



KHALISTAN SUPPORTERS TRY TO INCITE VIOLENCE OUTSIDE INDIAN EMBASSY IN U.S.



Strong opposition: Khalistan supporters protesting outside the Indian Embassy in Washington, USA. PTI

They openly threaten Indian Ambassador Taranjit Singh Sandhu, abuse a journalist covering the protest; U.S. Secret Service and police bring in reinforcements, prevent destruction of property

A group of Khalistan supporters held a protest in front of the Indian Embassy here, tried to incite violence and threatened the country's envoy. However, with the timely intervention by law enforcement agencies, they were prevented from vandalising the property.

The protesters also verbally intimidated and physically assaulted senior PTI reporter Lalit K. Jha covering the event on Saturday.

Separatist Sikhs hurled abusive language and openly threatened

Indian Ambassador to the U.S., Taranjit Singh Sandhu. Mr. Sandhu was not in the embassy at the time of the protest. In their speeches, most of the protesters were trying to incite violence not only in India but here as well, including physical damage to the Indian Embassy property.

The U.S. Secret Service and the local police brought in reinforcements and more forces were deployed. At least three police vans were placed in front of the Embassy.

At one point, five protesters crossed the road and were about to break into the temporary marker of the embassy property. Secret Service personnel rushed to the spot and asked the protesters to go back to the designated protest area.

During the protest, Mr. Jha saw separatists bringing two bundles of wooden sticks that were kept in the park that has the statue of Mahatma Gandhi in front of the embassy. The wooden sticks were similar to those which were used to break the door and windows and smash the glasses of the Indian Consulate in San Francisco.

Organisers of the protest had a very hostile approach towards Mr. Jha covering the protest. They not only obstructed him by coming in front of the camera and placing the Khalistan flag on his face, but also threatened of dire consequences.

The reporter, fearing physical harm, called 911 and ran towards the other side of the road for safety.

Later, two of the protesters came towards the reporters, who were standing near the Secret Service personnel. One of them told the Secret Service that the reporter be asked to leave "my land".

They warned that if there was any violence and the reporter was physically harmed, they should not be blamed. The other protester hurled abuses at the reporter and moved the Khalistan flags that he had in his hand in such a way that it hit the reporter's ear. The Secret Service personnel asked the reporter if he was okay and if he wanted to lodge a complaint. The journalist said he did not intend to lodge a complaint.

They also warned the protesters against repeating the aggressive behaviour.

The separatists left the area around after 3 p.m. and one of them was seen keeping the bundle of wooden sticks in the trunk of the SUV.

INDIA TELLS CANADA TO ARREST THOSE WHO THREATEN MISSIONS

India over the weekend summoned the Canadian High Commissioner and asked the Justin Trudeau government to "arrest and prosecute" the pro-Khalistan elements who pose a threat to the safety and security of India's diplomatic missions in Canada.

The statement by the External Affairs Ministry came a day after Canadian Foreign Minister Melanie Joly responded to a question in the Canadian Parliament regarding the police operation to nab Amritpal Singh in Punjab, saying Ottawa was tracking the situation "closely".

"The Government of India sought an explanation on how such elements were allowed, in the presence of police, to breach the security of our diplomatic mission and consulates. The Government of Canada was reminded of its obligations under the Vienna Convention, and asked to arrest and prosecute the individuals who have already been identified as being involved in such acts," the Ministry said on Sunday.

Earlier, Ms. Joly, who was hosted here during the G-20 Foreign Ministers Meeting, placed Canada's concern over the situation in Punjab as there reportedly are Canadian citizens (of Indian origin) in the State who have experi-

enced suspension of Internet services because of the police crackdown.

"We are aware of the evolving situation in Punjab and we are following it very closely. We look forward to a return to a more stable situation and you can always count on the Government of Canada to make sure that we will continue to address the concerns of many members of the community."

Journalist assaulted

The crackdown on Mr. Singh and pro-Khalistan supporters triggered protests against Indian missions in the U.K., U.S. and Canada. High Commissioner Sanjay Kumar Verma had to cancel his appearance at an event because of the threat posed by sword-wielding protesters.

Ahead of Mr. Verma's arrival, an Indian journalist was assaulted by the protesters.

"It is expected that the Canadian government will take all steps which are required to ensure the safety of our diplomats and security of our diplomatic premises so that they are able to fulfil their normal diplomatic functions," the Ministry said.

HONDURAS ESTABLISHES TIES WITH CHINA LEAVING TAIWAN WITH FEWER PARTNERS



New friends: Honduras Foreign Minister Eduardo Enrique Reina Garcia, left, with his Chinese counterpart Qin Gang in Beijing.AP

The Central American nation joins the likes of Nicaragua, Panama and Costa Rica in recognising Beijing and ending ties with Taipei; officials from the Asian island country hit out at the move, say it has been triggered by financial reasons

China and Honduras on Sunday signed a landmark communique to formally establish diplomatic relations, with the Central American nation becoming the latest country to switch recognition from Taipei to Beijing.

Sunday's agreement signed in Beijing between the two Foreign Ministers said "the two Governments have decided to recognise each other and establish diplomatic relations at the ambassadorial level, effective from the date of signature of this communiqué."

"There is but one China in the world and the Government of the

People's Republic of China is the sole legal Government representing the whole of China," it added. "Taiwan is an inalienable part of China's territory."

Honduras, the agreement said, "chooses to stand with 181 countries in the world, recognise and undertake to adhere to the one-China principle, sever the so-called 'diplomatic relations' with Taiwan, establish diplomatic relations with the People's Republic of China, and undertake that Honduras shall no longer develop any official relations or official exchanges with Taiwan."

The agreement now leaves a dwindling number of diplomatic partners for Taiwan, with Honduras joining Nicaragua, Panama and Costa Rica in recently recognising Beijing and ending ties with Taipei.

The only remaining among the 193 member countries of the UN that maintain diplomatic relations with Taiwan, along with the Holy See (Vatican), are the Marshall Islands, Nauru, Tuvalu, and Palau in the Pacific; Eswatini in Africa; and Belize, Guatemala, Haiti, Paraguay, St. Lucia, Saint Vincent and the Grenadines, and Saint Kitts and Nevis, in Latin America and the Caribbean.

Reason for breakdown

Taipei hit out at the move, with a statement from the office of President Tsai Ing-wen saying China had "suppressed the international space" of Taiwan. Officials in Taipei said financial reasons were behind the switch, and Honduras had asked Taiwan for financial assistance as a condition to continue relations. Chinese leader Xi Jinping, who began his third five-year term as President earlier this month, reiterated at the annual session of the National People's Congress (NPC) or Parliament that the Taiwan issue was a red line for China. Mr. Xi, and previous Chinese leaders, have said they will pursue "peaceful reunification" but will not rule out the use of force. Chinese officials, at the NPC, also warned the U.S. against interference in Taiwan.

"Realising China's complete reunification is a shared aspiration of all the sons and daughters of the Chinese nation as well as the essence of national rejuvenation," Mr. Xi said.

"We should implement the [Communist] Party's overall policy for resolving the Taiwan question in the new era, uphold the one-China principle and the 1992 Consensus, actively promote the peaceful development of cross-strait relations, resolutely oppose foreign interference and separatist activities aimed at 'Taiwan independence,' and unswervingly promote progress towards national reunification."

FED'S RATE INCREASES AND UNINTENDED CONSEQUENCES



Persistent inflation signals the Federal Reserve has its work cut out over the next few months regarding rate increases. A hawkish stance comes with unintended consequences

INTEREST RATES

The Federal Reserve began raising rates in March last year (2022) and has consistently pushed the federal funds rate since.

In May 2022, it announced the most significant rate increase since May 2000 to tackle rising inflation. Over the past year, the Fed has pushed the discount rate from 0.25% to 5.0%. This has been an unprecedented increase in interest rates to fight inflation and address the concerns regarding a tight labour market.

Positive real rates

Over the past year, the inflation rate has steadily declined from 9% to 6%, but according to multiple economists, there must be positive real rates for inflation to be genuinely tackled. Persistent inflation signals the Federal Reserve has its work cut out over the next few months regarding rate increases. However, a robust hawkish stance comes with inevitable unintended consequences which must be accounted for.

The immediate result of an increase in interest rates comes from asset prices being discounted at a higher rate. A higher interest rate signals markets to demand higher rates of return from their assets which causes prices to drop to accommodate the demand for higher rates. U.S. treasury securities, reputed to be the safest asset in the world, are not immune to the rapid rise in interest rates. The U.S. 10-year and 30-year treasury securities holders have are staring at severe unrealised losses in asset holdings due to the increase in interest rates. A direct consequence of this decline in asset price is the collapse of the Silicon Valley Bank and Signature Bank.

Silicon Valley Bank (SVB) had 55% of all its assets in securities leading to them facing a total unrealised loss of more than \$18 billion. Typically, unrealised losses do not necessarily signify a bank's impending collapse.

However, SVB also possessed a measly 2.5% of assets in cash compared with other banks in the U.S. A bank-depositor run forces a bank to

either liquidate assets or raise funds to pay off depositors. SVB was forced to realise its losses on the treasury bills it held, destroying capital and putting them in severe trouble and at risk of collapse.

A famous investor, Howard Marks, popularised the metaphor of a six-foot man drowning while crossing a stream that was five feet deep on an average. The metaphor lends itself to this case where the U.S. treasury securities are safe assets if one has the liberty to hold them.

No risk-free asset

Mr. Marks also states that no asset is risk-free, and one should always factor in scenarios which seem unlikely or impossible but can wipe you out whole if they occur.

On the other hand, one cannot ignore the spillover effects of the Federal Reserve's hawkish stance on India. The Reserve Bank of India (RBI) is also forced to keep up with the Fed and raise rates. The reason for this is twofold: A significant enough interest rate disparity would lead to a depreciating currency making imports expensive and leading to runaway inflation.

India faces an inflationary problem of its own and requires rate increases regardless of the actions of the Federal Reserve. Banks' lending rates must rise to keep up with the RBI to maintain their net interest margin.

The State Bank of India has consistently raised its teaser housing loan rate from a low of 6.75% during 2021 to 8.5% as of March 2023. Although this jump may not seem drastic, it is possible to illustrate the gravity of the hike through a numeric example. If one borrows ₹1 crore at 6.75% with a tenure of 20 years, the EMI works out to be ₹76,036 a month. However, with an interest rate of 8.5%, the tenure taken to repay the loan at the same EMI level is about 31 years.

Now, if we were to allow rates to rise to 9% (a reasonable expectation considering rising interest rates), the tenure taken to pay back the loan goes up to about 45 years.

This is the potent effect of compounding visualised by the famous investor Charlie Munger. Moreover, interest rate increase signals wage decreases and impending job losses.

Therefore, it is difficult for those with EMIs to continue to maintain their standard of living in current times. Such times remind us that loans and EMIs are not a panacea which guarantees a greater quality of life for those on salaries. To weather the storm, one must be careful in living within means and working on a nest egg by indexing in the stock market. Additionally, paying off any EMIs which one has and not purchasing any goods or assets through debt is crucial.

NET DIRECT TAX GROWTH FOR 2022-23 TO SLOW TO 15%

India's net direct tax collections growth, which stood at about 17% for 2022-23 by early March, is expected to moderate to 15% for the full financial year, a top Finance Ministry official told The Hindu.

The government's net receipts from direct taxes had grown about 49% in 2021-22 to almost ₹14.09 lakh crore.

The sharp growth was attributable to the economy's gradual recovery from the COVID-19 pandemic lockdowns that had hit economic activity in the previous year.

Inflows of direct taxes had risen almost 20% as of mid-December 2022, but each successive month has recorded a slight slowdown in the growth rate.

This included corporate income tax, personal income tax and the securities transaction tax (STT).

By February 10, the growth rate stood at 18.4%, which declined further to 16.8% by March 10, when the total net direct tax kitty stood at ₹13.73 lakh crore. That amount was 96.7% of the Budget Estimates for 2022-23 and 83.2% of the Revised Estimates for direct taxes.

"We expect to close the year with about 15% growth on the net direct tax front," the official said, adding that part of the reason for the higher growth rates recorded in the earlier part of this year was that due dates for taxpayers to remit their dues had not been relaxed this year as opposed to 2021-22, when the second wave of the pandemic had necessitated some relaxations.

EPFO SUBSCRIBERS ARE 'CAPTIVE INVESTORS' OF TWO ADANI STOCKS



The EPFO earmarks up to 85% of its equity investments into ETFs tracking the Nifty 50.

The aftermath of the Hindenburg Research report may have made several large investors rethink their exposures to the Adani group. However, one large pool of capital has continued to invest in two Adani stocks, including flagship Adani Enterprises, and will keep doing so till at least September, unless its trustees rethink their investment approach when they meet this week.

These investments are being made by India's largest retirement fund — the Employees' Provident Fund Organisation (EPFO) — which manages the nest eggs of 27.73 crore formal sector employees and invests 15% of its corpus into exchange traded funds (ETFs) linked to the NSE Nifty 50 and the BSE Sensex.

The second largest non-banking financial institution after the Life Insurance Corporation of India earmarks up to 85% of its equity investments into ETFs tracking the Nifty 50, which had added Adani Enterprises last September and has retained the stock for another six months for the period starting from March 30 this year.

Adani Ports and SEZ (APSEZ) has been part of the Nifty 50 since September 2015, a month after the EPFO first opened up to equity investments by deploying 5% of incremental contributions received from its members into ETFs. The APSEZ stock has also been retained in the Nifty 50 for the next six months, along with Adani Enterprises, after a recent index review by NSE subsidiary, NSE Indices.

Central Provident Fund Commissioner Neelam Shami Rao did not respond to a questionnaire sent by The Hindu on March 23, asking about the EPFO's exposure to the Adani group stocks, whether its fund managers had been given any instructions to avoid fresh investments in those stocks to safeguard people's retirement savings, and whether any shift away from investments linked to the Nifty 50 is being mullied.

The EPFO, which had ₹1.57 lakh crore invested in ETFs as of March 2022, is estimated to have invested another ₹38,000 crore in them during 2022-23 out of the fresh contributions amounting to an estimated ₹2.54 lakh crore remitted into EPF members' accounts.

Trustees of the EPFO that The Hindu reached out to said that they were not aware of its Adani stock exposures, but the issue may figure in a two-day meet of its board, chaired by Union Labour and Employment Minister Bhupender Yadav, that begins on Monday. The EPFO's investment income for this year and the interest rate to

be paid to members is expected to be discussed at the Board of Trustees meeting. Last year, the EPF rate was lowered to a 45-year low of 8.1%. Since it has only begun investing in Adani Enterprises in the past six months, its exposure to the beleaguered group's flagship stock is far lower than its accumulated exposure to APSEZ shares over the years, a government official said. The EPFO had raised its equity exposure to 10% of fresh inflows in September 2016, and further enhanced it to 15% in May 2017. However, given the sharp drop in the Adani stocks' prices since January 24, the EPFO's Adani invest-

ments will drag down its returns on investment and could have repercussions on the annual EPF rate paid to its members. As of March 24, the Adani stock was down over 49% from the price levels at which it was included in the NSE Nifty 50, and was 58.5% below its 52-week high level of ₹4,190, reached in December 2022. APSEZ stock is down almost 19% since the beginning of 2022-23 and over 35% below its 52-week high of ₹987.8, recorded in September 2022.

ISRO PUTS 36 SATELLITES INTO ORBIT

LVM3, the heaviest payload rocket of the Indian Space Research Organisation, carrying 36 OneWeb satellites on board, took off at 9.20 a.m. on Sunday from the second launch pad at the Satish Dhawan Space Centre.

The satellites separated successfully from the rocket and were dispensed in nine phases over an hour and 14 minutes, with signal acquisition on all 36 confirmed. This is the sixth flight of LVM3.

SARUS CRANE TURNS ALBATROSS AROUND U.P. MAN'S NECK



Winged companion: Samajwadi Party president Akhilesh Yadav with Arif Khan and the rescued sarus crane in Amethi's Mandka village. ANI
Forest department issues summons to Amethi resident Arif Khan who rescued the injured bird

Arif Khan, a resident of Uttar Pradesh's Amethi district who had rescued a sarus crane and took care of it for a year, has received a notice from the State Forest Department. According to the notice sent on Saturday by Gauriganj's Assistant Forest

Officer, Mr. Khan has been asked to appear before Sub-Divisional Forest Officer Ranvir Mishra at 11 a.m. on April 4. He has also been booked under the Wildlife Protection Act, 1972.

On March 21, the Forest Department officials had visited Mr. Khan to relocate the bird from his home in Mandka village to Raebareilly's Samaspur Bird Sanctuary to "allow it to live in its natural environment". The officials said they took the bird away with Mr. Khan's consent and added that the avian species falls under the vulnerable category and cannot be "kept in captivity".

According to Mr. Khan, he had found the bird lying injured in his field last year. "After treatment, I thought it would fly away. But it refused to leave us." In February, a video of the crane accompanying Mr. Khan to the fields took social media by storm.

'Dictatorial attitude'

Reacting to the notice, Samajwadi Party (SP) chief Akhilesh Yadav, who had earlier visited Mr. Khan's house to witness the bonding, criticised the BJP-led State government's "dictatorial attitude".

"Arif did a very good job by helping an injured sarus crane and treating it and saving its life. After this, the bird became his friend. Instead of honouring Arif, they [the government] are scaring him. After I went to meet Arif and the crane, those in power grew nervous. They want to scare Arif. It shows their dictatorial attitude," the SP chief said.

Mr. Yadav also recalled that after he had tweeted a picture of an elephant walking unattended on the Agra-Lucknow expressway last year, the State police sent the mahout to jail.

IN TOO DEEP

Sri Lanka's partners must help it navigate its difficult economic path

The International Monetary Fund's approval of a 48-month arrangement with Sri Lanka, under the Extended Fund Facility for a \$2.9 billion package, has been welcomed by Colombo and its creditors, who President Ranil Wickremesinghe will now have to conclude debt restructuring agreements with. Taking credit for some of the heavy lifting, India's Ministry of External Affairs has said that India was the first Sri Lankan bilateral creditor to support the debt restructuring and to provide assurances to the IMF in January. Since last year, New Delhi has been a key part of Sri Lanka's support structure, appealing on its behalf to the IMF and World Bank, extending a \$4 billion package including credit lines, loans and debt deferrals, and raising the issue of debt sustainability at the multilateral sphere including the G-20. China, Sri Lanka's biggest bilateral creditor, and Japan (part of the Paris Club of international financiers) did not move as quickly, which held up the IMF announcement. Announcing the first tranche of \$330 million on Tuesday, Mr. Wickremesinghe said that the key message was to assure other lenders about Sri Lanka's capacity to service its debt, and potentially enable it to access about \$7 billion from international institutions and the IMF. Some credit is due to Mr. Wickremesinghe and his cabinet who have stabilised a few indicators since coming to power in

challenging times last year.

However, the IMF decision is no magic pill. This is Sri Lanka's 17th IMF bailout, and the third in the past decade. The IMF loan also comes with a number of conditions, which will cause more hardships and make the government, which has about 10% approval ratings, more unpopular. Adding to its discomfiture is the IMF distancing itself from the government's decision to postpone local elections, saying it had made no political stipulations. In its report, the IMF calls the risks to implementing the programme as "exceptionally high", refers to Sri Lanka's track record of implementing reforms as "weak", and calls for contingency plans in case there is a deeper crisis induced by weak market indicators. Apart from grappling with soaring inflation, stimulating growth and inviting global investment, the government must also ensure that creditors are satisfied with its debt restructuring process and no one accuses it of "side-deals". Sri Lanka appears committed to turning the corner, and is mending fences with every international player engaged in its complex geopolitics, including the U.S., Japan, India and China. It is important that in turn, they recognise Colombo's precarious position and cooperate in shoring up the island nation as it continues to navigate a difficult economic path.

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UNDERSTANDING IMF BAILOUTS



Money matters: A vendor arranges his vegetables at a market in Colombo on March 21, 2023. AFP

Why are Sri Lanka and Pakistan facing major macroeconomic risks? How does currency devaluation and price rise affect an economy? What is the International Monetary Fund? Why does the IMF impose certain conditions before lending money to countries?

The story so far:

The International Monetary Fund (IMF) last week confirmed a \$3 billion bailout plan for Sri Lanka's struggling economy. IMF officials are also in negotiations with Pakistan for a \$1.1 billion bailout plan as the country faces a severe economic crisis marked by a falling currency and price rise.

Why do nations seek an IMF bailout?

Countries seek help from the IMF usually when their economies face a major macroeconomic risk, mostly in the form of a currency crisis. For instance in the case of Sri Lanka and Pakistan, both countries have witnessed domestic prices rise rapidly and the exchange value of their currencies drop steeply against the U.S. dollar. Such currency crises are generally the result of gross mismanagement of the nation's currency by its central bank, often under the covert influence of the ruling government. Central banks may be forced by governments to create fresh money out of thin air to fund populist spending. Such spending eventually results in a rapid rise of the overall money supply, which in turn causes prices to rise across the economy and the exchange value of the currency to drop. A rapid, unpredictable fall in the value of a currency can destroy confidence in said currency and affect economic activity as people may turn hesitant to accept the currency in exchange for goods and services. Foreigners may also be unwilling to invest in an economy where the value of its currency gyrates in an unpredictable manner. In such a scenario, many countries are forced to seek help from the IMF to meet their external debt and other obligations, to purchase essen-

tial imports, and also to prop up the exchange value of their currencies. Meanwhile, a country's domestic economic policies can also have an adverse impact on its currency's exchange rate and foreign exchange reserves. For example, economic policy that imperils productivity can affect a country's ability to attract the necessary foreign exchange for its survival. Bad luck can also contribute to a crisis. In the case of Sri Lanka, a decrease in foreign tourists visiting the country led to a steep fall in the flow of U.S. dollars into the nation.

How does the IMF help countries?

The IMF basically lends money, often in the form of special drawing rights (SDRs), to troubled economies that seek the lender's assistance. SDRs simply represent a basket of five currencies, namely the U.S. dollar, the euro, the Chinese yuan, the Japanese yen, and the British pound. The IMF carries out its lending to troubled economies through a number of lending programs such as the extended credit facility, the flexible credit line, the stand-by agreement, etc. Countries receiving the bailout can use the SDRs for various purposes depending on their individual circumstances. Currently, both Sri Lanka and Pakistan are in urgent need for U.S. dollars to import essential items and also to pay their foreign debt. So any money that they receive from the IMF is likely to go towards addressing these urgent issues.

The IMF was set up in 1945 out of the Bretton Woods conference. The primary goal of the IMF back then was to bring about international economic coordination to prevent competing currency devaluation by countries trying to promote their own exports. Eventually, the IMF evolved to be a lender of last resort to governments of countries that had to deal with severe currency crises.

Are there any strings attached to an IMF bailout?

The IMF usually imposes conditions on countries before it lends any money to them. For example, a country may have to agree to implement certain structural reforms as a condition to receive IMF loans. The IMF's conditional lending has been controversial as many believe that these reforms are too tough on the public. Some have also accused the IMF's lending decisions, which are taken by officials appointed by the governments of various countries, to be influenced by international politics. Supporters of the IMF's lending policies, however, have argued that conditions are essential for the success of IMF lending. For one, countries that seek an IMF bailout are usually in a crisis due to certain policies adopted by their governments that turned out to be inimical to economic growth and stability. It may thus not make sense for the IMF to throw money at a country when the policies that caused its crisis remain untouched. So, for instance, the IMF may demand a country affected by high price inflation to ensure the independence of its central bank. Corruption is another issue. The IMF lending to troubled economies, may turn out to be a wasted effort because these economies have poor institutions and suffer from high corruption. In other words, these countries are most likely to squander the bailout money.

MAKING SENSE OF THE DISQUALIFICATION OF A LOK SABHA MP

P.D.T. Achary is a former Secretary General of the Lok Sabha

The conviction, on Thursday, March 23, 2023, of Congress leader and now former Member of Parliament from Wayanad Rahul Gandhi by a Chief Judicial Magistrate's court in Surat, Gujarat, and the issuance of a notification the next day by the Lok Sabha Secretariat of Mr. Gandhi's disqualification raise some important constitutional and legal issues. The legal community is mystified by the harshness of the sentence, which is unprecedented in a defamation case. The issue will anyway be dealt with by the appellate courts. But the issues relating to the disqualification need to be examined carefully.

Section 8 of the Representation of the People Act, 1951 (RP Act) specifies the various offences, conviction for which entail the disqualification of a member of the legislature. Clause (3) of this section says that a person convicted of any offence other than those mentioned in the other two clauses, and sentenced to not less than two years shall be disqualified from the date of conviction. However, clause (4) has exempted sitting members from instant disqualification for three months to enable them to appeal against the conviction. This clause was struck down as ultra vires the Constitution by a two judge Bench of the Supreme Court on the ground that Parliament has no power to enact such an exemption for sitting members of the legislature (Lily Thomas vs Union of India, 2013). The effect of this judgment is that there is an instant disqualification of a sitting legislator as soon as he is convicted. However, the Court made it clear that in the event of the appellate Court

staying the conviction and sentence, the disqualification will be lifted and the membership will be restored to him.

The role of the President

Section 8(3) of the RP Act which provides for disqualification on conviction has been subjected to judicial interpretation in a number of cases. A surface view of this provision is that the moment conviction and sentence are announced by the trial court, the member of the legislature will stand disqualified. Upon such disqualification, his seat in the legislature shall fall vacant under Article 101(3)(a). But a closer reading will reveal that the words "shall be disqualified" used therein cannot mean instant disqualification. If words like "shall stand disqualified" were used in this clause, they would have certainly meant instant disqualification without the intervention of any other authority.

The passive voice used in this clause implies that the person shall be disqualified by some authority. Who can that authority be? It cannot be the Secretary General of a House of Parliament or Secretary of a state legislature because the Constitution does not confer such power on them. Article 103 shows that the President of India is that authority who decides that a sitting member has become subject to disqualification in all cases which come under Article 102(1). Sub Clause (e) of this Article relates to all cases of disqualification under the RP Act 1951 which include disqualification on conviction and sentence under Section 8(3) of the Act.

There are differences of opinion on the scope of Article 103, which says

that if any question arises as to whether any sitting Member has become subject to any of the disqualifications mentioned under Article 102(1), the question shall be referred to the President whose decision shall be final.

There is a view that this Article can be invoked only when a dispute arises on the fact of disqualification and not otherwise. But this Article covers disqualification arising on conviction for different offences under Section 8 of the RP Act 1951. In a case of conviction under this section, where is the question of disputes? This would mean that reference to the President of the question of disqualification of a sitting Member who has been convicted for an offence covered by Section 8 is a constitutional requirement. The Supreme Court, in *Consumer Education and Research Society vs Union of India* (2009), upholds this position. This judgment says that the President performs adjudicatory and declaratory functions here.

In cases where adjudication is not required, the President can simply declare that the sitting Member has become subject to disqualification. But the intervention of the President is essential under Article 103 even in cases where a sitting member has been convicted and the disqualification is supposed to take effect from the date of conviction. Section 8(3) of the RP Act does not say that in the case of a sitting Member, disqualification takes effect the moment the conviction is announced. The words "shall be disqualified" convey this sense.

The judgment in *Lily Thomas* has certain flaws. It says that Parliament cannot enact a temporary exemption in favour of sitting members of the Legislature. But Article 103 itself provides an exception in the case of sitting Members by stating that the disqualification of sitting Members shall be decided by the President. Thus, the Constitution itself makes a distinction between the candidates and sitting Members. This was ignored by the judgment and the Court struck down the three months window given to the sitting members to enable them to appeal against their conviction. Further, such a temporary exemption in favour of sitting members of the legislature is a reasonable requirement. They are not placed in the same situation as a candidate. A sudden disqualification will cause a lot of dislocation apart from the fact that the constituency will lose its representative.

Section 8(4) was enacted to deal with precisely such a situation. In the absence of a provision such as clause 4 of Section 8, the Lok Sabha Secretariat issued a notification on March 24, 2023 declaring that Mr. Gandhi stands disquali-

fied. This notification has presumably been issued on the basis of the judgment in the *Lily Thomas* case. But Section 8 (3) uses the words "shall be disqualified" and does not specify which authority shall disqualify Mr. Gandhi. Therefore, the Lok Sabha Secretariat cannot perhaps declare him disqualified without referring the case to the President under Article 103 for a declaration, which is the normal procedure followed there. The authority to declare a sitting Member disqualified on the basis of the Court's decision is not vested in the Lok Sabha Secretariat, either under the Constitution or the RP Act 1951. That power is vested in the President under Article 103. The sitting Member incurs disqualification on his being convicted and sentenced to two year imprisonment. But he "shall be disqualified" through a decision by the President. This appears to be the ratio of the *Consumer Society Case* (supra).

An issue to reflect on

The law on criminal defamation needs an urgent review. Many countries such as the United Kingdom and the United States have scrapped it. India's neighbour Sri Lanka too has done away with it. It is indeed a surrealistic situation where senior political leaders get jailed for making humorous or off the cuff remarks in election speeches. In 1965, the Supreme Court had drawn the attention of the judicial system to the need for a liberal approach to rhetorical, hyperbolic or metaphoric words used by politicians in election speeches. The Court said, "... the atmosphere is usually surcharged with partisan feelings and emotions and the use of Hyperboles or exaggerated language or the adoption of metaphors and extravagance or expression in attacking one another are all part of the game. So when the question... is argued in the cold atmosphere of a judicial chamber some allowance must be made and impugned speeches must be construed in that light" — *Kultar Singh vs Mukhtiar Singh* (1965).

In our multi-party democracy, every political party is a potential ruling party. So, every political leader is exposed to the danger of being hauled up for defamation and put out of the electoral process for long years. People of mature democracies must be able to enjoy humour without any fear. People must learn to laugh at themselves. Otherwise, we will always be busy sending people to jail.

CENTRE CAPS GST CESS RATE ON TOBACCO, PAN MASALA

The Union government has capped the maximum rate of GST compensation cess that would be levied on pan masala, cigarettes and other forms of tobacco and linked the highest rate to their retail sale price.

It was brought in as part of the amendments to the Finance Bill, 2023, which was passed by the Lok Sabha last Friday.

As per the amendment, the cess rate for pan masala will be 51% of the retail sale price per unit.

The rate for tobacco has been fixed at ₹4,170 per thousand sticks plus 290% ad valorem or 100% of the retail sale price per unit.

The cess is levied over and above the highest GST rate of 28%.



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