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BILKIS BANO CASE CONVICTS PLAYING FOR TIME: SC JUDGE

Justice K.M. Joseph, on a Division Bench of the Supreme Court on Tuesday, said that it was "more than obvious" that the men released early from life imprisonment in the case of gang rape of Bilkis Bano and murder of her family members during the 2002 Gujarat riots were raising a maze of procedural objections in successive court hearings to avoid his Bench.

Justice Joseph noted that time was running out for him, with his retirement now just days away.

"I think it should be more than clear to you what is happening... So, the problem for me is I am retiring on June 16, but my last working day is May 19 [last working day before court closes for summer vacation till July 2]... It is obvious they do not want us to hear the matter. It is more than obvious," Justice Joseph, accompanied on the Bench by Justice B.V. Nagarathna, addressed advocate Shobha Gupta, Ms. Bano's counsel.

Seeking delays

The oral remark came after the courtroom rang with submissions made by the lawyers for the 11 released convicts, who claimed that they were not served notice of the case. They sought an adjournment by at least two weeks to file their counter-affidavits to Ms. Bano's petition challenging the decision of the State of Gujarat, endorsed by the Centre, to remit their life sentences.

"It is more than clear to all of us what is happening," Ms. Gupta told the judge. "Then it is all the more important that they should not succeed... Such tactics should not be used in court," senior advocate Indira Jaising addressed the Bench.

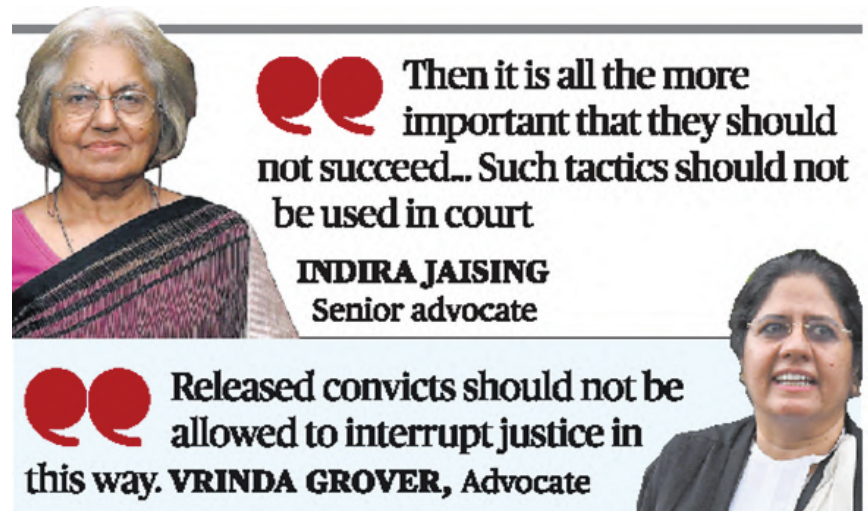
Advocate Vrinda Grover said that the released convicts "should not be allowed to interrupt justice in this way".

Two weeks granted

"We have given them two weeks to file their counter. The next possible date of hearing is May 17. These people are already out of jail. If there is merit in your case, you will succeed. If there is no merit, you will not succeed... The matter would have taken a different turn if it had come to my court earlier..." Justice Joseph said. The convicts were released on August 15, 2022.

Ms. Gupta said the petition was filed in November 2022. It came up for hearing before a Bench of Justices Ajay Rastogi and Bela Trivedi on December 13. Justice Trivedi had recused himself.

The case was referred to Justices Joseph and Nagarathna and came up for hearing on March 27. The Bench had issued notice on the same day and



11 convicts seek adjournment by two weeks to file counter-affidavits; Justice K.M. Joseph says it is 'more than obvious' that they do not want his Bench to hear the petition against their early release

directed the government to be ready with the official files concerning the remission.

On April 18, both the Union and Gujarat governments said they may seek a review against the March 27 order in which the court had asked them to be "ready with the files". The government had even hinted that they would claim privilege over the remission records.

On Tuesday, the government did a full U-turn, this time saying that it was neither filing a review nor pressing for privilege.

At one point, the two judges even offered to hear the case during the summer vacation, in the days ahead of the retirement of Justice Joseph on June 16. But Solicitor General Tushar Mehta, appearing for both the Union and the State of Gujarat, refused the suggestion.

The court listed the case in July.

GOVT. EXTENDS DATE TO OPT FOR HIGHER EPF PENSION TO JUNE 26

The Union government has extended the time to submit joint options for claiming higher Employees' Provident Fund pension till June 26. The deadline to submit the applications was May 3.

The decision was taken based on the representations received from various Central trade unions and pensioners' organisations.

12 lakh applicants so far

The Employees' Provident Fund Organisation (EPFO) said it had received more than 12 lakh applications so far.

"The online facility was to remain available only till May 3. In the meantime, many representations have been received from various quarters seeking extension of time. The issue has been considered and it has been decided that in order to provide a larger window of opportunity and in order to enable all eligible persons to file their applications, the timeline for filing applications would now be till June 26," the EPFO said in a release.

Trade unions' appeal

"This has been decided after sympathetically considering the various demands received from employees, employers and their associations," it said. Ten Central trade unions had recently written a letter to Union Labour Minister

Bhupender Yadav complaining that the requirement of applying online exclusively was discriminatory and prevented a large section of employees who are not familiar with online procedures from exercising their option.

"This was pointed out by members of the Central Board of Trustees several times. Besides, the online system of the EPFO suffers from major connectivity issues and the EPFO itself has been planning to upgrade its IT System. The EPF staff complain of spending hours in front of the screens, before the system becomes responsive," the Central trade union said in the letter.

They also said that the requirement for the proof of higher contribution to be provided by the employee in the online application was meaningless as the PF contribution of both the employee and employer was available with the EPFO. They said such a requirement was designed to discourage and disqualify applications for higher pensions. The unions requested that such a requirement should be scrapped.

They added that the calculation of the actual sum of money to be recovered from the provident fund of the employee towards the pension fund for higher pension was proving to be challenging.

CENTRE PLANS PANEL TO FIND ALTERNATIVE TO DEATH BY HANGING

THE HINDU BUREAU
NEW DELHI

The government apprised the Supreme Court on Tuesday that it is considering the formation of a committee to examine the need for a painless and more dignified alternative to death by hanging.

Appearing before a Bench led by Chief Justice of India D.Y. Chandrachud, Attorney General R. Venkataramani sought time till July to report back to the Supreme Court.

In March, the court had asked the government to provide data which may give a clue to a more acceptable method of executing prisoners other than death by hanging.

Alternative method

The Chief Justice had in that hearing suggested to the government the formation of a committee with experts from the national law universities, professors of law, doctors and scientific persons.

The court had indicated to the Centre that it may even direct an alternative method of executing capital punishments if it was proved that there was a more "humane" method of execution which would render death by hanging unconstitutional.

"If you want us to relook death by hanging, we need better data... We want to know the impact of the sentence of death by hanging, the pain caused, the period of actual death and the availability of resources for hanging a person," Chief Justice Chandrachud had observed.

The court was hearing a petition filed by advocate Rishi Malhotra challenging the constitutionality of death by hanging as a mode of execution. Section 354 (5) of the Code of Criminal Procedure mandates that a person sentenced to death shall "be hanged by the neck till he is dead".

'Not inhuman'

Mr. Malhotra said there was a need to evolve a "humane, quick and decent alternative". He termed hanging as "cruel and barbarous" way of executing a prisoner.

In fact, in 2018, the Centre had filed an affidavit supporting death by



Lawyer Rishi Malhotra filed a PIL plea in the top court seeking to abolish the present practice and replace it with less painful, humane methods

hanging. It had not found the method of execution "inhuman and cruel" compared to lethal injections.

U.S. PANEL REPORT ON RELIGIOUS FREEDOM BIASED, SAYS INDIA

India on Tuesday trashed as "biased" and "motivated" a report by the U.S. Commission on International Religious Freedom (USCIRF) that alleged "severe violations" of religious freedom in the country.

External Affairs Ministry spokesperson Arindam Bagchi said the Commission continues to regurgitate such comments and India rejects the "misrepresentation of facts" which only serves to "discredit USCIRF itself".

He asked the USCIRF to develop a better understanding of India, its plurality and its democratic ethos.

"The U.S. Commission on International Religious Freedom continues to regurgitate biased and motivated comments about India, this time in its 2023 annual report," he said.

"We reject such misrepresentation of facts which only serves to discredit USCIRF itself."

"We would urge USCIRF to desist from such efforts and develop a better understanding of India, its plurality, its democratic ethos and its

constitutional mechanisms," he said.

In its annual report on religious freedom, the USCIRF asked the U.S. State Department to designate India as a "country of particular concern" on the status of religious freedom along with several other nations. The USCIRF has been making similar recommendations to the State Department since 2020, which have not been accepted. The recommendations are not mandatory for the State Department.

In its India section of the latest report, the USCIRF alleged that in 2022, religious freedom conditions in India continued to worsen. It urged the Biden administration to impose targeted sanctions on Indian government agencies and officials responsible for "severe violations" of religious freedom in the country by freezing their assets.

It also recommended that Congress raise the issue of religious freedom during U.S.-India bilateral meetings and hold hearings on it.

CENTRE TO ALTER OFFSHORE MINING LAW TO SPUR PRIVATE PARTICIPATION

The government has finalised amendments to the Offshore Mining law of 2002 under which "not a single rock has been mined from the seabed yet," and will introduce it in Parliament soon, Union Mines Secretary Vivek Bharadwaj said on Tuesday.

The proposed changes, for which consultations have been concluded, will facilitate private sector participation in the mining of non-atomic minerals in India's territorial waters and continental shelf. The Mines Ministry is also working with five States to auction 21 mines this year.

Stressing that the Offshore Area Mineral (Development & Regulation) Act, 2002, had resulted in no actual mining, largely due to litigation, the Secretary said consultations on the proposed changes to the law had been concluded. "It would be shortly debated by Parliament, hopefully very soon," he said.

While the government would continue exploration efforts after the "lucky" discovery of lithium reserves in Jammu and Kashmir, Mr. Bharadwaj said industry must focus on more efficient processing technologies for critical

minerals. He cited the example of China, where the maximum lithium ore was processed in the world even though that country did not have the largest reserves of lithium.

RANIL RENEWS VOW TO RESOLVE SRI LANKA'S ETHNIC QUESTION



*Inextricable situation: Ranil Wickremesinghe said it is important to move forward by respecting the rights of all communities.*AFP

The Sri Lankan President hopes to reach an agreement with all parties by the end of the year; he had previously failed to meet this year's February 4 deadline set for the same goal

Sri Lankan President Ranil Wickremesinghe on Monday said he hoped to reach "a mutually agreeable solution" on the island nation's long-pending ethnic problem by the end of the year, renewing an old promise.

"My intention is to address the ethnic problem in the country while implementing the agreement with the International Monetary Fund. We are currently in discussions, and I hope to reach a mutually agreeable solution by the end of this year," he said in his May Day address, of his talks with the Tamil political parties. "It is important for us to move forward while respecting and

protecting the rights of all communities including the majority Sinhalese, Tamil, Muslim, and Burgher minorities without marginalising anyone. We are all committed to achieving this goal," he said.

This is the second time that Mr. Wickremesinghe has made the pledge after his ascent to Presidency last year. He had promised to resolve the country's persisting ethnic problem by February 4 this year, when Sri Lanka marked its 75th year of Independence, but failed to meet the deadline he set for himself.

TNA's participation

The Tamil National Alliance (TNA), the main parliamentary grouping of MPs from the north and east, participated in the talks with the President, despite initial reservations stemming from past attempts. The TNA also presented a set of five actionable points to the President, pertaining to land and police powers, and devolving more administrative powers to the provincial councils, and is awaiting action for months now.

Fourteen years after the end of a devastating civil war, Sri Lanka is still faced with the problem that drove the country into decades-long strife. Apart from their historic struggle for self-determination, and their persisting demand for truth and justice for war-time civilian deaths and disappearances, Sri Lanka's Tamil community continues to battle several challenges, including an escalating attack on their lands.

Political call

Meanwhile, President Wickremesinghe is mulling early presidential polls next year and has reportedly reached out to different Tamil and Muslim parties, seeking their support, Opposition legislator Mano Ganesan told The Hindu in a recent interview.

In his May Day address, Mr. Wickremesinghe also underscored the need to "move forward with a new Constitution that reflects our shared values and aspirations." Although Tamil parties have voiced scepticism over the President's outreach, he said: "To the Tamil parties, I say that it is futile to distance oneself from this endeavour. If we are to address the issues faced by the Tamil community in this country, let us collaborate within this system, particularly in the Parliament as part of the government."

GAMING POLICY, TAX NORMS NEED MORE CALIBRATION: FM

THE HINDU BUREAU

The government is deliberating on the appropriate taxation and regulatory regime for the gaming industry which "requires a lot more calibration", Finance Minister Nirmala Sitharaman said on Tuesday, adding that foreign investments into the sector could be expected to materialise once the policy became clear.

Speaking to the Indian diaspora in South Korea during her visit for the Asian Development Bank's annual meeting, Ms. Sitharaman acknowledged that India still didn't have a coherent policy on gaming even as some States had drafted their own policies.

"The Centre is looking at it through the GST Council which has had a lot of discussion, because that is going to be an indirect tax. There was also a group of ministers appointed by the Council to look at what gaming is doing... its employment potential, what is the consumption.

"But the taxing and regulating requires a lot more calibration and that's where there is a lot of discussion going on at the ministers' level. I think... once the policy certainty arrives and the taxation becomes more transparent and clear, it would attract investors," Ms. Sitharaman said when asked about India's plans to attract gaming businesses including from Korea and Japan.



*Setting terms: Centre deliberating on tax, regulatory norms for gaming, FM says in Korea, where she is attending an ADB meet.*PTI

Policy certainty, transparent taxation norms will make it possible to attract foreign investors in sectors like gaming, Finance Minister Nirmala Sitharaman tells Indian diaspora in South Korea

WE AIM TO INSPIRE YOU

A GOOD DIVORCE

Irretrievable breakdown of marriage should be a ground for divorce

Not all marriages are happy, and not all divorces are unhappy. For those who want to opt out of a bad marriage, Monday's Supreme Court ruling on divorce will be seen as a good move. Leaning on the "guiding spirit" of Article 142(1) of the Constitution to do "complete justice" in any "cause or matter", a Constitution Bench said it could use this extraordinary discretionary power to grant divorce by mutual consent to couples trapped in bitter marriages. It also aims to spare couples the "agony and misery" of waiting six to 18 months for a local court to annul it, as stipulated under Section 13B of the Hindu Marriage Act, 1955. The Bench, headed by Justice Sanjay Kishan Kaul, observed that the law of divorce, built predominantly on assigning fault, fails to serve broken marriages. It pointed out that if a marriage is wrecked beyond hope, public interest lies in recognising this fact, not upholding a 'married' status regardless. The Court said it could use Article 142 to quash pending criminal or legal proceedings, be it over domestic violence or dowry, against the man or woman. Continuing in this strain, the Bench said the Supreme Court could grant divorce on the grounds of an "irretrievable breakdown of marriage" if the "separation is inevitable and the damage is irreparable". Under the Hindu Marriage Act, irretrievable breakdown of marriage is not yet a ground for divorce.

In its judgment, there was a word of caution that the grant of divorce would not be a "matter of right, but a discretion which is to be exercised with great care... keeping in mind that 'complete justice' is done to both parties." Several factors would be considered by the Supreme Court before invoking Article 142 in matrimonial cases, including duration of marriage, period of litigation, the time the couple has stayed apart, the nature of pending cases, and attempts at reconciliation. The Court will have to be satisfied that the mutual agreement to divorce was not under coercion. In India, while divorcees have doubled in number over the past two decades, the incidence of divorce is still at 1.1%, with those in urban areas making up the largest proportion. But the divorce numbers do not tell the whole story; there are many women, particularly among the poor, who are abandoned or deserted. Census 2011 revealed that the population which is "separated" is almost triple the divorced number. In a country which is largely poor, where gender discrimination is rife and many women are still not financially independent, the Court's stress on "care and caution" and not to rush into a quick divorce must be welcomed. After all, marriage equality is not a reality for all.

THE LAC CRISIS AND THE DANGER OF LOSING WITHOUT FIGHTING

It was in the first week of May 2020 that news broke of ingress by China's People's Liberation Army (PLA) in multiple areas across the Line of Actual Control (LAC) in Ladakh. Three years later, some of those areas have witnessed disengagement — pulling troops apart by a few miles of buffer zones — while two of them, Depsang and Demchok, remain unresolved. Indian soldiers cannot touch 26 of the 65 patrolling points in Ladakh.

Neither diplomatic meetings nor talks between corps commanders have elicited any progress since September last year; regular meetings between Indian and Chinese Ministers, Foreign and Defence, have not yielded results either. Beijing has ignored Delhi's talking points, even after they have been watered down so much that India no longer demands a return to the status quo of April 2020. Verbose non sequiturs in Indian statements can hardly cover up the government's failure in handling the current China crisis.

The Depsang crisis of 2013

During the 2013 Depsang crisis, the United Progressive Alliance was in power, the current External Affairs Minister S. Jaishankar was India's Ambassador to Beijing and the current Governor of Arunachal Pradesh, Lt. Gen. K.T. Parnaik (retired) was the Northern Army Commander. The PLA had then blocked Indian patrols at Bottleneck or Y-Junction, the same place where it has now blocked them in Depsang since 2020. Within three weeks, the PLA had been forced to lift the block after the Indian Army, as per Lt. Gen. Parnaik, launched a quid pro quo operation on the Chinese side in Chumar. Negotiations followed, including in Beijing, and the status quo as it existed before PLA's block was restored.

The criticism of the government over those three weeks was deafening. Narendra Modi, then Chief Minister of Gujarat, argued that the problem was not on the border but in Delhi. He also asked why our soldiers were vacating the area after disengagement if they were on Indian territory.

Most media reports were strident in criticising the government then, but the same journalists have been silent when the very same spot has been blocked by the PLA for over three years. Their constant labelling of Depsang as a legacy issue disconnected with the current crisis so offended former Ladakh Corps Commander, Lt. Gen. Rakesh Sharma (retd.) that he was compelled to pen a strong rejoinder. However, misleading claims about Depsang continue to be regurgitated.

Unlike mainstream media, the military brass (this includes the Indian Army chief General Manoj Pande, and the Northern Army Commander, Lt. Gen. Upendra Dwivedi) has been more forthcoming about the ground realities. The cover up emanates from the political leadership, in the silence of the Prime Minister and the Home Minister or by way of the deceptive euphemisms of the External Affairs Minister. The reason is known even to watchers in Washington DC. A White House official until 2021, Lisa Curtis, wrote recently that the government of the day "might not want its public to know the full extent of PLA activities in disputed areas as this might become fodder to protest government incompetence or inaction".

Incompetence and inaction

Incompetence may be a function of capability, but inaction seems to be driven by fear — a fear of military escalation in case India were to attempt a proactive move in disputed border areas to unsettle Beijing. If negotiations are about 'give and take', New Delhi must militarily take something that its diplomats can then give at the table. Devoid of that, Beijing holds all the cards. No one can deny that China is a much bigger economic, military, industrial and geopolitical power than India, but the gap shrinks considerably when it comes to local balance on the LAC. If Russia is unable to vanquish Ukraine, Chinese President Xi Jinping knows that China cannot militarily walk over India.

The decision rests with the Prime Minister but he seems haunted by the ghost of 1962. Many officials believe that Jawaharlal Nehru was pushed into a military confrontation with China then because of domestic pressure created by the likes of the Swatantra Party and the Rashtriya Swayamsevak Sangh. The Prime Minister does not wish to fall into that trap. They are right. Mr. Modi is no Nehru. Nehru faced Parliament and answered questions regularly, even during the 1962 conflict. Unlike Nehru's time, the public relations and propaganda machinery now has fabricated such a hyper-nationalist narrative that more than 70% Indians contend that India can militarily defeat China. The pressure on Mr. Modi to militarily deliver, when the ruling party's political campaigns have ridden the hype of so-called 'Surgical Strikes' and Balakot airstrike, is even greater.

Over nine years, Mr. Xi seems to have got the measure of Mr. Modi. Mr. Xi sent PLA soldiers to Chumar even as there was intense media focus and the hyped optics during the Xi visit to Ahmedabad, Gujarat, in 2014. The Chinese leader rebuffed the Indian leader's plea in Beijing in 2015 to delineate the LAC, has blocked India's entry into the Nuclear Suppliers Group, and has remained vague about the outcomes of informal summits. Satellite imagery shows that the Chinese were already building massive military infrastructure in Ladakh by the time the Second Informal Summit was taking place in Mamallapuram, off Chennai, in late 2019. However, Mr. Modi's faith in the force of his personality and personal charm to win over the Chinese leader, such as by offering a handshake and having a chat in Bali last November, did not result in even a telephone call, let alone a breakthrough on the Ladakh border.

Proactive move

India is under pressure on the border, and it needs to find a way to transfer that pressure back to China. Beijing has never compromised unless it has been forced into an uncomfortable spot — a tactic India has deployed since Nathu La in 1967. This warrants India to be proactive, which calls for the political leadership to boldly use its imagination. If the political leadership is timid and fearful, the military on the China border will remain in a defensive posture. If strategic thought in Delhi lacks boldness, tactical actions on the LAC will not be daring. After all, the military is used as an instrument by states to pursue policy ends, to try and impose its will upon the adversary.

India's failure to impose its will upon China is a direct consequence of its fear of military escalation, in the backdrop of the ghost of 1962 that hovers

over the top political leadership's thinking. Three years after the border crisis began, a status quoist approach can no longer be the answer. India will have to wrest the initiative from China; else things will happen only at a time and place of

Beijing's choosing. Mr. Modi's personal success may lie in avoiding another 1962 but it would be a national failure for India. Unlike 1962, China would have now won without fighting.

IN 'INDIA AS EDEN' OFFER, THE APPLE OF DILUTED LABOUR LAWS

Irretrievable breakdown of marriage should be a ground for divorce

In addition to being the starting point of the possible onset of another scorching summer, the month of April also witnessed two important happenings that are tied to the country's avowed economic-industrial transformation, demanding our attention. The first was the passage of a piece of legislation in the Tamil Nadu Assembly that amended the Factory Act of 1948, to extend the number of working hours in a day, from eight hours to 12 hours. A similar piece of legislation was passed in the Karnataka Assembly, a few months ago. However, in his address during May Day celebrations in Chennai, the Tamil Nadu Chief Minister, M.K. Stalin, announced the withdrawal of the legislation. This announcement comes on the back of the temporary hold on further action on the Bill by the Tamil Nadu government, after strong opposition; this includes the State government's alliance partners and trade unions.

Changes in laws, no social dialogue

The eight-hour working day, adopted by the International Labour Organization in 1919, is a hard won right by workers and trade unions, who have had to struggle over the years to keep capricious policy changes at bay. While appreciating the action initiated by the Tamil Nadu Chief Minister, the passage, in the first place, of these pieces of legislation (which has justifiably led to anger and outcry among trade unions and labour support groups) clearly signals the intent of governments to house investments by transnational corporations (through their supply chains), by ramping up capacities and provisioning incentives. As a matter of fact, these legislative changes could trace their legacy to the four labour codes passed by the central government in 2019-20, which, in turn, have weakened the labour protection architecture, lowered thresholds and squeezed collective bargaining, thereby effectively curtailing their actual operability.

The key missing component in all these changes in the labour ecosystem is social dialogue. Not only are sustained processes of consultations with workers being short-circuited or ignored altogether, but these are also being considered anathema by almost all ruling dispensations irrespective of political persuasions. Remaining deterministic and sound proofed to entertaining contrarian views and differences of opinion, the top-down approach of governance often puts the cart before the horse. In doing so, it prioritises a favourable investment climate over the well-being of workers.

The second development in April that was widely publicised with much fanfare, was of Apple's opening of its first two retail stores in India, in Mumbai and then Delhi in the presence of the Apple CEO who was in India for the events. This follows his statement last year, expressing bullishness about the brand's

business prospects in India, which was lapped up and trumpeted as a sign of India being well and truly in the race to run parallel with China, if not completely eclipse it in the long run. However, cutting through the hype, what is left unsaid is how Apple, and by extension, other transnational corporations too, thrives by tantalising a race between India and China. Through its suppliers, it incentivises this artificial competition, even while retaining the flexibility to operate across contending geographies and feeding on consumers' tastes, who view the possession of its devices as a status symbol.

Mainland China as template

The two happenings in April may seem separate, but from a labour-centric perspective, it is only rational to spot the connection. Already, under its 'Make in India initiative' and later with the Production Linked Incentives scheme, the central government aims to turn the country into a manufacturing hub, like China. In this larger design, the electronics industry has received top priority and, within it, Apple (entwined with Foxconn as the main supplier) has come to be considered, the gold standard. In line with this, the central government has been working in close coordination with various State governments, including Karnataka and Tamil Nadu, to work out common strategies to capitalise on the company's diversification plans away from China. For years, Foxconn has had a stable base in Tamil Nadu (encouraging other Taiwanese companies in other sectors as well). As a part of its corporate social responsibility obligations, it has even reciprocated by making massive financial contributions to the State government's educational initiatives. Such coordination and a mobilising of efforts by governments resembles the symbiotic relationship between Apple-Foxconn and the Chinese Communist Party-state.

The growing indivisibility of time (with reference to the economist Guy Standing), as marked by these legislative changes, is also illustrative of the ubiquitous nature of the production-management systems and labour regime implemented in Apple-Foxconn across geographies. The dormitory labour regime as practised in Mainland China (which in effect looks to be recreated in India) blurs the socio-spatial boundaries between work and life. In such a highly regimented, constantly disciplining, just-in-time production system that demands orderliness and standardisation from workers, the human costs of the squeeze are not only physical but also mental and emotional. Ultimately, viewed from a labour-centric perspective, in the ambition to overtake China, we end up, more or less, as being another China.

WHY ARE BLINKIT WORKERS PROTESTING?



How did the strikes start? What is 'platform work'? Do the new Labour Codes protect the rights of gig workers? Does the Code on Social Security, 2020 differentiate between employee and gig worker? Have there been petitions in courts to legally recognise gig work and workers?

The recent strike by Zomato-owned Blinkit delivery agents has once again brought to the forefront issues plaguing the gig economy in the country. The strikes began when Blinkit rolled out its new payout structure for delivery executives, under which the minimum payout per delivery was slashed to ₹15 from ₹25. As a result, Blinkit delivery executives are now set to earn ₹600-700 a day as opposed to ₹1,200 before.

Who is a 'gig worker'?

Gig workers refer to workers outside of the traditional employer-employee relationship. There are two groups of gig workers — platform workers, and non-platform workers. When gig workers use online algorithmic matching platforms or apps to connect with customers, they are called platform workers. Those who work outside of these platforms are non-platform workers, including construction workers and non-technology-based temporary workers.

Whether gig workers should be categorised as 'employees' or as 'independent contractors' has been a heated debate. In India, employees are entitled to a host of benefits under statutes such as the Minimum Wages Act, 1948, Employees' Provident Fund and Miscellaneous Provisions Act, 1952 (EPFA), and the Payment of Bonus Act, 1965. Similarly, contract labourers are governed under the Contract Labour (Regulation and Abolition) Act,

1970 and are also entitled to benefits such as provident funds. However, given the unique nature of gig work, gig workers display characteristics of both employees and independent contractors and thus do not squarely fit into any rigid categorisation. As a result, gig workers have limited recognition under current employment laws and thus fall outside the ambit of statutory benefits.

What is the proposed law?

The Ministry of Labour and Employment introduced the Code on Social Security, 2020 which brings gig workers within the ambit of labour laws for the first time.

Under section 2(35) of the Code, a 'gig worker' is defined as 'a person who performs work or participates in a work arrangement and earns from such activities outside of a traditional employer-employee relationship'. The Code defines platform work as 'a work arrangement outside of a traditional employer-employee relationship in which organisations or individuals use an online platform to access other organisations or individuals to solve specific problems or to provide specific services' in exchange for payment. Although the Code recognises 'gig workers', it distinguishes between such workers and employees. While employees have benefits such as gratuity, employee compensation, insurance, provident fund, and maternity benefits, the Code stipulates that Central and State governments must frame suitable social security schemes for gig workers on matters relating to health and maternity benefits, provident funds and accident benefits among others.

The Code also mandates the compulsory registration of all gig workers and platform workers to avail of the benefits under these schemes.

What are some of the concerns?

Out of the four new labour codes proposed, gig work finds reference only in the Code on Social Security. As a result, gig workers remain excluded from vital benefits and protections offered by other Codes such as minimum

wage, occupational safety etc. They also cannot create legally recognised unions. Moreover, they remain excluded from accessing the specialised redressal mechanism under the Industrial Disputes Act, 1947, denying them an effective remedy for grievances against their employers. Considering the non-traditional nature of their work, gig workers also do not have the right to collective bargaining — a fundamental principle of modern labour law crucial to safeguard the rights of workers.

A 2022 report by Fairwork India, an international research project, highlighted the deplorable working conditions of the employees of digital labour platforms in India and the need for statutory affirmation of the rights of gig workers. Despite receiving the assent of the President, the Labour Codes are still awaiting implementation three years on. The Centre has said that this is due to the delay in framing of rules by the States.

Have the courts intervened?

On September 20, 2021, the Indian Federation of App-based Transport Workers (IFAT) filed a public interest litigation on behalf of gig workers before the Supreme Court. The petition demanded that gig workers or platform workers be declared as 'unorganised workers' so that they can come under the purview of the Unorganised Workers' Social Security Act, 2008 (UWSS Act) and be provided with statutory protection in the form of social security benefits. It has been contended that the exclusion of gig workers from the category of 'unorganised workers' or 'wage workers' under Sections 2(m) and 2(n) of the UWSS Act is violating their fundamental rights under Articles 14 and 21 of the Constitution. Further, it has been argued that such denial of social benefits amounts to exploitation through forced labour, within the meaning of Article 23. Although the Supreme Court sought the Centre's response to this petition back in December 2021, the Centre has not yet responded.

THE GOLDEN GLOBE RACE: THE VOYAGE OF MAD MEN

Why is Abhilash Tomy completing the race a stupendous feat? How is this race different from the others?

Abhilash Tomy, former Commander in the Indian Navy who became the first Indian to go around the world on a sailboat solo and unassisted back in 2013, has now attained another record of completing a solo circumnavigation under even more gruelling circumstances when he made podium finish at the Golden Globe Race (GGR), 2022, on April 29. He finished second after South African Kirsten Neuschäfer.

What is GGR?

The Golden Globe Race is a non-stop, solo, unassisted yacht race around-the-world which was held for the first time in 1968-69. Just one of the nine participants — 30-year-old British sailor Robin Knox-Johnston — made it to the finishing point sailing a boat named Suhaili which was built in India. The second edition of the race was held 50 years later, in 2018, when Tomy threw his hat in the ring. One of the conditions was that the contestants would use boats designed to prescribed premodern specifications and would not be allowed to use any modern navigational gear. They would have to rely entirely on sextants and paper charts. To be more specific, anything that wasn't available in 1968 would not be allowed. Satellite phones would be available for extremely restricted use, up to four short messages a day, and use of the GPS chart plotter carried in a sealed box (for emergency) would lead to disqualification from the race. And the sailing would be along a stipulated route, rounding the three great capes, the Cape of Good Hope in South Africa, Cape Leeuwin in Australia and Cape Horn in Chile.

What happened at the race in 2018?

Tomy got a boat, Thuriya, built similar to Suhaili at the same yard that had built INSV Mhadei used by Cdr (retd) Dilip Donde and Tomy for circumnavigating the globe and made a tremendous start in 2018. He was racing in the third position when Thuriya got dismasted in a storm in the Southern Indian Ocean. Down with a spinal injury, he was subsequently evacuated in a multi-nation effort and was operated upon, with titanium rods inserted into his

spine and five vertebrae fused into one. He had great difficulty in walking, and it was thought he would hardly sail again. But before hanging up his naval uniform in early 2021, Tomy, a naval pilot, flew his last Dornier sortie and did a fairly good amount of ocean sailing and kayaking.

How did he return to GGR?

In 2021, Tomy began to look for sponsors, and boats, in order to take part in GGR-2022. He also tried to get crowdfunding. Eventually, in March, 2022, he announced his participation in the race on the Bayanat, named after a UAE-based company in the field of geospatial artificial intelligence that would sponsor his race. However, just three weeks before the race was to start, the boat collided with a ship and required massive repairs. At the end of it all, he was there at the starting line at Les Sables d'Olone on the western coast of France on September 4, 2022, to finish the job he was forced to quit abruptly four years back.

Why is his feat stupendous?

Only three of the 11 contestants of GGR-2022 lasted the course of the race, with Kirsten Neuschäfer becoming the first woman to win a solo around-the-world yacht race. It was almost a neck-and-neck finish for Tomy and Neuschäfer after both had faced testing times in the Southern Ocean. Officially, Tomy's was the most 'repaired' boat in the race and it was all carried out by the sailor fighting unimaginable sea conditions and lack of sleep. The main sail of Tomy's boat was torn and his wind wane was damaged. Similar loss forced many contestants to quit, but Tomy put his skills to good use to do the repairs, including fixing a wind wane from his toilet door. His messages relayed by the GGR organiser on social media were testimony to the sailor's wry wit even in the face of odds. In the end, Tomy, who had received ocean sailing tips from Knox-Johnston himself, became the first Asian to complete the 30,000-mile GGR.

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