as part of a concerted campaign to hold Pakistan accountable, and pressure is ratcheted up with financial strictures on its banks and businesses and targeted sanctions imposed against specific law enforcement and intelligence officials, it may yet bear fruit. The hope is that such sanctions will persuade Pakistan to stop state support for these terror groups and become a responsible player on the global stage and a responsive neighbour.

No discrimination

Insurance law must be revisited to remove unreasonable exclusions in health policies

The Delhi High Court’s order striking down a discriminatory exclusion clause in a health insurance policy, and upholding the claim of a patient, should have the broader effect of eliminating similar exclusions. The case involved a rare heart condition based on which United India Insurance Company rejected the claim, viewing it as a manifestation of a genetic disorder. By its very nature, such exclusion defeats the purpose of the health policy. But then, policies sold to individuals invariably contain a plethora of exclusions in the fine print, diminishing their practical value. They are heavily weighted in favour of the insurer. The court has struck a blow for the rights of the individual by holding that exclusion of the kind invoked does not just involve a contractual issue between the two sides, but the basic right to health flowing from Article 21 of the Constitution. It has gone further to interpret the right to health as being meaningful only with the right to health care, and by extension, health insurance required to access it. This is good advice. The Centre, which has committed itself to a universal National Health Protection Scheme, and the Insurance Regulatory and Development Authority would do well to heed it. They must review all the policies, and eliminate unreasonable exclusionary clauses designed to avoid claims.

Several studies have pointed out that health insurance in India suffers from lack of scale, covering only about 29% of the households surveyed under the National Family Health Survey-4, that too in a limited way. The health-care system also lacks regulation of costs. There is asymmetry of information, with the insured member unable to assess the real scope of the policy or negotiate the terms with the provider. Questions such as these led to the enactment of a new health-care law in the United States during the Barack Obama administration, whereby strict obligations were placed on insurers and unreasonable exclusions removed. India’s health insurance and hospital sectors closely follow the American pattern, and are in need of strong regulation. This is necessary to define costs, curb frauds and empower patients. As the Delhi High Court has observed, exclusions cannot be unreasonable or based on a broad parameter such as genetic disposition or heritage. Insurance law has to be revisited to also ensure that there is a guaranteed renewal of policies, that age is no bar for entry, and pre-existing conditions are uniformly covered. Problems of exclusion will be eliminated if the payer-insurer is the state, the financing is done through public taxes, and coverage is universal. Given its stated intent to ensure financial protection against high health costs, India should adopt such a course. The short-term priority is to remove discriminatory clauses in policies and expand coverage to as many people as possible.

The 1947 singularity

India needs to build upon the rights-based approach that informed the country’s adoption of universal suffrage



GAUTAM BHATIA

In the debates on India’s contemporary history, the meaning and significance of 1947 and of the framing of the Constitution have always been contested. Did the Constitution mark a moment of discontinuity with the colonial past, and a desire to transform Indian political and social structures? Or was it simply a transfer of political power and a change of rulers, leaving underlying institutional arrangements intact? Supporters of the second view marshal a formidable array of arguments to support their case that the Constitution was simply a continuation of what existed before, with a few cosmetic changes. They point out that two-thirds of the Constitution replicates the 1935 Government of India Act, that key enablers of colonial executive dominance such as the ordinance-making power and Emergency powers were carried over, and that the Constitution expressly endorsed existing colonial laws. This interpretation has sometimes been validated as well by the Supreme Court, which once pointed out that the Constitution “did not seek to destroy the past institutions; it raised an edifice on what existed.”

Incremental progress

Central to this argument is the issue of suffrage. It is argued that in the thirty years before Independence, there had been a slow and incremental development of representative institutions in India. Waymarked by the 1919 and 1935 Government of India Acts, which established a limited franchise and allowed for the functioning of provincial legislative assemblies, the argument – again, in the words of the Supreme Court – is that the “new governmental set-up was

[only] the final step in the process of evolution towards self-government.”

This is not merely an academic debate. As the civil liberties lawyer K.G. Kannabiran pointed out, “Our political struggle retained with total composure the entire colonial legal system which had been effectively used against the freedom struggle”. Indeed, elements of this system have been upheld and endorsed by the courts, some quite recently. These include the laws of sedition, blasphemy and criminal defamation, Section 377 of the Indian Penal Code, and far-reaching Emergency powers. All these provisions are based on similar logic: the colonial imperative of reducing citizens to subjects and placing their liberties at the mercy of centralised and unaccountable power.

It is in this context that the publication of a new book – *How India Became Democratic: Citizenship and the Making of the Universal Franchise* – assumes great importance. Written by the Israeli scholar Ornit Shani, it is the story of the first general election of independent India. The preparations for this election were conducted in tandem with the deliberations of the Constituent Assembly and the framing of the Constitution. They involved massive tasks such as the preparation of electoral rolls for an entire nation and the setting up of an electoral machinery, all against the background of a violent Partition and mass displacement of people.

How India Became Democratic traces the mechanics of this process, which was truly epic in its scale, scope and imagination, and resurrects the histories of the bureaucrats and civil servants, the unsung heroes, who made it possible. Beyond that, however, it makes a crucial point: notwithstanding the existence of voting and the presence of representative institutions in pre-Independence India, the imagination and implementation of universal suffrage was not in any sense a “continuation”, or simply an “incremental



development” of what existed before. Rather, it was revolutionary in the true sense of the word, a re-imagining of the social contract and the basic principles that underlay it.

Universal suffrage

In at least four distinct ways, universal suffrage in independent India marked a decisive break from its colonial past. First, arithmetically: the franchise granted by the British regime in the 1919 and 1935 Government of India Acts was highly restricted, and at the highest (in 1935) no more than 10% of Indians could vote. Second, structurally: voting in British India took place under the regime of separate electorates, divided along class and economic lines. Third, the character of the electorate: voting entitlements were based on property and formal literacy-based qualifications, which reproduced existing social and economic hierarchies, and excluded the very people whose interests were most in need of “representation”. Indeed, women’s entitlement to vote was often linked to the status of their husbands. And fourth, voting was a gift of the colonial government, which could be granted or taken away at its will. Suffrage was a privilege accorded to a few Indians, and not a right that all Indians had to decide who would govern them.

Consequently, in expanding the electorate from 10% to almost 100%; in abolishing separate electorates for a conception of universal citizenship; and above all, in decisively rejecting arguments

Cornered by the Quad?

The four countries will have to show that their infrastructure development plans are a match to Chinese ambitions



HARSH V. PANT

Last November on the sidelines of the East Asia Summit in Manila, the Quadrilateral arrangement involving Australia, India, Japan and the U.S. saw a revival as officials exchanged notes on regional and global security. It has been a remarkable turnaround in the prospects of an arrangement which had collapsed a decade ago under the weight of Chinese demarches. In 2017 it was an assertive Beijing that brought the four Indo-Pacific powers together to manage the externalities arising out of the scale and scope of China’s rise.

Challenging China

Despite an initial meeting, there has been a range of questions on the viability of the Quad arrangement, and specifically on its agenda given that the grouping has often been wary of explicitly annoying the Chinese.

But there are signs of emerging priority areas. Last week it was revealed that the four countries are working to establish a joint regional infrastructure scheme as an alternative to China’s Belt and Road Initiative (BRI). Though the plan is still in its nascent stage, it is clear that the normative order China is trying to construct in the economic sphere will not go unchallenged. As Australia’s Minister for Foreign Affairs Julie Bishop said recently in a media interview in London, “We want to work with China to ensure that their infrastructure investment is commercially sustainable, is transparent and adds to the economic growth that is so needed in our part of the world.”

The Quad has expressed reservations on the BRI in its own ways. But the four countries have rightly recognised that merely opposing it will not advance their agenda given the hunger for infrastructure in large parts of the world. According to some estimates, developing nations in the Indo-Pacific itself need around \$26 trillion through 2030 for their infrastructure needs. As a pet project of Chinese President Xi Jinping, the BRI is aimed at situating Beijing at the core of the global economy by



building global transport links across the world. China’s ambitions in this regard have also kept expanding with its first official Arctic policy white paper which talks of a “Polar Silk Road.” The Quad nations will have to present their own model if only to underscore the normative differences between the Chinese and their approach. China with its BRI is providing a new economic template to the world, and it is important for those powers which view Beijing’s approach as top-down, opaque and self-serving to proactively provide credible alternatives. The scale and scope of the Chinese economic footprint can only be tackled if the Quad nations combine forces. Unlike the military option, this is a softer side of the “Quad” engagement and its members are already undertaking

connectivity projects around the world. India and Japan, for example, are working on an ambitious Asia-Africa Growth Corridor linking Southeast Asia to Africa. The idea of an Indo-Pacific “quad” has been much talked about but this will be the first concrete manifestation of the idea in operational terms.

Pushing back

The biggest concern about the BRI is that it is a means of cementing Chinese economic hegemony and, in the process, challenges the foundations of the extant liberal economic order. While underlining their support for the need for global and regional connectivity in principle, the Quad members have been pushing back. India’s opposition has been the strongest partly because the China-Pakistan Economic Corridor, which is a part of the BRI, passes through Pakistan-occupied Kashmir. India was the only major power which did not attend the BRI summit hosted by China last May. Japan has laid down specific conditions for its participation in the BRI even as it is looking to use its official development assistance to promote a broader “Free and Open Indo-Pac-

a culture in which every exercise of power and authority must be justified to those who are subject to it, even when it is said to be for their own good?

Changes in court

There are recent signs that the courts have begun to understand this. In early 2017, in a very significant judgment involving the executive’s ordinance-making powers, the Supreme Court expressly departed from colonial precedents on the subject, and placed important limits upon the scope of presidential ordinances. Later in the year, when the court was hearing the dispute between the elected Delhi government and the Lieutenant-Governor (another colonial holdover), more than one counsel framed the issue in terms of the constitutional commitment to progressively deepening democracy. And indeed, many of the pending and upcoming cases in the Supreme Court’s docket involve questions of how much power the state can wield over individuals, what rights individuals have to decide for themselves how they will define their relationship with the state, and above all, how the constitutional “culture of justification” holds the state accountable for the uses and abuses of such power.

In hearing and deciding these cases, the court has an opportunity to affirm the words of one of its greatest civil rights judges, Justice Vivian Bose, who recognised the deeply transformative character of the Constitution when he said: “Is not the sanctity of the individual recognised and emphasised again and again? Is not our Constitution in violent contrast to those of states where the state is everything and the individual but a slave or a serf to serve the will of those who for the time being wield almost absolute power?” *How India Became Democratic* helps us to understand that the answer to both those questions is an unambiguous “yes.”

Gautam Bhatia is a Delhi-based lawyer

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.

Where are the checks?

There are many skeletons in the cupboards of Indian public sector banks ‘Investigation’ - ‘Bank of Baroda’s role in South Africa’s Gupta scandal’, Page 1, February 27. The details in the report leave one wondering whether there are any monitoring or supervision systems in banking operations. If they exist, how and why has monitoring gone haywire with businessmen making merry at the cost of innocent account holders? The Reserve Bank of India and the Union Finance Minister have a lot to answer for as fresh revelations almost every day are showing banking operations in a bad light. Pointing the finger is no solution. The government has to act fast before scandals in the banking

sector consume it, just like the 2G case in the case of the UPA.

V. SUBRAMANIAN,
Chennai

Spiralling violence

Though the article, “Life in a deadly democracy” (Editorial page, February 27), is focussed on Kerala, it should cause the leadership of both the political left and the right to introspect over whether the on-going accent on violence all over the country with the ‘you-started-it’ or retaliatory argument can ever bring peace. Anger at criticism is the reaction of one who is immune to the compulsions of change in societies. This anger is being repeatedly and arrogantly displayed publicly by people of all political persuasions. Violence, whether temporary or “necessary”,

cannot provide long-term solutions for societies. In the short term or on an immediate basis, it can provide “relief” but only to the section which wields power, whether locally or widespread. We live in troubled times which can get worse unless we wake up to the reality of collapsing democratic institutions and impending societal collapse due to violence being perpetrated socially, economically and politically.

SUDHIR G. VOMBATKERE,
Mysuru

One of a kind

As one among a handful of artistes to have started acting at a very young age, Srivedi’s glittering career can hardly be matched (Editorial - “Ms. India”, February 27). Given her meteoric rise, from a child

artiste in south Indian films to becoming a lead actress in Hindi cinema, it would no exaggeration to call her an institution. The younger generation of actors have a lot to learn from her in terms of her incredible energy, talent, wealth of experience, enviable track record, professionalism and hard work, and down-to-earth nature. Her contribution to pan-Indian cinema is sure to have fetched her the Dadasaheb Phalke award eventually.

R. PRABHU RAJ,
Bengaluru

No parallel

It is extremely disturbing to find and read about references being made to “cancer” in the context of the spate of scams in the banking sector. Corruption is a crime and something to be ashamed of. Cancer is

not. Thousands of patients with cancer cross the portals of the Cancer Institute in Adyar, Chennai, and as its chairman, I can say that we doctors are proud that many of them lead productive lives. We do not want the word “cancer” to be associated with guilt, a sense of hopelessness or dread. And

CORRECTIONS & CLARIFICATIONS:

The report headlined “In a record, more than 4 lakh olive ridleys nest at Rushikulya” (Feb 27, 2018) referred to olive ridley turtles as *endangered* species. According to IUCN (International Union for Conservation of Nature) it is classified under *vulnerable* species.

The Ground Zero page story titled “The champions of clean air” (Feb. 24, 2018) erroneously referred to Cuddalore as an industrial hotspot on the *western coast*, just a few hours from Chennai. Cuddalore is on the *eastern coast*. The story talked about formulating standards for *voluntary* organic compounds. It should have been *volatile* [substances that easily evaporate at ordinary temperatures] organic compounds.

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, Kasturi 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