

# The vexatious question of Masood Azhar

India can take up its fight against terrorism at the United Nations Security Council in various ways



CHINMAYA R. GHAREKHAN

The UN Security Council adopted a statement on February 21 condemning the Pulwama terrorist attack of February 14, for which the Jaish-e-Mohammad (JeM) took responsibility. India is applauding this development and it should. A lot of diplomatic effort had gone into achieving this result. But this statement should be looked at with a proper perspective.

## Hierarchy of actions

Some media organisations and analysts have mistakenly described the Council as having adopted a resolution. This is not true; the Council made a presidential statement. It may be worthwhile to understand the nuances of the action the Council takes in a given situation.

The least forceful action that the Council can take is to authorise the current month's President to speak to media representatives about the proceedings of the Council. There is no official record of these remarks.

The second level is when the Council adopts a presidential statement. A lot of negotiations are undertaken in the small room reserved for informal consultations next to the Council chamber where only members of the Council are present. Of necessity, it has to be a consensus, as distinct from unanimous, document, meaning that not all the members support everything included in it but go along since they do not have a serious problem with the text. Even if one member has strong objections to the text, the statement cannot be approved. The draft of the text could be prepared either by the President or by one of the members; for the most part, that member is the representative of one of the permanent members. Also, the statement could be issued either in the name of the Council or in the name of 'members of the Security Council'. The former is generally regarded as carrying more weight than the latter.

The third level is the resolution, which is the most authentic voice of the Council, carrying maximum



"The only consequence of naming Masood Azhar as a global terrorist is that he cannot travel to other countries and his funds in foreign accounts will get frozen." A file photo of the JeM chief in Islamabad, Pakistan. ■ AP

weight. Again, the resolution can be under Chapter VI or Chapter VII of the Charter. Resolutions adopted under Chapter VII are enforceable unlike those under Chapter VI (Resolutions regarding Kashmir are under Chapter VI).

Some analysts dismiss the statements and resolutions of the Council as of no consequence, arguing that the countries concerned should pursue their interests irrespective of the Council's action. In practice, the country against which the resolution or statement is aimed cares a lot about the text of the resolution because countries care about their image in the international community. Israel, which has the maximum number of resolutions critical of its actions, makes strenuous efforts, through its protector, the U.S., to have the resolutions moderated to make them less critical. Hours are spent on negotiations, discussing whether to 'condemn', 'deplore' or 'strongly deplore' something.

The February 21 statement was in the name of the members of the Council. It is not that it is not worth much; it is just that it is a notch below a statement that is issued in the name of the Council. A statement in the name of the members might also suggest that not all them were fully on board with the entire text. A statement in the name of the Council would suggest that all the 15 members are in agreement with the text.

The fact that China went along with the statement does not signify

much of a shift in its position, since the Council had already declared the JeM as a terrorist organisation. The statement does not name Masood Azhar. It is not known if the French, who took the initiative in this matter, had at any stage included Azhar's name in the text and took it out at China's insistence. From the French perspective, this initiative will earn them brownie points from India, without having to pay much of a price.

In 2016, India moved the sanctions committee to include Azhar's name, with the support of three permanent members: the U.S., the U.K., and France. Again, in 2017, India took a similar initiative, supported by the same countries. On both occasions, Russia did not actively support the proposal, though it went along with it. China vetoed it both times.

It is for consideration whether and why it is so important for India to have Azhar included in the list of global terrorists. The only consequence of naming an individual is that the person cannot travel to other countries and his funds in foreign accounts will get frozen. In Azhar's case, this will not cause him much discomfort. Is it worth India's while to invest so much effort and perhaps political capital in getting him named an international terrorist? Suppose China at some stage removes its veto on Azhar's name, which it will only do with Pakistan's approval, it will be doing a big favour to India. Will that be regarded enough of a conces-

sion by Pakistan for India to resume dialogue with it?

There is no doubt that India's relations with West Asia have improved significantly in the past five years. The invitation to External Affairs Minister Sushma Swaraj from the Organisation of Islamic Cooperation (OIC) to be guest of honour on March 1 at the Foreign Ministers meet is ample evidence of this. The past record of the OIC with respect to India is most objectionable. In 2017, the OIC adopted a resolution condemning "the intensified Indian barbarities since July 2016, after the extra judicial killing of Burhan Wani, against unarmed and innocent civilians in Indian occupied Kashmir" and "denouncing India" for refusing the Independent Permanent Human Rights Commission of the OIC access to "IoK". It makes sense not to allow the present to be held hostage to the past. Ms. Swaraj has a challenging mission to accomplish. However, to regard the previous OIC resolutions regarding Kashmir as of no consequence is in the nature of rationalising the current approach. Hopefully, the OIC will respect India's gesture and refrain from embarrassing Ms. Swaraj after her departure.

## Raising issues in the Council

The successful preventive non-military strike carried out by the Indian Air Force on the JeM's terrorist training camp in Pakistan on Tuesday undoubtedly caught Pakistan by surprise. Apart from military action, which Pakistan has already taken, it will certainly try to raise the issue in the Council. It may be difficult to prevent it, since what has happened would certainly be regarded as threatening international peace and security. Pakistan's all-weather friend, China, may take the initiative on behalf of its protégé. According to Council rules, if a member of the Council asks for a meeting, the meeting has to be called. India must have spoken to the U.S. and others about this possibility. If the Council does meet, it would give India an opportunity to expose Pakistan's true face. It will no doubt screen footage and photos to buttress its case in the Council.

Chinmaya R. Gharekhan, a former Indian Ambassador to the UN, is the author of 'The Horseshoe Table: An inside view of UN Security Council'

# A patchwork approach to GST problems

Transparency and simplicity in the tax regime are casualties of the GST Council's recent decisions



T.C.A. SHARAD RAGHAVAN

It has the best intentions, but the Goods and Services Tax (GST) Council is nevertheless systematically eroding the strongest features of the new tax regime – simplicity and transparency.

## From three to eight rates

Before the GST was introduced, the government set up a panel under the then Chief Economic Adviser, Arvind Subramanian, to come up with a suitable rate at which most items should be taxed under the GST. Mr. Subramanian came up with a standard rate of 15% for most items, a "low rate" for essentials, and a "high rate" for demerit goods. Presumably dissatisfied with just three rates, the government chose to introduce GST with five different tax slabs: 0%, 5%, 12%, 18% and 28%. Still not satisfied, the GST Council then introduced two more highly specific rates: a nominal 0.25% for rough diamonds and 3% for gold. Those of a critical bent of mind immediately pointed out that the major beneficiaries of this would be Gujaratis. The latest GST Council meeting on Sunday took this a step further and introduced yet another rate of 1% for the sale of under-construction affordable houses. So, from what should have at most been three rates, we now have eight!

To be clear, the number of tax slabs does not affect the concept of 'One Nation One Tax', as a single product is still taxed at the same rate across the country. But specifying eight different GST rates is a blow to tax simplicity, which the GST was to provide.

That said, the GST Council has not spared the concept of 'One Nation One Tax' either. However necessary the government felt it was to provide Kerala additional funds for rehabilitation after the devastating floods of 2018, it had several options available apart from the one it chose, which was to allow the State to impose a 1% disaster relief cess. As a result, for two years, the Indian market will be divided into two: Kerala, where goods and services are 1% more expensive, and the rest of India. While it can be argued that the cess in Kerala is a one-off, the fact remains that this is a bad precedent to set. It's not too hard to imagine a situation where States start clamouring for a cyclone relief cess, drought

relief cess, flood relief cess, etc. Recovery from natural disasters is an expensive process, and additional funds must be made available. But mechanisms for this have already been put in place. There is a National Disaster Response Fund at the Central level and each State has a State Disaster Response Fund. Increasing budgetary allocations in these areas instead of spending on giant statues and advertising campaigns is an option.

## Increasing opacity

Transparency is the other casualty of the GST Council's need to provide temporary fixes to problems. Sunday's decision to remove the input tax credit provision from the real estate sector will likely go a long way in increasing opacity in an already murky sector.

The input tax credit system was designed to create a seamless chain in the entire supply process. Normally, a company can claim credits for the tax it has paid on its inputs. Under a fully functioning GST system, the government can verify the amount of credits to be paid to the company by matching its invoices with those provided by the vendor. Such a system encourages honesty and transparency. This is the third time the Council has removed this vital provision, and its reason for doing so is weak. Finance Minister Arun Jaitley said that the Council had noticed that real estate developers were not dropping their prices in line with what they should be doing, considering they were getting the benefit of input tax credits. This happened before in the case of restaurants. In both situations, the government took the easy way out and simply removed the input tax credit provision altogether. So, rather than relying on the body it had created to handle such issues, the National Anti-Profitsteering Authority, the Council instead chose to weaken the entire tax system. This wouldn't have been too much of a problem if the real estate sector was as small as the restaurant industry or the sanitary pads industry (the third industry where there is no input tax credits). But the real estate industry is estimated to be at least ₹40,000 crore in size. Not to forget the fact that cement, a huge input in real estate, is taxed at the highest rate of 28%, and will now not be offset by credits.

In both cases – disaster relief and anti-profitsteering – the GST Council has chosen to ignore established institutions designed for those very purposes in favour of a patchwork approach that is likely to cause more problems than it solves.

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## SINGLE FILE

# Manufacturing unanimity

Giving cash grants to gram panchayats electing sarpanchs unanimously is antithetical to democracy

SATYA NAAGESH AYYAGARY



Using cash or other favours as an inducement to garner votes in any election, whether to Parliament, Assembly, or the gram panchayat, is a punishable offence in India. The logic is that voters must exercise their choice based on free will and the choice they make should be an informed one using a secret ballot. That is a cornerstone of democracy. While inducements of every sort are endemic during elections, what is to be done when the state itself is the inducer?

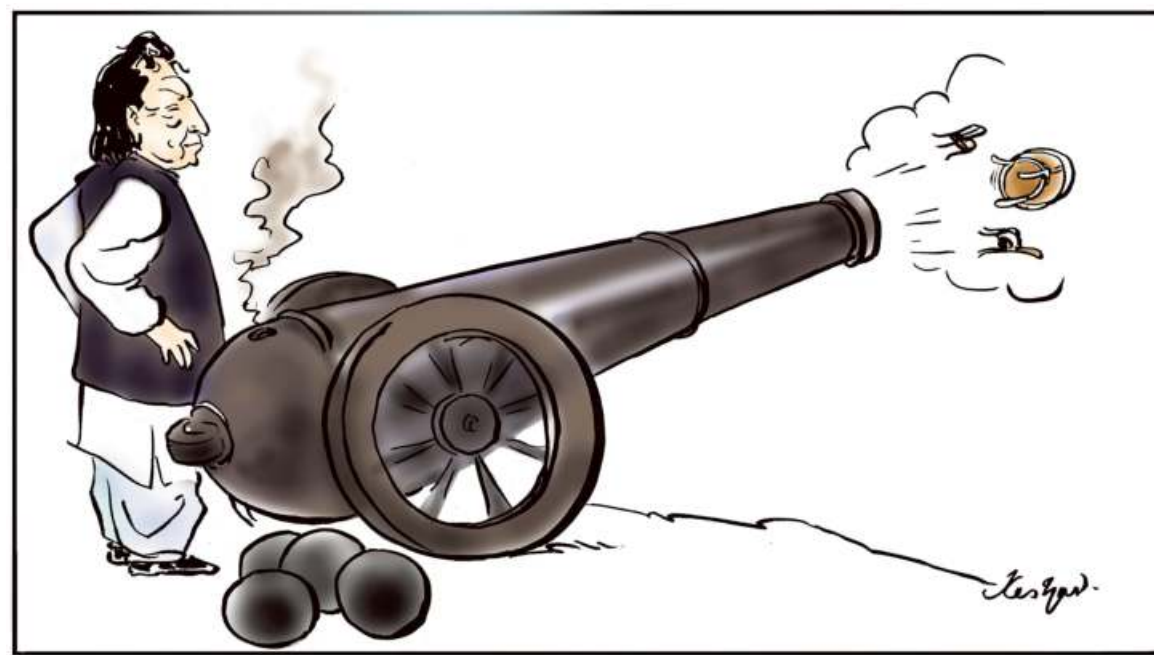
Consider this. In the run-up to the Panchayat elections in Telangana, the government led by the Telangana Rashtra Samithi (TRS) encouraged 'unanimous elections'. The carrot offered to those gram panchayats that elect their sarpanchs unanimously was a cash grant of ₹10 lakh for those with a population less than 15,000 and ₹25 lakh for those with a population more than 15,000. This had an unexpected fallout: large-scale 'auctions', which of course are illegal, were held in many gram panchayats across the State. The State Election Commission was seized of the matter when civil society groups cried foul.

This is not something new. It has a precedent. In fact, Andhra Pradesh has been encouraging unanimous elections for gram panchayats. A Congress-led united Andhra Pradesh in November 2008 issued a government order announcing ₹5 lakh for those gram panchayats with a population less than 15,000 and ₹10 lakh for those with a population more than 15,000, that elect their sarpanchs unanimously. This was revised, in August 2013 to ₹7 lakh and ₹20 lakh, respectively. The TRS-led government only made an inflation-adjusted increase.

United Andhra Pradesh and now Telangana are not the only ones encouraging this practice. In Gujarat, there was a scheme which began in 1992 that provided incentives for unanimous elections. It was revised and named Samaras-Yojana. States including Haryana and Punjab took a leaf out of the Andhra Pradesh strategy book, and in 2008 launched cash grants for unanimous election schemes. There was an echo in Himachal Pradesh too. There was criticism of this democracy-subverting practice, but nothing seems to have come out of it.

What was purportedly meant to save precious resources and avoid rancour among villagers is turning out to be something akin to manufactured unanimity, or manufactured consent, under duress or political pressure. How is this illegal practice being encouraged by States despite posing a threat to democracy?

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## FAQ

# Regulating drug prices

More needs to be done to make medicines affordable

BINDU SHAJAN PERAPPADAN

## What has been the impact of market-based pricing?

The largest share of out-of-pocket expenditure on health is due to medicines (approximately 70%, according to the NSSO). This is a major access barrier to healthcare, especially for the poor. Health experts have criticised the Drug (Prices Control) Order (DPCO), 2013 for doing little to increase the affordability of medicines. Data from the Department of Pharmaceuticals show that the majority of medicines have price reductions of 20% or less.

**How are prices regulated?** The DPCO controls the prices of all essential medicines by fixing ceiling prices, limiting the highest prices companies can charge. The National List of Essential Medicines (NLEM) is drawn up to in-

## What is the mechanism for price capping?

The NLEM 2015 contains 376 medicines on the basis of which the National Pharmaceutical Pricing Authority (NPPA) has fixed prices of over 800 formulations using the provisions of the DPCO. However, these formulations cover less than 10% of the total pharmaceutical market. The DPCO follows a market-based pricing mechanism. The ceiling price is worked out on the basis of the simple

average price of all brands having at least 1% market share of the total market turnover of that medicine.

## Have any other methods been used?

Prior to 2013, the DPCO followed a cost-based pricing mechanism that was based on the costs involved in manufacturing a medicine along with reasonable profit margins. Health experts have argued that this policy resulted in comparatively lower prices than the current market-based policy.

Since the implementation of the DPCO, 2013, the NPPA has made certain departures from the market-based pricing mechanism, which was found to be insufficient for ensuring affordability. This has been done through the use of special powers to act in public interest under Paragraph 19 of the DPCO, to regulate the prices of cardiac stents and knee implants. These moves have brought about dramatic

price reductions: 85% in the case of stents and 65% in the case of knee implants.

## What about cancer drugs?

"The government is planning to cap the trade margins for highly priced drugs for cancer and rare diseases to bring down their prices," says Malini Aisola, health researcher and co-convenor of the All India Drug Action Network. She explains that this move is in the wake of recent amendments to the DPCO that exempted patented medicines and rare disease drugs from price controls. But Ms. Aisola claims that the trade margin capping will not sufficiently bring down prices. "We urge the government to take serious policy measures to ensure true affordability such as through price controls, implementation of the national rare disease policy and the use of legal flexibilities under patent law," she says.

## FROM The Hindu ARCHIVES

FIFTY YEARS AGO FEBRUARY 28, 1969

# India not for arbitration on Kachchativu island

The Minister for External Affairs, Mr. Dinesh Singh, today [February 27, New Delhi] ruled out in the Lok Sabha India agreeing, now or in future, to international arbitration for settling the dispute on Kachchativu island with Ceylon. Mr. Dinesh Singh was replying to a calling attention notice tabled by Mr. George Fernandes and four others on reports in newspapers that India had agreed to refer for arbitration the dispute on Kachchativu. India, Mr. Dinesh Singh said, had not had any doubt about (its ownership of) the Island. If there were any doubt on that score, India would not have talked with Ceylon. Raising the issue, Mr. Fernandes asked whether Ceylon had demanded that the matter be settled through arbitration, that the Palk Strait and the Gulf of Mannar be partitioned in such a manner that Kachchativu should go to Ceylon and whether Government was clear in its mind that the island was Indian territory.

A HUNDRED YEARS AGO FEBRUARY 28, 1919

# Wars Without Casualties.

A Soldier who is bomb, bullet, and shell proof, who does not mind either liquid fire or the most vicious kind of gas, has been invented by a Danish engineer. He has taken out patents on a device known as the "Automatic Soldier". The "automatic soldier" consists of a special double steel cylinder made of shell-proof Tungsten steel or the like. There is one outer stationary cylinder, and a second inner cylinder, the latter telescoping into the stationary one. The entire device is set into trenches, the contrivance taking the place of a human soldier. When the "soldier" goes into action the inner cylinder rises 18 in., which brings it above the parapet of the trench. In other words, the automatic soldier normally is invisible, and only can be seen when the inner cylinder rises. The gun, as well as the entire mechanism, is entirely controlled by wireless.

## CONCEPTUAL

# Sub-replacement fertility

DEMOGRAPHY

This refers to any fertility rate below the replacement rate that would cause the population of a certain group of people to decrease over time. A population's fertility rate falls below the replacement rate when adults fail to produce enough offspring to even replace themselves. The sub-replacement fertility rate is generally considered to be anything below the replacement fertility rate of 2.1 children per woman in developed countries. The replacement rate, however, differs across the globe. For instance, it is much higher in developing countries where the infant mortality rate is much higher than in the developed world due to various reasons.

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