



GOVERNOR'S DECISION TO CALL FLOOR TEST WRONG: SC

The Supreme Court, in a unanimous judgment, effectively opened the doors for disqualification proceedings against Maharashtra Chief Minister Eknath Shinde for defection from the Shiv Sena, and held that the then Governor Bhagat Singh Koshiyari "erred" in calling for a trust vote, which triggered the fall of the Uddhav Thackeray-led Maha Vikas Aghadi (MVA) government in mid-2022.

The court also said that Governor Koshiyari was right in inviting Mr. Shinde to form the new government as Mr. Thackeray had resigned before the floor test. This means that the Shinde government will continue in power for now.

"The Governor had no objective material on the basis of which he could doubt the confidence of the incumbent government... Floor test cannot be used as a means to settle differences within a political party... The Governor erred in concluding that Mr. Thackeray had lost support... The discretion to call for a floor test is not an unfettered discretion," a Constitution Bench led by Chief Justice D.Y. Chandrachud observed.

The court said that it could not quash the voluntary resignation of Mr. Thackeray as CM, and thus reinstate his MVA government. "Had Mr. Thackeray refrained from resigning from the post of the Chief Minister, this court could have considered the grant of the remedy of reinstating the government headed by him," it said.

Given the resignation, the court said that Governor Koshiyari was right in then inviting Mr. Shinde to form the new government. "The post of the Chief Minister of the State of Maharashtra fell vacant after the resignation of Mr. Thackeray on June 29, 2022. The leader of the party that had returned the highest number of candidates to the State Assembly extended support on behalf of the party to Mr. Shinde. Thus, the decision of the Governor to invite Mr. Shinde to form the government was justified," the Bench held. The court refused to invalidate the election of Speaker Rahul Narwekar merely because some of the MLAs who participated in the election faced disqualification proceedings.

The court did not accept the plea made by the Thackeray faction to call for and decide the disqualification petitions pending before the Speaker. "Absent exceptional circumstances, the Speaker is the appropriate authority to adjudicate petitions for disqualification under the Tenth Schedule [anti-defection law]...", Chief Justice Chandrachud, who authored the unanimous verdict for the five-judge Bench, noted.

Split vs defection

Further, the court drew a map of factors for the Speaker to consider while deciding the disqualification petitions. First, the court said the Speaker could not accept the Shinde group's sole defence that they had merely "split" from the Shiv Sena party, and not defected.

Second, the court said that the Speaker, while considering the question of which faction was the "real" Shiv Sena, must consider the version of the party constitution submitted to the Election Commission with the consent of both



Plans afoot: Devendra Fadnis and Eknath Shinde at the press meet at Sahyadri Guest House in Mumbai. EMMANUAL YOGINI

Court effectively opens doors for disqualification of Shinde camp, but says Maharashtra Governor was justified in inviting him to form the govt. as Thackeray quit voluntarily before the trust vote

factions. This would be the 2018 party constitution in which Mr. Thackeray was elected party president.

Third, the judgment said that the Speaker must not be swayed by the numbers in the House. "The Speaker must not base his decision as to which group constitutes the political party on a blind appreciation of which group possesses a majority in the Legislative Assembly," Chief Justice Chandrachud said.

The court also declared Mr. Narwekar's decision recognising Bharat Gogawale as Chief Whip of Shiv Sena as "illegal". Again, the court found that the Speaker's decision to recognise Mr. Shinde as the "Leader of the Shiv Sena Legislative Party" was "illegal" too.

"The Speaker, by recognising the action of a faction of the Shiv Sena Legislative Party (SSLP) without determining whether they represented the will of the political party, acted contrary to the provisions of the Tenth Schedule," the judgment said. The Bench also found fault with Mr. Narwekar's decision to stay the disqualification proceedings "in anticipation" of the decision of the Election Commission on which of the two rival factions was the original political party of the Shiv Sena.

The court further referred to a larger Bench of seven judges the question of whether a Speaker facing removal could decide disqualification petitions against MLAs under the Tenth Schedule.

MORALITY, MAJORITY

Supreme Court verdict is an indictment of how regime changed in Maharashtra

It often happens in litigation around political developments that judgments underscore high principles, but extend no relief to those impacted by breach of constitutional norms. The Supreme Court verdict on the political imbroglio in Maharashtra last year is one such. It is an indictment of the manner in which regime change was achieved, but it does not alter the status quo. A Constitution Bench has ruled that Governor Bhagat Singh Koshiyari had no objective material to doubt the majority of the then Chief Minister, Uddhav Thackeray, but had nevertheless asked him to take a floor test, based on extraneous factors. As Mr. Thackeray had resigned without facing the floor test, the Court said it was unable to restore his government. It is true that it cannot quash a voluntary resignation, but the Court fails to acknowledge that his resignation was forced by

circumstances to which the Court itself was a party. On the eve of the floor test, a Supreme Court Bench allowed it to go on. Earlier, by an interim order, the Court had extended the time given to the then rebel Shiv Sena MLAs led by Eknath Shinde from June 27 to July 12 to reply to applications seeking their disqualification for defection. The order gave ample time to the dissidents, along with the BJP, to execute political manoeuvres without the threat of disqualification from the House. In effect, the two court orders helped in the toppling of the regime, a fact that the final verdict fails to acknowledge.

The Thackeray faction lost in the numbers game, a game in which time is of the essence for both rulers who need to protect their flock and dissidents who need to rope in enough defectors. Besides cautioning Governors against treating

internal problems of a ruling party as a possible loss of majority, the Court has also clarified that whips and leaders of the party in the House ought to be appointed by the political party, and not the legislature party. This has a bearing on whose whip is binding on legislators in the event of a party splitting into two factions. It has also decided that the judgment in Nabam Rebia (2016), holding that a Speaker who is facing a notice for removal from office should not

adjudicate a disqualification matter under the anti-defection law, should be reconsidered by a larger Bench. This is welcome, as legislators who have incurred disqualification should not be allowed to use a frivolous petition to remove the Speaker to ward off their own disqualification. Mr. Thackeray can now claim a moral victory, but in the domain of political coalitions, a legislative majority is seen as more important than morality.

DESCENT INTO CHAOS

Pakistan politicians are falling into Army's trap by attacking one another

The Pakistan Supreme Court's order to release former Prime Minister Imran Khan after calling his arrest "unlawful" is a blow to the government of Prime Minister Shehbaz Sharif and the military establishment that backs it. Mr. Khan was arrested on Tuesday from the Islamabad High Court, where he had appeared to seek bail in multiple corruption cases, by the paramilitary Rangers, on an order from the National Accountability Bureau, the anti-corruption watchdog. The arrest came a day after the military had warned him against making "baseless allegations" — that a senior military figure was involved in an attempt on his life in November 2022. Ever since he was ousted from power in April 2022, Mr. Khan has campaigned against the 13-party coalition government led by Mr. Sharif. He has demanded early parliamentary elections, due for October, organised massive rallies, and won back-to-back by-elections, proving his rising popularity. On the other side, the coalition government's approval rating has tanked amid mounting economic woes, but Mr. Sharif has refused to give in to Mr. Khan's demands.

The former cricketer-turned-politician, who came to power in 2018, had enjoyed warm links with the military for over three years. While in power, he hounded the then opposition politicians (now in government) and, according to his own words, the military had helped him stay in power amid political

challenges. But after they fell out over key military appointments, Mr. Khan turned against the generals. The new government slapped case after case on him, deepening the political rift. The military, which has staged coups and ruled for more than half of Pakistan's existence, retains its influence. One of the reasons is that Pakistan's ruling parties typically work with the generals to neutralise their political opponents. The coalition government made the same mistake. The allegations against Mr. Khan should be probed but the way he was arrested, using the paramilitary forces, and the nationwide crackdown on his supporters that followed raised more questions, prompting the Supreme Court to wade in and order Mr. Khan's release. This crisis is unfolding at a time when Pakistan is undergoing one of its worst economic crises. Its foreign reserves are depleting, inflation hit a record 35% in April, the highest in South Asia, and the Pakistani rupee keeps falling. The country has also witnessed a rise in terror attacks by the Tehreek-i-Taliban Pakistan (TTP), which has been emboldened by the Taliban's return to power in neighbouring Afghanistan. The immediate priority for Pakistan's leaders should have been to address these critical challenges but they are busy fighting each other instead, further weakening the country's institutions and leaving its unelected power centres stronger.

THE SC RULING ON SENA VS. SENA



Curtain call: Shiv Sena (Shinde faction) workers celebrate the Supreme Court's verdict in Nagpur on May 11. PTI

Why did the Court state that the call of the then Maharashtra Governor to initiate a trust vote was not justified? Can the Court reinstate Uddhav Thackeray? Can the courts rule on disqualification petitions? What has it said on the Speaker's role?

SONAM SAIGAL EXPLAINER

The story so far:

In a unanimous judgment, the Supreme Court on Thursday held that then Maharashtra Governor Bhagat Singh Koshiyari's call for a trust vote, which led to the resignation of the Uddhav Thackeray-led Maha Vikas Aghadi government last June, was illegal. It said that Mr. Koshiyari was "not justified" in calling Chief Minister Uddhav Thackeray to prove his majority on the floor of the House. But the Court also said that it could not reinstate Mr. Thackeray as Chief Minister because he had resigned instead of facing the trust vote.

How did the case land in the SC?

Last year, the Uddhav Thackeray-led MVA government was toppled and replaced by another government, comprising a faction of the Shiv Sena, which claimed to be the "real" Sena, the Bharatiya Janata Party and several Independent MLAs. The leader of the breakaway Sena faction, Eknath Shinde, became Chief Minister.

The first petition was filed by Mr. Shinde last June after notices were issued by then Deputy Speaker of the Maharashtra Assembly, Narhari Zirwal, against 40 rebel MLAs under the 10th Schedule of the Constitution which deals with disqualification on the grounds of defection. Thereafter, petitions were filed by the Thackeray group challenging the then Maharashtra Governor's decision

to call for a trust vote and the swearing-in of Mr. Shinde as Chief Minister. The election of the new Speaker, Rahul Narwekar, was also challenged. A Constitution Bench of Chief Justice of India D.Y. Chandrachud, Justices M.R. Shah, Krishna Murari, P.S. Narasimha and Hima Kohli had reserved its judgment on March 16. On May 11, based on the five petitions and arguments made by both parties, the Court gave its ruling on questions of law that arose in this case in a 141-page judgment.

Can the Supreme Court decide a disqualification petition?

The Speaker is the authority to adjudicate petitions for disqualification under the 10th Schedule. The petitioners wanted the Court to give its decision on the issue of disqualification of Mr. Shinde and his supporters. However, the Court said it "cannot ordinarily adjudicate petitions for disqualification under the 10th Schedule. There are no extraordinary circumstances in the instant case that warrant the exercise of jurisdiction by this Court to adjudicate disqualification petitions. The Speaker must decide disqualification petitions within a reasonable period."

The Court said an MLA has the right to participate in the proceedings of the House "regardless of the pendency of any petitions for their disqualification. The validity of the proceedings of the House in the interregnum (the period between a regime change) is not 'subject to' the outcome of the disqualification petitions."

Was the floor test justified?

The Court noted that the Governor was not justified in calling upon Mr. Thackeray to prove his majority on the floor of the House "because he did not have reasons based on objective material before him, to reach the conclusion that Mr. Thackeray had lost the confidence of the House." But the Court also said that "status quo ante cannot be restored" because Mr. Thackeray did not face the floor test and resigned from the post. The Governor, it said, was justified in inviting Mr. Shinde to form the government.

What is the Court's ruling on the role of the political party in relation to the legislature party?

Questions arose on whose whip is binding, if the whip appointed by the political party and the one acting on behalf of the legislature party (the Shinde group in this case) give different instructions to members. The Shinde faction argued that it is the legislature party that appoints the whip. The Court disagreed: "To hold that it is the legislature party which appoints the Whip would be to sever the figurative umbilical cord which connects a member of the House to the political party. It would mean that legislators could rely on the political party for the purpose of setting them up for election, that their campaign would be based on the strengths (and weaknesses) of the political party and its

promises and policies, that they could appeal to the voters on the basis of their affiliation with the party, but that they can later disconnect themselves entirely from that very party and be able to function as a group of MLAs which no longer owes even a hint of allegiance to the political party.”

The Court ruled that direction to vote in a particular manner or abstain is issued by the political party, and not the legislature party.

Both the Whip and the Leader of the party in the House should be

WHAT IS THE STALEMATE OVER THE U.S. DEBT CEILING?

Why is there a debt ceiling for the U.S.? What are the consequences of a debt default to the global economy?

The story so far:

The U.S. Treasury Secretary Janet Yellen notified Congress last week that the country could default on its debt as early as June 1, if the Republican-dominated House of Representatives and President Joe Biden's White House did not reach a consensus to raise or suspend the debt ceiling.

What is the U.S. debt ceiling?

When the federal government spends more than it brings in, it runs up a budget deficit. It then has to borrow money to meet its financial obligations, accruing debt. The government borrows by creating and selling debt securities like bonds to U.S. investors and companies, banks, pension funds, foreign investors and countries. The largest part of these are owned by the U.S. federal government itself, which keeps the money for social security schemes, medicare, federal pensions and so on. While the administration and Congress decide on taxation and spending, the collection of taxes and the borrowing of funds is done by the U.S. Treasury Department. In 1917, Congress passed the Second Liberty Bond Act, to allow then-President Woodrow Wilson to take out funds for the First World War without waiting for the approval of absent Congress lawmakers. However, the Congress created a limit on borrowing (\$11.5 billion at the time), thus creating a debt ceiling that could only be raised by the approval of the Congress (House and Senate).

The U.S. government has hit or come close to hitting the debt ceiling multiple times. According to Treasury Department figures, Congress has acted 78 separate times since 1960 either to permanently raise, temporarily extend, or revise the definition of the debt limit. While the government continues to receive taxation revenue after hitting the debt ceiling, it cannot borrow any more to pay its existing bills. The U.S. would then be unable to pay its debt-holders, resulting in a default.

Why have debt ceiling standoffs become a recurring issue?

For starters, the debt ceiling is not a “forward-looking” budgeting instrument, that is, it does not reveal what potentially ideal levels of spending look like. First, Congress approves programmes for which it does not have the entire

appointed only by the political party. Accordingly, it said the Speaker's action approving Mr. Shinde's appointment as Shiv Sena leader in the House was contrary to law. “The Speaker shall recognise the Whip and the Leader who are duly authorised by the Shiv Sena political party with reference to the provisions of the party constitution, after conducting an enquiry in this regard and in keeping with the principles discussed in this judgment,” the judgment read.

funding, and then there's a limit on how much the Treasury can borrow to pay for these already approved programmes. Take this analogy, for instance: if Congress approves \$100 of spending, \$70 comes from taxes but the cap on what the government can borrow to pay for the rest is fixed at a mere \$15.

Another reason why disagreements over the debt limit happen often, almost annually since 2011, is that it has become a political bargaining chip, as any raise or suspension has to be approved by Congress. As American politics becomes increasingly polarised, the Opposition has often used the debt limit as a way of getting budgetary and other legislative concessions. The U.S. came dangerously close to defaulting on its debt in 2011 when the Republicans and the Obama administration could not reach an agreement to hike the ceiling till the last minute. Observers have called the current impasse between House Republicans and the Biden administration even messier than in 2011. The Republican Speaker Kevin McCarthy-led House passed a Bill that pairs a \$4.8 trillion in spending cuts with an increase in the current \$31.4 trillion debt ceiling. However, Mr. Biden said that he wants a clean debt-ceiling hike and won't negotiate any kind of cuts, resulting in the current deadlock.

Ms. Yellen and other economists suggest doing away with the debt ceiling, which does not contribute to fiscal discipline anymore and leads to frequent political grandstanding, often at the risk of national and global financial stability.

What will happen if the U.S. defaults?

Analysts say there is no set post-default scenario since the U.S. has never actually defaulted on its debt before. They have warned, however, of a “catastrophic” situation for American and global financial markets. If the government cannot make interest payments to domestic and foreign investors who own its debt securities, it could plunge the globe into a financial crisis, say Wall Street experts. The CFR points out that the “unthinkable” event of a U.S. default could lead to another downgrade of U.S. creditworthiness by agencies, large-scale job losses, weakening of the dollar, stock sell-offs, and a rise in the cost of borrowing for the U.S. government.

U.S. ENGAGES WITH INDIA ON HUMAN RIGHTS: WHITE HOUSE



Jean Pierre said U.S. President Joe Biden ‘never shies away’ from having conversations on rights issues with other leaders. REUTERS

U.S. encourages all countries to uphold their human rights obligations and commitments, and to work towards building inclusive societies, says White House Press Secretary Karine Jean-Pierre

In the run-up to Prime Minister Narendra Modi's state visit to the U.S. next month, the White House has said that the Biden administration regularly engages with India on human rights and that U.S. President Joe Biden “never shies away” from having conversations on rights issues with other leaders.

The comments, made on Wednesday by White House Press Secretary Karine Jean-Pierre, were in response to a question on whether the optics of Mr. Modi being honoured at the White House were “problematic” when there were “obvious human rights concerns” under the Modi government and “clear differences” over the two countries' policies on Russia and Ukraine. “So as we do with other nations around the world, we regularly engage with — with Indian government officials at senior levels on human rights concerns, including freedom of religion or belief,” Ms. Jean-Pierre told reporters aboard Air Force One on Wednesday.

“That is something that the President regularly does. We encourage all countries to uphold their human rights obligations, commitments, and to work towards building inclusive societies,” she added. Mr. Biden is known to pride himself on a stated ability to work across the aisle in Washington as well as working with foreign leaders across the board, based in part on his years as Chairman of the Senate Foreign Relations Committee and then Vice-President. **‘Need to build on’**

“As you know, this is a President who has had decades of experience of leader-to-leader relationship,” Ms. Jean Pierre said, adding that the U.S.'s relationship with India was an important one and part of how the U.S. moves forward in the region. “And so the President believes this is an important relationship that we need to continue and build on,” she said.

“As it — as it relates to human rights, as I just laid out, this is a conversation that

we have with other nations around the world. The President is never shy — never shies away to — to have that conversation with leaders,” Ms. Jean-Pierre said. The U.S. is playing a “long game” with India, its National Security Advisor Jake Sullivan had said last June, in the context of India’s approach to Russia’s invasion of Ukraine. The U.S. has also, in recent years, become more

circumspect about openly criticising the Modi government’s human rights record and the extent of its adherence to democratic norms, indicating that those conversations are going on in private and are two-sided. The U.S. sees the relationship with India as a crucial part of its strategy to counter China’s rise.

GST E-INVOICING TO INCLUDE SMALLER FIRMS FROM AUGUST 1

Centre lowers mandatory e-invoice filing threshold to ₹5 crore in annual turnover from ₹10 crore, move seen helping expand the tax net; CBIC also rolls out an Automated Return Scrutiny Module

In a move that would add to the compliance requirements for small and medium businesses under the GST regime while expanding the tax net, the Centre has made it mandatory for all businesses with an annual turnover of ₹5 crore to use e-invoices from August 1.

The Central Board of Indirect Taxes and Customs (CBIC), which notified the reduction from the current ₹10-crore level, also rolled out an ‘Automated Return Scrutiny Module’ for GST returns. The module’s implementation has already commenced with the scrutiny of GST returns for the financial year 2019-20.

“This module will enable the officers to carry out scrutiny of GST returns of Centre-administered taxpayers selected on the basis of data analytics and risks identified by the system,” the Finance Ministry said in a statement.

“In case customers accept invoices from such vendors without e-invoice compliance, their input tax credit would be denied, resulting in GST loss for them to the extent of 18% generally, which could severely impact their bottom lines,” said Vivek Jalan, partner at Tax Connect Advisory.

Widening net

Move to lower e-invoicing threshold coupled with rollout of automated return scrutiny aimed at expanding GST tax net

■ **Module’s implementation has commenced with scrutiny of GST returns for 2019-20**

■ **It will enable officers to scrutinise returns of Centre-administered taxpayers selected by data analytics**

■ **Tax experts say moves in line with government’s efforts to crack down on fake invoices, GST evasion**



THE PROBLEM WITH INDIA’S MULTI-ALIGNMENT STAND

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China’s recent mediation efforts to resolve the Ukraine crisis have once again spotlighted India’s approach to conflict resolution. By holding the North Atlantic Treaty Organization’s eastward expansion responsible for instigating the war; by painting America as the biggest obstacle to ceasefire; by exploiting the differences among western countries regarding the extent of support to Ukraine; by further cementing the Beijing-Moscow relationship, and ensuring the survival of the Vladimir Putin regime, China has effectively positioned itself in opposition to the American approach. This is not how India views its role in resolving the conflict.

India has increasingly used varied symbolic instruments of power to enhance its soft power appeal. Prime Minister Narendra Modi now projects India as the “mother of democracies” and as a “moral force” to enforce global peace.

In sharp contrast to the Chinese President Xi Jinping’s first outreach last month to the Ukraine President Volodymyr Zelenskyy, since the Russian invasion, Mr. Modi has spoken to Mr. Zelenskyy many times. In October and December last year, Mr. Modi, in his telephonic conversation with Mr. Zelenskyy, had expressed India’s solidarity with Ukraine while extending support for peace efforts. And in September, Mr. Modi had publicly told Mr. Putin that “today’s era is not of war” — a remark that seemed to be a reprimand to Moscow. Even the U.S. Secretary of State, Antony Blinken, felt compelled to describe this widely-reported remark as “significant”. Washington understands the importance of India’s continuous engagement with Ukraine because that is an important way of bringing New Delhi’s response to the Ukraine war into alignment with its own. The geopolitics of the Indo-Pacific and the Ukraine conflict are in many ways inter-connected.

The regular Modi-Zelenskyy interactions may be seen as underscoring India’s rising stature and recognition of its unique position in the emerging global order, despite western criticism of India’s continued energy imports from Russia and export of excess refined Russian fuel to the European market. During Ukraine’s Deputy Foreign Minister Emine Dzhamarova’s recent visit to New Delhi, she remarked (in a widely reported tweet) that “India wants to be the Vishwaguru, the global teacher and arbiter. In our case, we’ve got a very clear picture: aggressor against innocent victim. Supporting Ukraine is the only right choice for true Vishwaguru.” The hint here is that the ‘Vishwa Guru’ image that the government seeks for the country will remain imperfect if India refuses to take a strong moral position on Russia’s violation of Ukraine’s sovereignty.

Nationalist ideas have always influenced the Indian state, contributing to their further proliferation in society and polity. The choice of the ‘Vishwaguru’

phrase by Ms. Dzhamarova is not accidental as it is at the core of the Modi government’s nationalist foreign policy discourse. The contemporary salience of Vishwa Guru image, which builds on historical trends in India’s political thought seeking to emphasise the distinctiveness of the country’s cultural ethos and civilisational values, also highlights the unique nature of ‘soft power’ in foreign policy debates. Soft power is simultaneously ubiquitous and ambiguous, accepted as significant yet narrow in its policy impact. It should be understood as any other form of “nonmaterial” power which interacts with material resources or hard power, either enlarging their impact or making up for their absence.

Lack of hard power

That India lacks hard power has been acknowledged by Mohan Bhagwat, chief of the Rashtriya Swayamsevak Sangh, the ‘ideological fountainhead’ of India’s ruling political dispensation. In a recent speech, he had said that if India had been adequately powerful, it would have stopped the Ukraine war. He argued that “Russia attacked Ukraine. It is being opposed. But nobody is ready ...to stop Russia because Russia has power and it threatens.” Drawing a contrast with supposedly selfish global powers, Mr. Bhagwat asserted that “If India had such [material] power in its hands, then such an incident [Ukraine war] would not have come before the world.” This narrative assumes that a powerful Indian civilisational state will stand for global peace and stability.

While New Delhi has expressed its disapproval of the Ukraine war, it has avoided taking a clear position in many UN resolutions on the issue. This may be understandable as India has often taken an evasive position on conflicts that involve its traditional allies. However, critics are not unreasonable in arguing that this ambiguity does not behove a nation aspiring to become a permanent member of the UNSC, which implies a commitment to speak as a global voice against territorial aggression and rights violations similar to what Russia has unleashed on Ukraine. Moreover, the normative pillars of the democratic, self-confident and morally superior Vishwa Guru identity cannot be identical to those underlying the cynical hegemon maximising its power at all costs, bereft of any morality.

While New Delhi’s seemingly evasive position in the Ukraine war underlines India’s traditional discomfort in viewing its national interests in binary terms as well as Russia’s military and geopolitical importance for India’s military preparedness, yet Russia’s justifications for its military actions in Ukraine do not resonate among most of India’s political elite. These justifications are sometimes parroted by China, including the latest unabashedly pro-Russian

statement by the Chinese Ambassador in France regarding the legal status of the post-Soviet republics, with a view to reserving the right to use force against Taiwan. India has no such revisionist motives. India's views on sovereignty converges with a universally acceptable Westphalian notion and thus clash fundamentally with the communist China's political philosophy of 'might is right'. Democracies enjoy legitimacy globally and this legitimacy can transpose an authoritarian ruler's use of force into violence against the population. Ukraine is seen as a victim which is resisting aggression from an authoritarian neighbour. The Modi-Zelenskyy interactions highlight the fact that such narratives engender Indian sympathies for the victimised target. Nevertheless, the Ukraine war alone is not sufficient to undermine India's historical ties with Russia, which is based as much on New Delhi's military dependence on Moscow as it is on the anti-colonial strand of India's strategic autonomy doctrine.

A pursuit of 'multi-alignment' may have given New Delhi some diplomatic space in the ongoing war in Ukraine. However, it may not be sufficient

for India to try to play the role of a mediator between Russia and Ukraine. India currently lacks the material resources to match the extent of China's economic and military potential.

Through his charm offensive of a phoney peace diplomacy, Mr. Xi's primary aim is to discourage Mr. Zelenskyy to launch the much-discussed counteroffensive, so that Russia's dependency on China rises further. Driven by the 'sunk cost fallacy', Mr. Putin has unleashed forces that have already done immense damage to Russia's global standing and offended most of the democratic world. Thus the Modi government must ensure that India's refusal to condemn Russian belligerence and continued increase in the import of Russian fuel is not interpreted as a pro-Moscow approach. While India's ties with Russia are likely to be on a downward spiral, the piecemeal distancing from Russia will take a bit longer as New Delhi struggles to find some manoeuvring space in the emerging nexus between Russia and China.

MARRIAGE FOR ALL, EVEN IF FOR A FEW

In a reality show, "Fabulous Lives of Bollywood Wives", Sima Taparia of the series, "Indian Matchmaking", was asked about the possibility of matching for queer couples. Her careful reply was: she is not 'doing that' right now because it is not allowed in India and she will not commit to taking on queer clients when it is. Even as season three of her show dropped, the Supreme Court began hearing the case for marriage equality within the ambit of the Special Marriage Act. If the court rules in favour of expanding the definition of marriage beyond that of a union between biological men and women, Ms. Taparia's response leaves enough room for ambiguity – for legal rights do not automatically translate to social sanction, and this is exactly what the arguments in the courtroom and beyond illustrate.

A Bar Council of India resolution recently quoted a dubious survey on 99% of Indians being against marriage equality while more sober commentators argue that the society is not ready for what the petitioners seek. Should laws be a reflection of societal morality? Or should they push the envelope by making certain unions possible irrespective of social approval? This was one of the questions extensively debated in Parliament as part of the Special Marriage Bill itself.

Common threads

In parliamentary debate minutes, former Member of Parliament, Vijaya Lakshmi Pandit, features as one of the Bill's proponents. She predicted that the law would not have many immediate takers but that an emancipated next generation would demand the right to choose their partners. She conceived the civil union law as a calculated, rational decision where a freedom wilfully granted is better than a freedom that is 'taken' (LS Debates 1954, September 1, 812-816). Like other women representatives, she also believed that the proposed law could improve the lives of women.

Despite some powerful backers, there was a perception among at least sections of the two Houses that allowing citizens to marry anyone of their choice could potentially lead to a collapse of society and civilisation. The Bill's divorce provisions, in particular, had raised fears of a proliferation of sexual desires; the question of queer unions was also briefly touched upon, with homophobic remarks. The other common thread that often resurfaces even today is that securing more rights and visibility for a plurality of identities and desires is, in some way, imposing the 'lifestyle' of a few on to a presumed majority that is not represented in these struggles. Former President, Dr. Rajendra Prasad, had bitterly opposed the Hindu Code Bill in his private correspondence with Jawaharlal Nehru because he believed that the measure was forcing something on a vast majority, because some people — according to him, a small, likely

microscopic minority — considered it a right.

Unlike that far-reaching reform Bill, expanding legal rights to the LGBTQI+ community is not directly relevant to those who do not identify as queer and can, in principle, disengage from the debate. And yet, as the reactions to the Court proceedings have shown, Indian polity and society still struggle with the idea of marriage reform and individual choice. Local and national politics have routinely witnessed campaigns against inter-caste and inter-community couples and the need for social sanction often triumphs the rights afforded under the Act through a bureaucracy that has become a reflection of social morality. However, as with the issue of the so-called love jihad campaigns, conversations emerging from the marriage equality case have spread awareness of the law and its unfortunate provisions, including the publication of a notice period that violates citizens' right to privacy.

Where the bureaucracy fails, vigilante groups have been empowered to prevent unions using extra-judicial methods and queer couples may, unfortunately, also face a similar predicament in future. The potential for an infringement of rights guaranteed by constitutional principles, the letter of the law and court judgments gets to the heart of how Indians define marriage and, perhaps, Ms. Taparia's show with its inherent casteism and sexism may indeed be representative; marriage is very much a social institution, invested in upholding hierarchies based on gender, caste and community. Apart from violence and intimidation, the control of non-state entities is exercised simply by withholding recognition for heterosexual and queer couples alike and legal sanction, however inadequate, may offer at least some relief.

Such a step will reaffirm rights as a whole

After almost 70 years, the Special Marriage Act still has fewer takers due to political campaigns, bureaucratic overreach and the general misconception that it only caters to inter-religious couples. And a study of this law's implementation discredits the doomsday predictions of those who continue to oppose marriage reform. Social transformations are not easy and laws, in a vacuum, are unlikely to disrupt the lives of 'vast majorities'. Some citizens may not be prepared for marriage equality, just as some are not open to inter-caste and inter-community marriages but, as Pandit had argued in 1954, the law should hold out more potential than the public imagination allows for and should be aimed at improving the lives of the more marginalised. Affording rights to a sexual minority — even if it is a minority — reaffirms the rights of the citizenry as a whole.

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