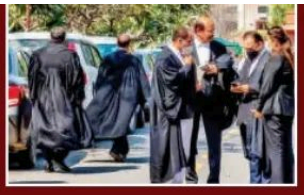


Bar Council Of India: Advocates, Behave Yourselves!

Euthanasia: whose life is it anyway?

www.indialegallive.com

INDIA LEGAL

July 29, 2024

₹100

STORIES THAT COUNT

RACE FOR PRESIDENT

AMERICAN TRAGEDY

Following the attempted assassination of Republican candidate Donald Trump, and widespread doubts about his Democrat rival President Biden's mental and physical fitness, the coming election resembles the script for a democracy-in-danger thriller, writes India Legal's US Editor *Kenneth Tiven*

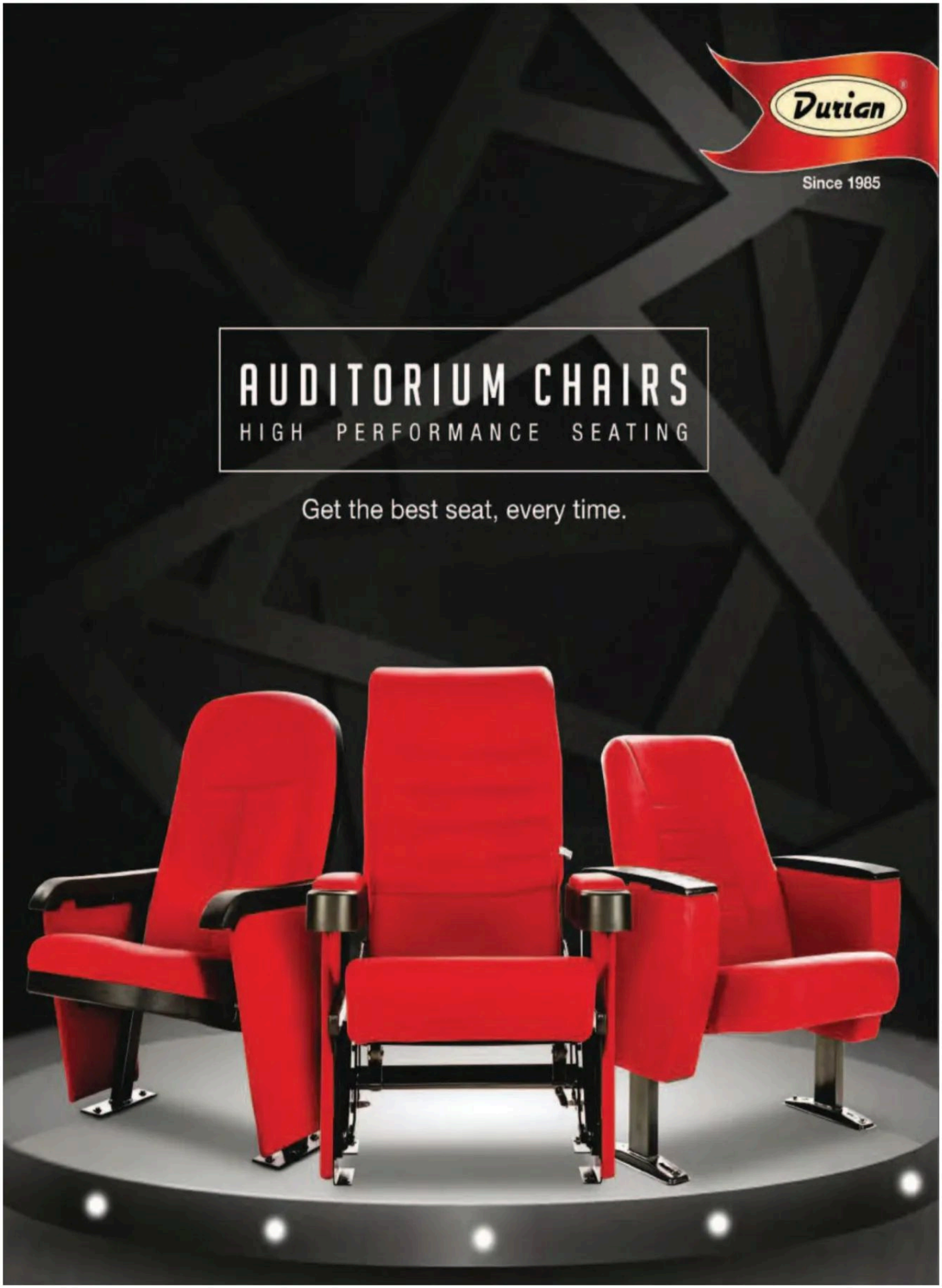
RADO.COM

RADO HYPERCHROME CERAMIC TOUCH DUAL TIMER
HIGH-TECH CERAMIC. SECOND TIME ZONE. TOUCH TECHNOLOGY.

RADO
SWITZERLAND

TIME IS THE ESSENCE WE ARE MADE OF

RADO STORES: AHMEDABAD: Ph: 26442802. **AMRITSAR:** Ph: 6600555. **BANGALORE:** Ph: 30160121, 40982107. **COCHIN:** Ph: 4060336, 9142491424. **COIMBATORE:** Ph:4203500. **CHENNAI:** Ph: 42613000, 28464224, 30083480. **GURGAON:** Ph: 4665607. **HYDERABAD:** Ph: 9247656706, 65795916, 23420070, 30534003. **KOLKATA:** Ph: 22814466, 40002954. **MUMBAI:** Ph: 28337244, 67439854, 26489174/75, 64521117. **MANGALORE:** Ph: 2498165. **NEW DELHI:** Ph: 46562788, 43575253. **NOIDA:** Ph: 4210121. **TRIVANDRUM:** Ph: 2728999.



INDIA LEGAL
STORIES THAT COUNT

Chief Patron	Justice MN Venkatachaliah
Managing Director	Rajshri Rai
Editor-in-Chief	Inderjit Badhwar
Senior Managing Editor	Dilip Bobb
Deputy Managing Editor	Shobha John
Executive Editor	Sujit Bhar
Deputy Editor	Prabir Biswas
Senior Writer	Sanjay Raman Sinha
Senior Artist	Vinay Kamboj
Editor (Digital)	Vikram Kilpady
Coordinator	Kumkum Sharma

Group Brand Adviser
SK Menon

Marketing & Branding
James Richard (New York), Tim Vaughan (London), Madhvi Pandey (Delhi-NCR), KL Satish Rao (Hyderabad), Nimish Bhattacharya (Mumbai), Misa Adagini (Northeast)

Circulation
Kamesh Tyagi; Contact No: 9013029409
email: indialegal.enc@gmail.com
website: indialegallive.com

Published by EN Communications Pvt. Ltd. and printed at Vijaylakshmi Printing Works Pvt. Ltd. B.117, Sector-V, Noida GSTIN/UIN: 09AABCV7028F1ZA, State: Uttar Pradesh, Code: 09
E-mail: vpwpl.1972@gmail.com.

OWNED BY EN COMMUNICATIONS PVT. LTD.
A -9, Sector-68, Gautam Buddh Nagar, NOIDA (U.P.) - 201309, Phone: +91-0120-2471400- 6127900
Fax: + 91- 0120-2471411
e-mail: editor@indialegallive.com
website: www.indialegallive.com
MUMBAI: Arshie Complex, B-3 & B4, Yari Road, Versova, Andheri, Mumbai-400058
RANCHI: House No. 130/C, Vidyalaya Marg, Ashoknagar, Ranchi-834002.
LUCKNOW: First floor, 21/32, A, West View, Tilak Marg, Hazratganj, Lucknow-226001.
PATNA: Sukh Vihar Apartment, West Boring Canal Road, New Punaichak, Opposite Lalita Hotel, Patna-800023.
ALLAHABAD: Leader Press, 9-A, Edmonston Road, Civil Lines, Allahabad-211001.

JULY 29, 2024

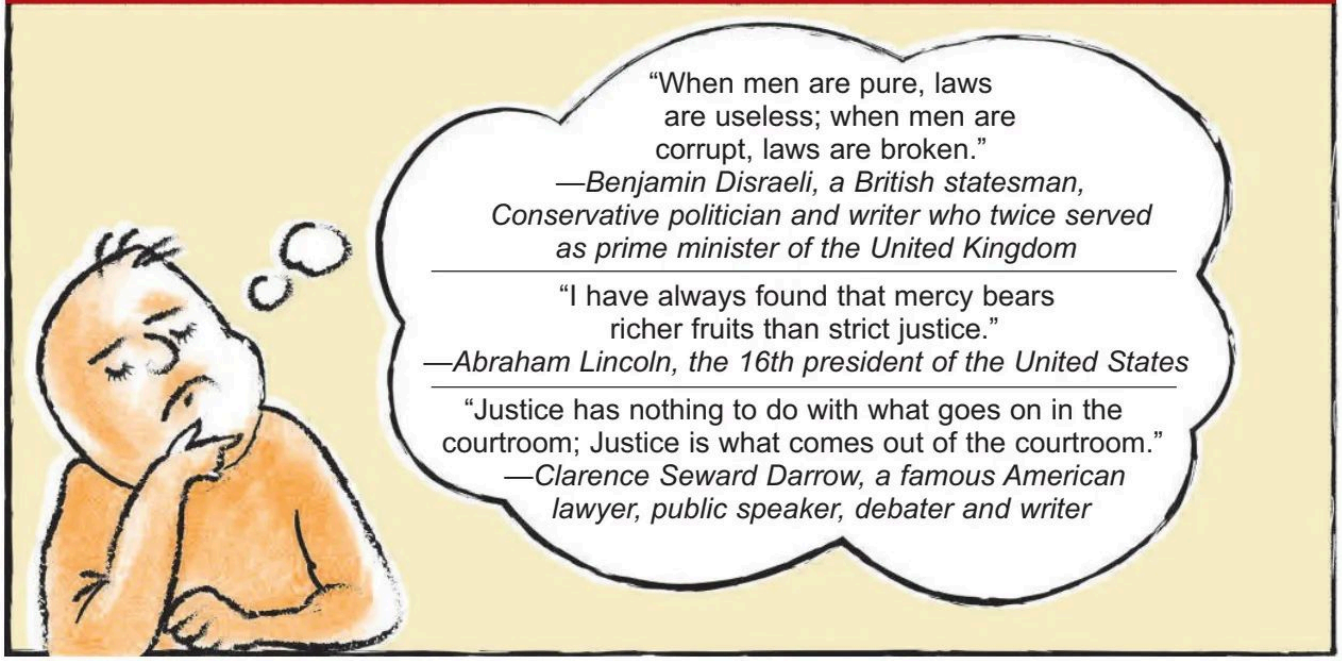
Contents

VOLUME XVII ISSUE 38

Cover Design: Vinay Kamboj

Follow us on
Facebook.com/indialegalmedia
Twitter: @indialegalmedia
Website: www.indialegallive.com
Contact: editor@indialegallive.com

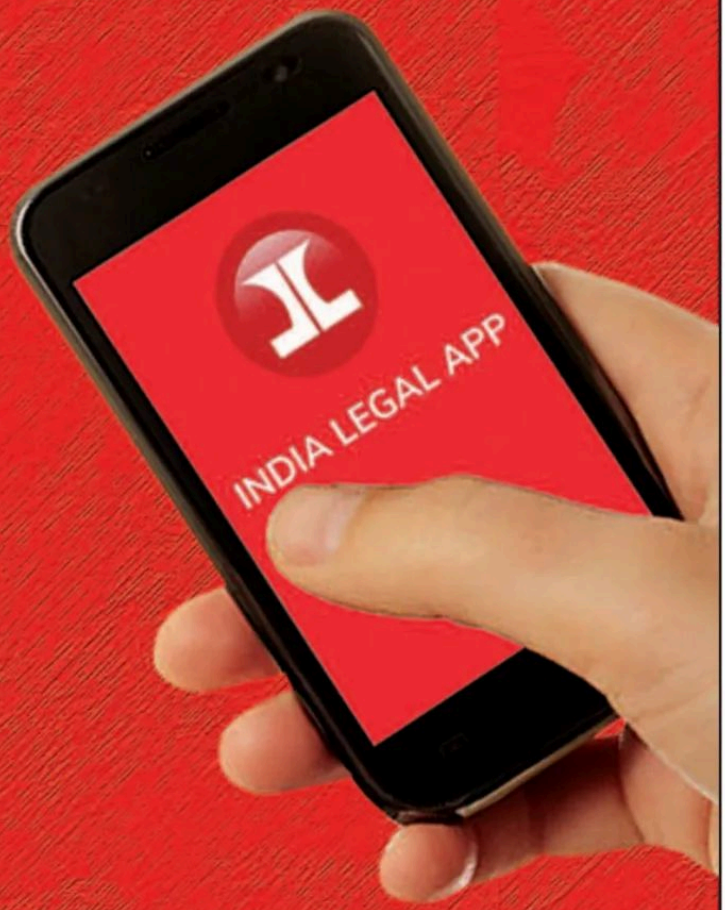
WORTH REMEMBERING



IT'S FINALLY HERE...

The much-awaited India Legal App.

ACCESS TO JUSTICE NOW AT YOUR FINGERTIPS. JUST A CLICK AWAY FROM HELP.



Download this free legal aid from your commercial playstore

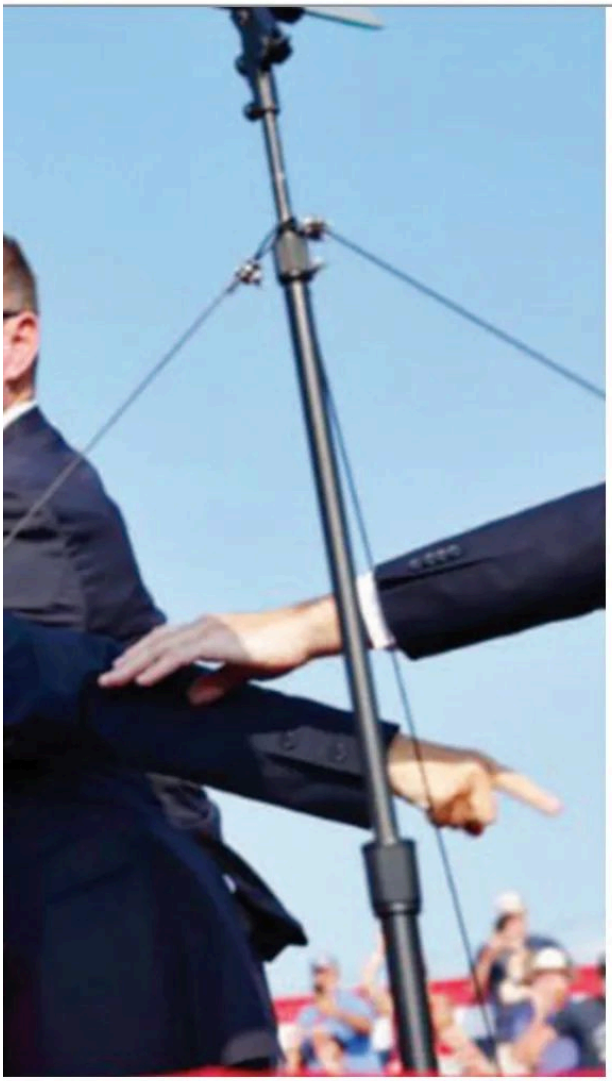
DISCLAIMER

The application is not intended as any kind of a final legal authority for decisions or any other advice of a professional nature. The content of the suite should not be used as a substitute for further professional advice. You should also consult your own attorney, accountant or other applicable professional before making important personal or professional decisions. The data and advice available through this app is from lawyers using their best capabilities and interpretation of the law which may differ. Your reliance on the information provided by the application suite is solely at your own risk. The India Legal App shall not be held responsible for any delay or failure in achieving a specified goal to the extent that such delay or failure is caused by circumstances beyond control and without the fault or negligence of the application or its affiliates.

AMERICAN TRAGEDY

Donald Trump's nomination as a presidential candidate was a given even before the Republican National Convention last week. Trump was being perceived as a demi-god for his movement after the 20-year-old would-be assassin with a rifle wounded him, just clipping his right ear. The coming American election resembles the script for a democracy-in-danger thriller

By Kenneth Tiven



IT could easily be the script for a Netflix series. Many twists and turns remain, but this is a real-life national drama. The ending is not available until November 5. What comes after that could redefine the USA. To paraphrase the late film script writer William Goldman (*Princess Bride, Butch Cassidy and the Sundance Kid*): "Nobody knows anything.... Not one person in the entire political field knows for a certainty what's going to work. Every time out it's a guess and, if you're lucky, an educated one".

The Republican National Convention opened with Donald Trump's nomination by acclamation as a presidential candidate for the third time. Project 2025, perhaps the other star of the MAGA-dominated Republican Party, is getting no official attention because it is too controversial. However, encouraged by Trump, it is a 900-page blueprint for dismantling almost every federal agency that deals in human services. Its proposals are contentious restrictions: anti-immigration language, deportation of non-citizens, and prohibitions on all matters involving sexual relations, to name just a few. This goes well beyond abortion issues. It contravenes key elements of the US Constitution. Basically, it proposes that an ethnic and religiously diverse America accept what MAGA supporters (a minority) believe: the USA is a Christian nation.

From a historical perspective, this nominating convention is no longer about people, ideology, domestic or international policies. Social media, connected by the Internet, hosts those ideas in the 21st century. Today's four-day convention is a media extravaganza to energize existing voters and attract new ones. The overall design tries to make Trump and Republicans at all election levels, seem invincible on behalf of societal values they believe existed 100 years ago.

That Trump is perceived as a demi-god for his movement was confirmed a week ago in Pennsylvania. A 20-year-old would-be assassin with a rifle wounded him—just clipping his right ear—from a position 450 metres from the rally podium. Military snipers on another building's roof apparently saw him only as he fired the first shots. Within seconds they killed him. Three days later Trump, with ear bandaged, walked into the Republican National Convention in Milwaukee, Wisconsin, to cheers. A friend who follows Republican politics closely described the delegates, "as looking like a college reunion for the Class of 1974 from Liberty University, a religious and politically conservative school."

A jubilant crowd welcomed the former president to the Convention stage and was rewarded with more than an hour of vintage Trump, extemporaneous, making it clear that a brush with an assassin's bullet had left him no less outrageous than usual when a crowd feeds his need for validation.

"I'm not supposed to be here tonight, Trump said recounting the assassination attempt: "The amazing thing is that prior to the shot, if I had not moved my head at that very last instant, the assassin's bullet would have perfectly hit its mark, and I would not ▶

Three days after an assassination attempt on him, Donald Trump, with ear bandaged, walked into the Republican National Convention in Milwaukee, Wisconsin, to cheers. A jubilant crowd welcomed the former president to the Convention stage and was rewarded with more than an hour of vintage Trump, extemporaneous, making it clear that a brush with an assassin's bullet had left him no less outrageous than usual when a crowd feeds his need for validation.

Trump's search for a vice-presidential running mate was organized like a beauty pageant, keeping at least four candidates dangling until the last moment. The selection of JD (James David) Vance (right) is not without skeptics, given Vance's 2016 vocal opposition to Trump, including calling him an American version of Hitler. At this point, Vance's political compass has swung 180 degrees to align with Trump, but he is far more coherent than Trump on issues of economics, foreign policy, and family planning.

be here tonight. We would not be together." The crowd chanted: "Yes you are!"

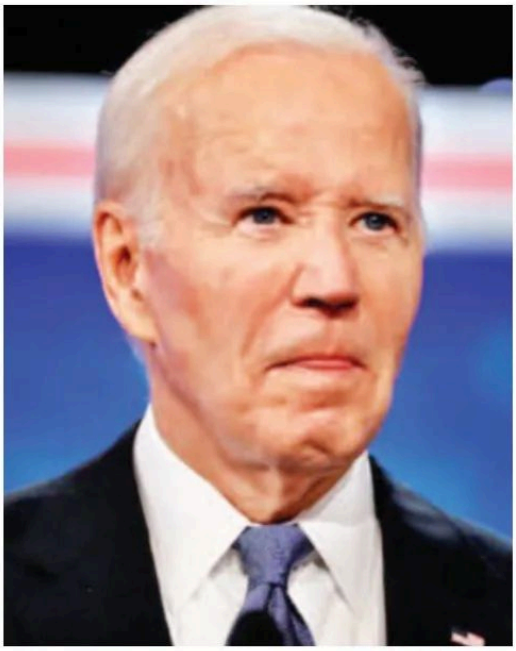
It was a mix of old vows and some new ones, with facts often missing or fuzzy. He never said, as he has in the past, that he wants to be a dictator on day one, but his anti-immigration theme was clear: borders will be locked, and the deportation of people without legal status will be "the largest deportation operation in the history of our country."

To generate interest in the coming campaign, Trump reprised a past business experience. His search for a vice-presidential running mate was organized like a beauty pageant, keeping at least four candidates dangling until the last moment. The selection of JD (James David) Vance is not without skeptics, given Vance's 2016 vocal opposition to Trump, including calling him an American version of Hitler.

Vance's Indian-American wife (see box) introduced him to the convention before his speech. Vance's tone was aggressive, but his style leaned to the bland side. He made it clear that his troubled early life in a poor family would help him fight "for the people who built this country". His religious, foul-mouthed grandmother raised him, he said, citing memories of friends and acquaintances from his old neighbourhood who had died of drug overdoses. Vance positioned himself as the champion of Trump's white, working-class political base. "I pledge to every American, no matter your party, I will give everything I have, to serve you and to make this country a place where every dream you have for yourself, your family and your country will be possible once again."

This choice for vice-president reflects the need to win in several smaller, more rural, swing states where the electoral votes will put Trump back in the White House. Trump's assumption is that it helps that Vance's background is in Appalachia, that area of southern Ohio, Kentucky, and Tennessee that remained coal and timber country for most of the 19th and 20th centuries. His career as a lawyer with solid connections to rich hi-tech entrepreneurs goes unmentioned. After the 9/11 terror attack, he joined the Marines and served as a combat journalist. Then he went to Law School.

Vance has an intimate connection with India. He married his wife, Usha Chilukuri



President Joe Biden's re-election campaign chair, Jen O' Malley Dillon (left) told reporters: "Trump picked JD Vance as his running mate because Vance will do what Mike Pence wouldn't on January 6: bend over backwards to enable Trump and his extreme Maga agenda, even if it means breaking the law and no matter the harm to the American people." Biden's efforts to stay in the presidency is not helped by Democrats who suggest that he should retire.

Vance, after the couple met at Yale University's law school. She was born in California, the daughter of Telugu-speaking emigrants from Andhra Pradesh. At the time of his wedding, Vance legally adopted the surname of his grandparents, who had a big role in raising him, as recounted in the best-selling book *Hillbilly Elegy*. Working as a venture capitalist in Silicon Valley introduced him to wealthy hi-tech capitalists who clearly made an impression with their generally Libertarian views on government.

The *Elegy* book earned Vance a reputation as someone who could help explain Trump's appeal in middle America, especially among the working class. These rural white voters helped Trump win the presidency. After disparaging Trump's behaviour in the 2016 campaign, he created an anti-opioid charity and became a lecturer, telling his personal story, including hardships because of his mother's drug addiction. The response encouraged him to enter politics, taking a long-shot chance at replacing retiring Ohio Republican Senator Rob Portman in the 2022 election.

Trump endorsed Vance, apparently on his son Don Jr.'s advice. Vance won. At this point, he has merely 19 months of elected political experience, but an abundance of ambition. His political compass has swung 180 degrees to align with Trump, but he is far more coherent than Trump on issues of economics, foreign policy, and family planning. The former Marine is not shy about political combat, aggressively blaming Democrats for the attempted assassination of Trump. His working-class roots may appeal to the men and women of the American Rust Belt that are critical to Trump's campaign.

Trump is prioritizing loyalty and legacy over qualities that past presidents have sought in vice-presidential nominees. Vance's evolution from opponent to running mate demonstrates the zeal of a convert. An older generation of Republicans is not likely to get much support from Vance, who defended Trump's "stolen election allegations" after the 2020 election. The 39-year-old Vance is a realist who understands Trump, limited to two terms, can't run again and may even die in office, putting him in a ▶

Polling in the past week indicates the election remains very close, neither a win for Republicans nor a loss for Democrats. There are a very long eleven weeks before we know how this American drama ends.

Lady in waiting

Usha Chilukuri Vance was born January 6, 1986, in California to Krish and Lakshmi Chilukuri. Her father is an aerospace engineer and university lecturer, while her mother, Lakshmi, is a professor of molecular biology. Her parents came from Andhra Pradesh. She grew up in an ethnically diverse San Diego suburb. JD Vance has credited her devout Hindu household as a child with instilling a deep sense of faith and values that have guided her path to success. She said: "I did grow up in a religious household. My parents are Hindu. That was one of the things that made them good parents, made them good people."

In a 2022 political debate between Democrat Tim Ryan and her husband, things got intense when the question of the "great replacement theory" came up. Ryan accused Vance of agreeing with the idea that Democrats encourage immigration to replace white job holders. Usha Vance's husband was incensed and said: "What happens is my own children—my bi-racial children—get attacked by scumbags online and in person, because you are so desperate for political power that you'll accuse me, the father of three beautiful bi-racial babies, of engaging in racism," Vance said, accusing Ryan of slandering him and his family.

Usha Vance attended Yale University, graduating *summa cum laude* with a bachelor's degree in history, then attended Cambridge University in England as a Gates Cambridge Scholar, receiving a Master of Philosophy in 2010. She returned to New Haven and Yale, attending the law school in 2013, where she was the Executive Development Editor of the *Yale Law Journal*.

In 2014, she married Vance in a wedding ceremony blessed by a Hindu priest. She is a practicing Hindu, and her husband is Roman Catholic. She served as a law clerk from 2014 to 2015 for then District of Columbia Circuit Judge Brett Kavanaugh, and from 2017 to 2018 for Supreme Court Chief Justice John Roberts. She has three children, born between 2017 and 2021.

good position for 2028.

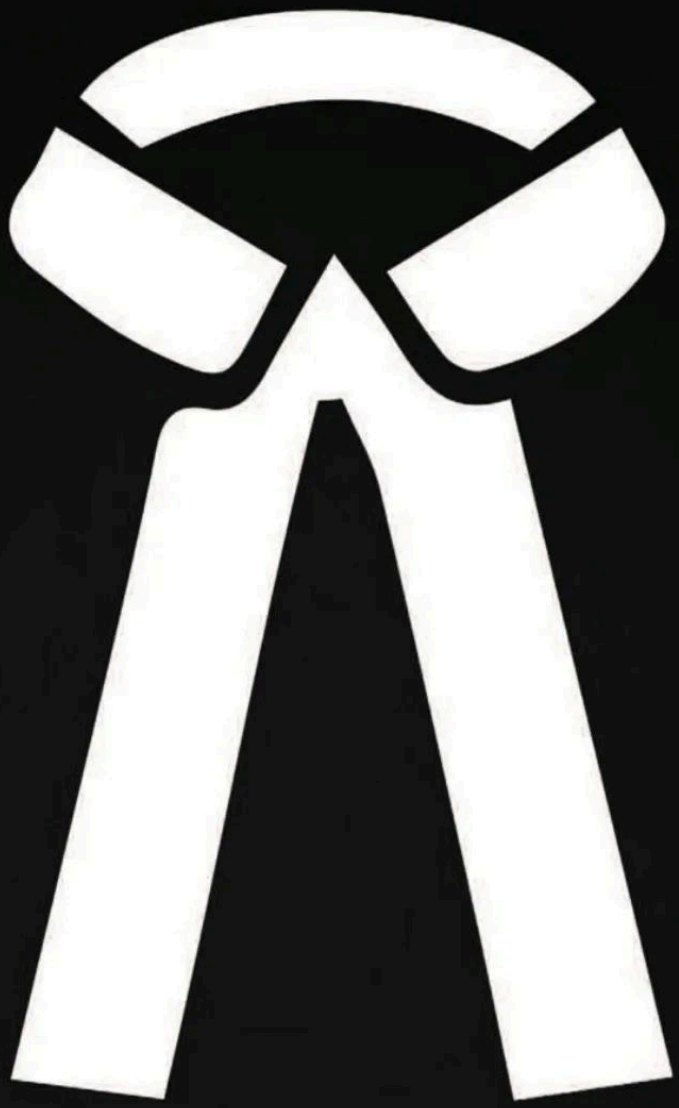
Vance represents Trump's plan to make the Republican Party his own, moving from Ronald Reagan's belief in religious conservatism, free-market capitalism and hawkish internationalism. Cooperation and concern for global issues is dramatically diminished in the Trump view, except for more cooperation with Russia, seen most visibly in opposition to aid for Ukraine to resist an invasion. Once rabidly anti-Communist, today, Republicans have instead focused all their animosity on Democrats in America. Additionally, several speakers at the convention have attacked gender issues and other elements of an evolving America on the liberals who are elements of the Democratic party.

Joe Biden's re-election campaign chair, Jen O' Malley Dillon told reporters: "Trump picked JD Vance as his running mate because Vance will do what Mike Pence wouldn't on January 6: bend over backwards to enable Trump and his extreme Maga agenda, even if it means breaking the law and no matter the harm to the American people." President Biden's efforts to stay in the presidency is not helped by Democrats, now including former House Speaker Nancy Pelosi and others, suggesting he retire. Biden also has a mild case of Covid which probably isn't helping his disposition.

Zack Beauchamp, author of new book, *The Reactionary Spirit: How America's Most Insidious Political Tradition Swept the World*, writes that Vance, "is a man who believes that the current government is so corrupt that radical, even authoritarian steps are justified in response" seeing "himself as the avatar of America's virtuous people, whose political enemies are interlopers scarcely worthy of respect. He is a man of the law who believes the president is above it."

Polling in the past week indicates the election remains very close, neither a win for Republicans nor a loss for Democrats. There are a very long eleven weeks before we know how this American drama ends. ■

—The writer has worked in senior positions at The Washington Post, NBC, ABC *and CNN and also consults for several Indian channels*



ILRF: A Foundation with A Legal Difference

If you are in need of legal support and advice, and your pocket doesn't allow it, India Legal Research Foundation (ILRF) is there to help you. This Non-Profit Organization, equipped with senior lawyers, is devoted to bring justice to those who deserve it, but cannot afford it.

ILRF
INDIA LEGAL RESEARCH FOUNDATION

OFFICE: A-9, Sector-68, Noida(UP)
Phone: +91-0120-2471400/6127900
Email: Contact@ilrf.in

The Eknath Shinde government tabled the Maharashtra Special Public Security Bill, 2024, with the purpose of curbing Naxalism. But the legislation, in fact, goes beyond just that. It specifies that Naxalism and the menace it poses have increased in urban areas through city-based Naxal front outfits, which it seeks to control by jailing people who may not even be members of the proscribed groups.

MAHA DRACONIAN

The proposed law wants to punish even non-members of Naxal-Maoist organisations for doing any work that supports the outfits. Activists are up against the law that can be widely misinterpreted

By Vikram Kilpady

THE Union government's decision to henceforth observe the dreaded midnight knock of the Emergency with the June 25 *Samvidhan Hatya Divas* has met with sufficient scorn from the Opposition, read the Congress, as well as with disbelief from the people. But within that same week, another move, this time by the Maharashtra government, has raised the hackles of lawyers, activists and opposition parties alike.

The Eknath Shinde government tabled the Maharashtra Special Public Security Bill, 2024, recently with the purpose of curbing Naxalism. But the legislation, in fact, goes beyond just that. It specifies that Naxalism and the menace it poses have increased in

Representative picture

Under the Maharashtra Bill, it is proposed that any individual who solicits or receives or contributes any donation in cash or kind to help Naxal-Maoist organisations can be jailed. Of course, anyone even helping or canvassing to promote a meeting of such groups will also be put in jail. The definition of unlawful activity in the Bill is open and can be interpreted in whatever ways the state chooses.

urban areas through city-based Naxal front outfits, which it seeks to control by jailing people who may not even be members of the proscribed groups.

The Bill introduced by state industries minister Uday Samant notes the proliferation of Urban Naxalism. That should ring a bell since any critic of the Narendra Modi government has been routinely dismissed over the last 10 years as an urban naxal and lampooned publically through TV news talk shows and such films as *The Kashmir Files*. First, it was the students and teachers of the Jawaharlal Nehru University who were dismissed and derided for their support to left-wing causes. Then, anyone who dared to question any untoward action or policy of the Centre found themselves bracketed within these two cozy words. Then, matters would move a little further into "anti-national" and "gaddar" territory and other such attributions of sedition.

Under the Maharashtra Bill, it is proposed that any individual who solicits or receives or contributes any donation in cash or kind to help the groups can be jailed. Of course, anyone even helping or canvassing to promote a meeting of such groups will also be put in jail. Most laws allow the arrest of individuals who let members of the underground cadre stay at their homes, so this one's not that far from the pre-established lot.

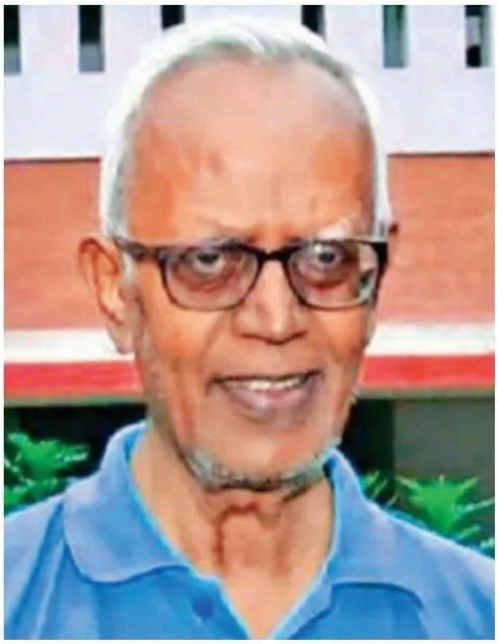
With the government empowered to decree an organisation unlawful, the fig leaf of an advisory board, appointed by the same government, to review the decision has also been proposed.

The definition of unlawful activity in the Bill is open and can be interpreted in whatever ways the state chooses. An unlawful activity is classified as that constituting a danger or menace to public order, peace and tranquility. One man's menace can be another man's cause in the constitutional sense as well. But let's let it be for now.

Under the now prevalent law, anything deemed unlawful has to challenge, indeed obstruct or interfere with, the maintenance of public order, law and its administration or its institutions and personnel. Further, any person or action that shows criminal force used against any public servant will also be held unlawful, acts such as resisting arrest perhaps?

Mass political actions such as disrupting communications by rail, road or water are now held to be unlawful, thus ruling out any road or rail rook agitation, previously deemed a valid means of protest and often used by the party now in power when it sat in the opposition. Activists and lawyers are aghast at the clause which mentions encouraging or preaching disobedience to established law and its institutions, thus lump- ▶

Several activists have been in jail without bail for the Bhima Koregaon/Elgar Parishad case since 2018. Father Stan Swamy (right) died in prison for advocating tribal rights. Erstwhile professor GN Saibaba was released from Nagpur central jail after 10 years' incarceration for his prosecution-alleged, court-dismissed links to the Maoists.



ing all opposition activity against the ruling government into a guerilla war.

To top it all, all the offences under the proposed legislation will be cognisable and non-bailable, and would be investigated by sub-inspectors or officers ranked senior.

The Bill proposes three years' jail and a fine of upto Rs three lakh for anyone who takes part in or contributes to or seeks support for meetings of an unlawful organisation. Similarly, if a non-member of the unlawful organisation does the same or provides shelter to the outfit's members, they can be jailed for up to two years and fined up to Rs two lakh.

Members of such organisations that commit or abet or attempt to commit any unlawful activity can be imprisoned for a term up to seven years and also be liable to pay Rs five lakh penalty.

The advisory board, the Bill says, will have three persons who are either qualified to be High Court judges or who have been and have retired in such capacity. The government will have to refer the declaration of an organisation as unlawful to the board within six weeks of such decision. The board then has three months to come up with a report made after studying the evidence against the outfit. Since the offences are non-bailable, the courts can take a break since bail isn't going to happen automatically, as it used to.

The government will revoke the notification declaring an outfit unlawful if the board doesn't find sufficient cause.

Further, once an organisation is declared unlawful, the commissioner of police or the district magistrate have been empowered by the Bill to take possession of its offices or the homes of key members and seize moveable property, including money, securities, computers or other assets. Further, the seized moveable property would be forfeited to the government if the investigation reveals the outfit was indeed unlawful and was using those resources.

The legal recourse for the organisation declared unlawful would only be available for redress *post-facto* via a revision petition to the High Court, the Bill says.

Explaining the rationale for such legislation, the Bill says existing laws have not been effective or adequate to tackle Naxalism. It notes directions from the Union Ministry of Home Affairs that advised enacting legislation by states suffering Naxal violence to tackle such unlawful activities.

It says Chhattisgarh, Telangana, Andhra Pradesh and Odisha have passed Public Security Acts to curb such organisations and had banned 48 frontal outfits. The Bill says like organisations were active in

Maharashtra and needed a similar prohibitory law. While it is true that these states have passed such laws, they have not advocated jailing non-members for the myriad offences mentioned in the proposed Maharashtra law.

As noted in other opinion pieces, several activists have been in jail without bail for the Bhima Koregaon/Elgar Parishad case since 2018. The police and other agencies have been at pains to blame the Naxals for choreographing the accused group's meetings and the subsequent violence. Father Stan Swamy died in prison for advocating tribal rights. Others have been lucky and are out on bail after moving the higher courts. Erstwhile professor GN Saibaba, who is paralysed from the waist down, was released from Nagpur central jail after 10 years' incarceration for his prosecution-alleged, court-dismissed links to the Maoists, earlier referred to as Naxals.

Gadchiroli and its surrounding regions have been strongholds of Maoists in Maharashtra, but the Bill instead turns its eye and ire to the urban areas from where, it says, most of the supporters spring. It notes the presence and spread of Naxal frontal organisations in urban areas of the state, which, the Bill conjectures, have been sustaining underground Naxal groups with logistics and safe refuge to their armed cadres.

The proposed Bill still sees them as a challenge that is creating unrest among the masses to propagate their ideology of armed rebellion in the age of sops through direct benefit transfer.

Maharashtra is rife with organisations which have at one time or another been influenced by Marx and Lenin, though not necessarily by Mao in large numbers. These include groups that aim for the welfare and progress of marginalised sections of society, including Dalits and Adivasis. While they may not all be on the same page any more, due to changes in grassroots politics with parties being split down the middle, the state has been a hive of activism.

The farmers' protest in 2020, along with a massive march through Mumbai against the now-withdrawn farm laws, was led by the CPI(M)-affiliated Kisan Sabha in Maharashtra. Though the CPI(M), the CPI and the CPI (Marxist Leninist-Liberation) are now in the mainstream, their cadres are still rooted in left-wing causes.

Mumbai, formerly Bombay, was a key trade union centre with most of the Communist-led support now having gravitated to the Bharatiya Mazdoor Sangh of the RSS. Anyone sympathetic to the cause of the toiling working class, which is already under severe duress of job losses and lack of sufficient opportunity, would be fair game to be picked up as an urban naxal. The proposed law allows such wide interpretations.

The rump of the Maoist cadres are hiding in the forests of Dandakaranya, emerging once in a while to kill security personnel or dying in frequent mass encounters.

Former Prime Minister Manmohan Singh had declared left-wing extremism as the greatest challenge of India after its liberalisation in the 1990s. One of his ministers even wanted to use Army helicopters to give hot pursuit to armed extremist cadres. The media called the action Operation Green Hunt, but the choppers didn't come through.

With the Maharashtra Bill, everyone needs to be on best terms with their neighbours and be on guard against extreme emotions. What if a quarrel over parking rights ends up with one being accused of Naxalism? Thankfully, the Maharashtra Assembly is yet to pass the law, but given the speed with which draconian laws get the thumbs-up, this looks already like a *fait accompli*. But will protest against such a law also be deemed an unlawful activity? We will have to wait till the Maharashtra Assembly convenes again. ■

Explaining the rationale for such legislation, the Bill says existing laws have not been effective or adequate to tackle Naxalism. It notes directions from the Union home ministry that advised enacting legislation by states suffering Naxal violence to tackle such unlawful activities. It says Chhattisgarh, Telangana, Andhra Pradesh and Odisha have also passed Public Security Acts.

As per Muslim law, after divorce, the wife is entitled to maintenance during the period of *iddat*. On the expiration of the *iddat* after *talaq*, the wife's right to maintenance ceases. However, the touchstone on which religious laws needs to be tested is whether they are in consonance with the secular principles of justice and equality as envisaged by the Constitution.

WOMEN POWER

The verdict on alimony for Muslim women reaffirms the secular principles of social justice and equality, which can override personal laws. It is a shot in the arm for them in their quest for maintenance

By Sanjay Raman Sinha

IN a landmark judgment, the Supreme Court ruled that a Muslim woman can seek maintenance from her husband under Section 125 of the Code of Criminal Procedure (*Mohd. Abdul Samad vs The State of Telangana*).

The two-judge bench of Justice BV Nagarathna and Justice Augustine George Masih held that the provision applied to all married women irrespective of their religion. The verdict was a reaffirmation of the Court's stand on the historical *Shah Bano* case judgment on alimony to Muslim women.

However, the crucial legal question here is: With the Muslim Women (Protection of

In a landmark judgment, the Supreme Court ruled that a Muslim woman can seek maintenance from her husband under Section 125 of the Code of Criminal Procedure (*Mohd. Abdul Samad vs The State of Telangana*). The two-judge bench of Justices BV Nagarathna (left) and Augustine George Masih held that the provision applied to all married women irrespective of their religion. This decision addressed an important question about the interplay between secular law and Muslim personal law.

Rights on Divorce) Act of 1986 in place, can Muslim women seek maintenance under the Code of Criminal Procedure? In this case, the wife had filed a criminal FIR against her husband, who then proceeded with *talaq*, resulting in their divorce. The husband claimed to have sent a lump sum for maintenance during the *iddat* period, which the wife refused. The wife sought interim maintenance under Section 125 of the CrPC, which the Family Court granted. The High Court reduced the amount, but did not quash the order, leading the husband to seek relief from the Supreme Court.

The Supreme Court unequivocally stated that a divorced Muslim woman can seek maintenance under the secular provisions of the CrPC, despite the 1986 law provisions. This decision addressed an important question about the interplay between secular law and Muslim personal law. It also highlighted the fact that a jurisprudence exists which grants Muslim women an additional right or recourse to maintenance in Section 125 of the CrPC, independent of the Muslim law provisions as defined in Muslim Women (Protection of Rights on Divorce) Act of 1986.

In India, maintenance is governed by both civil law and personal laws of different religious communities. The laws intersect each other and there have often been legal conflicts over complexities of these two ▶

In the *Shah Bano* case, the SC held that "there is no conflict between the provisions of Section 125 and those of the Muslim Personal Law on the question of the Muslim husband's obligation to provide maintenance for a divorced wife who is unable to maintain herself".

laws pertaining to the issue of maintenance.

Criminal Procedure Code Section 125 provides for speedy, effective and just remedy against persons who neglect or refuse to maintain their wives, children and parents. The Section applies to wives belonging to any religion. It has no relationship with personal laws of the parties.

Earlier, the matter of maintenance was dealt with Section 488 CrPC, which was designed to maintain wife and children and prevent their vagrancy and willful neglect. But this provision didn't apply after divorce as maintenance was not provided for by the Muslim law. A Muslim husband could avoid law simply by divorcing his wife, who was left in most cases, penniless.

In the 1970s when the old Criminal Procedure Code 1898 was to be refurbished, women's organisations brought representation to change Section 488 of the Criminal Procedure Code 1898 to provide protection and relief to divorced women.

An amendment was brought as Section 125 (which is equivalent to Section 488 of the 1898 code) added a new definitional clause defining the word "wife" in the context of maintenance. Here, "wife includes a woman who has been divorced by or has obtained a divorce from her husband and has not remarried". Under this provision, the magistrate would be authorised to order an ex-husband to pay maintenance to his impoverished ex-wife who was unable to maintain herself and the extra-judicial and unilateral *talaq* would no longer suffice to exonerate a Muslim husband from his responsibilities.

As per Muslim law, after divorce, the wife is entitled to maintenance during the period of *iddat*. On the expiration of the *iddat* after *talaq*, the wife's right to maintenance ceases.

Under Section 125 of the 1974 code, a historic case for rights of Muslim women divorced by *talaq* reached the Supreme Court (*Mohd. Ahmed Khan vs Shah Bano Begum and others.*) This was an appeal by the husband from the verdict of the Madhya Pradesh High Court directing him to pay his divorced wife Rs 179 per month as maintenance. The 62-year-old Muslim woman, Shah Bano, was disowned by her husband who had taken a younger wife. When Bano asked for maintenance from her husband, he instantly divorced her through triple *talaq*. Bano subsequently filed a petition for maintenance under Section

Secular laws paramount

- ***Shri Bhagwan Dutt vs Smt. Kamla Devi and Another* (1975):** The judgment held that power and jurisdiction vested with a magistrate by virtue of Section 125 of the CrPC was not punitive in nature and neither was it remedial, but it was a preventive measure.
- ***Fuzlunbi vs K. Khader Vali and Another* (1980):** The Supreme Court observed that enactment of Section 125 of the CrPC charges the court with a deliberate secular design to enforce maintenance or its equivalent against the humane obligation, which is derived from the State's responsibility for social welfare.
- ***Mohd. Ahmed Khan vs Shah Bano Begum and others* (1985):** The bench unanimously held that the obligation of a husband would not be affected by the existence of any personal law and the independent remedy for seeking maintenance under Section 125 CrPC was always available.
- ***Danial Latifi vs Union of India* (2001):** The Supreme Court upheld the constitutional validity of the Muslim Women (Protection of Rights on Divorce) Act, 1986. The Court ruled that Muslim husbands are liable to provide maintenance to their divorced wives beyond the *iddat* period, as mandated by Section 3(1)(a) of the Act. This obligation extends until the divorced wife remarries or is able to support herself
- ***Khatoon Nisa vs State of Uttar Pradesh and Others* (2014):** The Court held that a divorced Muslim woman was entitled to invoke jurisdiction under Section 125 of the CrPC to seek her right of maintenance even if she does not exercise her choice of election as stipulated under Section 5 of the 1986 Act.
- ***Shamim Bano vs Asraf Khan* (2014):** The court clarified that even for the purpose of adjudicating a petition under personal law, specifically with regard to maintenance for a divorced Muslim woman, the parameters of Section 125 CrPC would be applicable.

125 of the CrPC. Her petition was upheld by the family court of Indore and also by the Madhya Pradesh High Court.

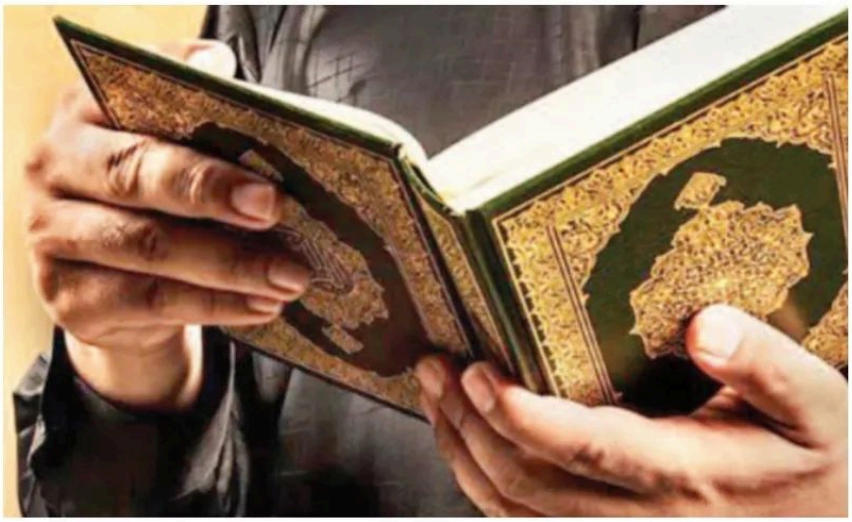
The local court ordered Rs 25 per month; this was later increased to Rs 179.20 by the High Court. The husband had then appealed to the Supreme Court where he contended that he had fulfilled his responsibilities of maintenance as per the Muslim law and now as she was divorced, she was not his responsibility.

The matter was heard by a five-judge bench of then Chief Justice YV Chandrachud and Justices Rangnath Misra, DA Desai, O Chinnappa Reddy and ES Venkataramiah. The Supreme Court in a unanimous decision dismissed the appeal and upheld the verdict of the High Court. The bench held that "there is no conflict between the provisions of Section 125 and those of the Muslim Personal Law on the question of the Muslim husband's obligation to provide maintenance for a divorced wife who is unable to maintain herself".

The bench held that even assuming there was a conflict between the secular and personal law provisions with regard to maintenance being sought by a divorced wife, secular laws would override personal laws. Justice YV Chandrachud wrote in his verdict: "It is also a matter of regret that Article 44 of our Constitution has remained a dead letter. There is no evidence of any official activity for framing a common civil code for the country. A common civil code will help the cause of national integration by removing disparate loyalties to laws which have conflicting ideologies."

The verdict was protested by a section of Muslims, and the ruling Congress Party was forced to nullify the judgment by an act of Parliament. In 1986, Parliament passed the Muslim Women (Protection of Rights on Divorce) Act, 1986, which diluted the *Shah Bano* judgment. The Act allowed maintenance to a divorced Muslim woman only during the period of *iddat*, or till 90 days after the divorce, as per the provisions of Islamic law.

The constitutional validity of this Act was challenged before the Supreme Court in *Danial Latifi & Anr vs Union Of India* by Daniel Latifi in 2001. The Supreme Court upheld the validity of the Act and held that a husband is under legal obligation to provide reasonable provision to the divorced wife within the *iddat* period and also for her entire lifetime or until she remarries.



This interpretation ensured that the Act was not in contravention of Article 14 (equality before law) and Article 21 (protection of life and personal liberty) of the Constitution. Various verdicts have underlined the fact that Section 125 of the CrPC is an instrument for social justice to protect the weaker sections, irrespective of personal laws of the concerned parties. (see box)

The complexities of Muslim law spring from the fact that it is based on the Holy Quran. The Quran is at once a religious text and a guide for social living for the Muslim community. Islamic law as described by the Holy Quran envisages universal social and spiritual principles. The injunctions in the Holy Quran can only to an extent be interpreted by the judiciary. The judges have to depend on the interpretation of Quranic verses as provided by scholars. This is one handicap the judiciary faces while reinterpreting Muslim law and defining legal codes.

However, the touchstone on which religious laws needs to be tested is whether they are in consonance with the secular principles of justice and equality as envisaged by the Constitution. Regarding maintenance, courts have unequivocally affirmed that civil law overrides the religious code. ■

The complexities of Muslim law spring from the fact that it is based on the Holy Quran. The Quran is at once a religious text and a guide for social living for the Muslim community. Islamic law as described by the Holy Quran envisages universal social and spiritual principles. The judges have to depend on the interpretation of Quranic verses. This is one handicap the judiciary faces while reinterpreting Muslim law and defining legal codes.

Euthanasia is a practice of painlessly putting to death persons suffering from painful and incurable disease or incapacitating physical disorder or allowing them to die by withholding treatment or withdrawing artificial life-support measures. Euthanasia and its regulation have always presented challenging questions of balance.

"PLEASE RELEASE ME, LET ME GO"

The plaintive love song of Engelbert Humperdinck is emblematic of the state of those with terminal illness or in a vegetative state who want to die free of pain. But active euthanasia is impermissible in India

By Dr Swati Jindal Garg

BRITISH theoretical physicist, cosmologist and author Stephen Hawking rightly said: "I think those who have a terminal illness and are in great pain should have the right to choose to end their own life, and those that help them should be free from prosecution." He himself suffered from Amyotrophic Lateral Sclerosis.

The debate on whether euthanasia or mercy killing should be legalised is a long standing one. In a recent judgment, the Delhi High Court declined to allow a 30-year-old man's plea to undergo passive euthanasia. The petitioner, Harish Rana, had been in a vegetative state due to head injuries suffered in 2013 and had approached the Court for his case to be referred to a medical board.

He was a student at Punjab University and had fallen from the fourth floor of his paying guest accommodation in 2013. Despite his family's best efforts, he was confined to bed due to diffuse axonal injury and had 100% disability. His plea states that his family had consulted various doctors, but were informed that there was no scope for his recovery.

He has not responded for the last 11 years and developed deep and large bed sores that resulted in further infection. Having lost all hope of recovery and taking into consideration that the parents were not able to take good care of him due to their advancing years, the plea was filed before the Court for referring his case to the medical board for allowing passive euthanasia.

But the Court declined permission on the ground that Rana was not dependent on any life support systems to remain alive, nor was he terminally ill. "The petitioner is not on any life support system and the petitioner is surviving without external aid. While the court sympathises with the parents, as the petitioner is not terminally ill, this court cannot intervene and allow consideration of a prayer that is legally untenable," the Court said. Justice Subramonium Prasad, while referring to apex court judgments which held that active euthanasia is legally impermissible, also said: "The petitioner is thus living, and no one, including a physician, is permitted to cause the death of another person by administering any lethal drug, even if the objective is to relieve the patient of ▶

The debate on whether euthanasia or mercy killing should be legalised is a long standing one. In a recent judgment, the Delhi High Court (above) declined to allow a 30-year-old man's plea to undergo passive euthanasia. The petitioner, Harish Rana, had been in a vegetative state due to head injuries suffered in 2013 and had approached the Court for his case to be referred to a medical board for allowing passive euthanasia.

Justice Subramonium Prasad of the Delhi HC, while referring to apex court judgments, said: "The petitioner is thus living, and no one, including a physician, is permitted to cause the death of another person by administering any lethal drug, even if the objective is to relieve the patient of pain and suffering."

pain and suffering."

Euthanasia is a practice of painlessly putting to death persons suffering from painful and incurable disease or incapacitating physical disorder or allowing them to die by withholding treatment or withdrawing artificial life-support measures. Euthanasia and its regulation have always presented challenging questions of balance. On the one hand, there are questions of the patient's continued suffering without any hope for future recovery, while on the other, there are questions about whether a person has any right to end his life, and if granted, how the State may regulate the serious repercussions emanating from it.

Courts have dealt with these questions in many cases, but the prevailing legal position on euthanasia has been established by the apex court through three cases:

- *Gian Kaur vs State of Punjab* in 1996.
- *Aruna Shanbaug vs Union of India* in 2011 .
- *Common Cause vs Union of India* in 2018.

In all these cases, an important distinction has been made between active and passive euthanasia. While active euthanasia is when specific positive actions are taken to end a patient's life, passive euthanasia is when life-support mechanisms that are preserving the patient's life are withdrawn, leaving him to fend for himself.

This distinction was further enumerated by the Supreme Court in the *Common Cause* case where it held that in passive euthanasia, the patient's death was caused by the underlying disease itself on withdrawal of life-support measures, while in active euthanasia, lethal substances such as injections are administered and cause the death directly.

It has been continuously held by Indian and foreign courts that active euthanasia can only be legalised through legislation, i.e., acts representing popular will. However, the law is not set on passive euthanasia. In the *Aruna Shanbaug* case, the Court held that passive euthanasia can be applied for persons in a permanent vegetative state by invoking the writ jurisdiction of the High Court under Article 226 of the Constitution. This judgment was passed after Pinki Virani's plea to the highest court in December 2009 under the constitutional provision of "Next Friend". It was a landmark law which places the power of choice in the hands of the individual over government, medical or religious control which sees all suffering as "destiny".

The Supreme Court specified two irreversible conditions to permit the Passive Euthanasia Law in its 2011 Law:

- The brain-dead for whom the ventilator can be switched off.
- Those in a Persistent Vegetative State for whom the feed can be tapered out and pain-managing palliatives can be added, according to laid-down international specifications.

The same judgment also asked for the

This distinction between active and passive euthanasia was enumerated by the Supreme Court in the *Common Cause* case where it held that in passive euthanasia, the patient's death was caused by the underlying disease itself on withdrawal of life-support measures, while in active euthanasia, lethal substances such as injections are administered and cause the death directly.

scrapping of 309, the code that penalises those who survive suicide attempts. However, on February 25, 2014, a three-judge bench of the Supreme Court termed the judgment in the *Aruna Shanbaug* case to be "inconsistent in itself" and referred the issue of euthanasia to a five-judge Constitution bench. This was after a PIL was filed by *Common Cause* which recognised the sanctity of human life as mentioned in the Constitution under Article 21 that guarantees the fundamental right to life. This right cannot be waived in circumstances other than those provided by law.

In the case of *Common Cause*, the Supreme Court dealt with the question of whether the right to life under Article 21 encompasses within its ambit a "right to die with dignity". Answering in the affirmative, the Court had also emphasised the dynamic and constantly evolving nature of fundamental rights. Further, in the *Puttuswamy* case, the apex court had reaffirmed that individual dignity fell under Article 21 and had also interpreted the right to live with human dignity as necessarily meaning a right to live a dignified life until the point of death, including a dignified procedure of death. This allows a terminally ill person or a person in a permanent vegetative state to seek passive euthanasia to protect their right under Article 21.

In order to give effect to this right, the Court had also in *Common Cause* issued guidelines regarding Advance Directives (AD) which are documents that detail the choices of the patient regarding treatment decisions along with who would be competent to take decisions on their behalf in case of their inability to do so. While these guidelines were amended in February 2023 to facilitate easier implementation of ADs to larger sections of society, they still place an onerous burden on each applicant. Each AD is subject to the opinion ▶

In the *Aruna Shanbaug* (right) case, the Supreme Court held that passive euthanasia can be applied for persons in a permanent vegetative state by invoking the writ jurisdiction of the High Court under Article 226 of the Constitution. However, in February 2014, a three-judge bench of the Court termed the judgment to be "inconsistent in itself" and referred the issue of euthanasia to a five-judge Constitution bench. This was after a PIL was filed by *Common Cause* recognising the sanctity of human life as mentioned in Article 21 of the Constitution.

of two medical boards and their decisions can only be challenged via a writ petition under Article 226. The current position puts the onus largely on the families of the patients, who are subjected to a rigorous bureaucratic process in order to give effect to the ADs, which are notarised documents signed and testified in front of a judicial magistrate.

While active euthanasia has still not been granted legal sanctity in India, there are many countries where it has. These include The Netherlands and Belgium in 2002, Luxembourg in 2009, Colombia in 2014, Canada in 2016 and Spain and New Zealand in 2021. In the US, while active euthanasia is still illegal, a patient has the right to passive euthanasia. In fact, some states even allow physician-assisted suicide, whereas most others allow the withdrawal of life-preserving interventions such as respirators and feeding tubes.

In the UK, too, active euthanasia is still illegal despite there being four failed bids between 2003 and 2006 to introduce bills for legalising it. For passive euthanasia, patients are allowed to refuse treatment and food and liquid can be withdrawn from a person in a vegetative state even without the court's permission.

Plainly speaking, euthanasia is mercy killing. It simply means that a person wants to pass away peacefully or without any pain. As per American writer Marya Mannes, euthanasia is simply to be able to die with dignity at a moment when life is devoid of it.

While all the judgments above outline detailed procedures for passive euthanasia and advance directives, the reality is very different. The fact of the matter is that very few people are aware of these directives and legalities. End of life decisions, whether taken for self or next of kin, are incredibly hard to take. If the right to live with dignity has to be implemented, more needs to be done to translate these directives and judgements and make them accessible to all. ■

—The writer is an Advocate-on-Record practicing in the Supreme Court, Delhi High Court and all district courts and tribunals in Delhi

NOT A BUSINESS
Unlike other professions, advocates and law firms in India are not permitted to advertise their services. The legal profession is considered noble, and unscrupulous competitive advertising could undermine its integrity

RAISING THE BAR

In a significant move, the Bar Council of India, following a Madras High Court verdict, has issued directives to all state bar councils to preserve the integrity of the law profession and take stringent action against advocates found advertising or seeking work through online portals

FOLLOWING a judgment pronounced recently by the Madras High Court which underscored that the legal profession is a noble service to society and not a business driven by profit motive, the Bar Council of India (BCI) in a press release directed all state bar councils to take stringent disciplinary actions against advocates found advertising or soliciting work through online portals which is a direct violation of the BCI rules.

The key points addressed include:

1. Violation of BCI rules by online platforms: Practices of online platforms offering lawyer services were examined by the BCI

and found to be in violation of the BCI rules. The Court ruled that under Rule 36 of the Bar Council of India Rules, 1975, advocates are prohibited from advertising or soliciting work directly or indirectly.

Rule 36 states: "An advocate shall not solicit work or advertise, either directly or indirectly, whether by circulars, advertisements, touts, personal communications, interviews not warranted by personal relations, furnishing or inspiring newspaper comments or producing his photographs to be published in connection with cases in which he has been engaged or concerned." This rule aims to maintain the decorum and ethics of the legal profession.

2. Advertising and solicitation by lawyers: The permissibility of lawyers advertising and soliciting work was scrutinized by the BCI and deemed inappropriate.

3. Role of online intermediaries: The involvement of online intermediaries in facilitating lawyer services was assessed by the BCI and found to be in breach of professional conduct standards.

4. Applicability of safe harbour provisions: The Court ruled that online platforms cannot seek protection under Section 79 of the Information Technology Act for activities illegal under the Advocates Act and BCI Rules. The BCI has issued cease and desist notices to major online services. The notices address the illegal advertising and solicitation of legal services on these platforms, highlighting the following violations:

(i) Illegal solicitation of work: Platforms allowing advocates to advertise and solicit work, violating Rule 36 of the BCI Rules.

(ii) Unethical ratings and offers: The practice of providing ratings and offer prices for lawyer services undermines the ethical standards of the legal profession.

The key directives issued by the BCI include;

1. Disciplinary proceedings: Initiate disciplinary actions against advocates advertising or seeking work through online portals.

2. Complaints against online platforms: File complaints against online service providers facilitating the illegal advertisement of lawyers.

3. Removal of illegal advertisements: Ensure the removal of all illegal advertisements related to legal services on online platforms within four weeks.

4. Compliance deadline: A compliance hearing is scheduled for August 20, 2024. State bar councils must submit a report on actions taken by August 10, 2024.

Seeking immediate action, the BCI directed the online platforms to:

- Remove all listings, profiles and advertisements related to legal practices by advocates immediately and no later than four weeks from the date of the notice.
- Cease and desist any operation enabling the advertisement or solicitation of legal practice by advocates.
- Submit a detailed compliance report outlining the actions taken to the BCI by August 10, 2024.

The press release issued by the BCI said that failure to comply with these directives will result in the Council initiating legal proceedings and seeking appropriate penalties against the non-compliant organizations.

It further said that the BCI reiterates its commitment to upholding the dignity and ▶

Justice SM Subramaniam (inset, right above) and Justice C Kumarappan of the Madras High Court observed that it is agonising that some of the legal professionals today are trying to adopt a business model. Legal service is neither a job nor a business. A business is driven purely by profit motive. But in law, the larger part is a service to the society. Though a service fee is paid to a lawyer, it is paid out of respect for their time and knowledge.

integrity of the legal profession and urges all concerned parties to comply with these directives promptly and rigorously.

Earlier, the Madras High Court's Division Bench of Justice SM Subramaniam and Justice C Kumarappan said that unlike a few other countries, the Indian legal profession is unique as "we represent selfless courage by spearheading some of the rights-based movements in our country. Our Indian freedom movement, comprising some of the best lawyers in the country, stands testament to the same. Every lawyer in our country is a contributor in the process of delivery of justice. And it is not for any third party to brand or rate the services of a lawyer. Legal profession is not and can never be treated as a business".

The Court also said that branding culture in the legal profession is detrimental to society. Ranking or providing customer ratings to lawyers is unheard of and demeans the ethos of the profession. Professional dignity and integrity must never be compromised especially in the legal profession, the Court said.

Further the Court noted that it is agonising that some of the legal professionals today are trying to adopt a business model. Legal service is neither a job nor a business. A business is driven purely by profit motive. But in law, the larger part is a service to the society. Though a service fee is paid to a lawyer, it is paid out of respect for their time and knowledge.

"The legal profession cannot be viewed with a shallow lens. Some may try to find merit in the argument that with the growing need for professional services, a business model can help in its growth further. But this Court does not affirm this view. The tools employed in the profession can be upgraded or changed based on changing circumstances, (a classic example of this is our seamless shift from physical hearing to virtual hearing during the Covid-19 lockdown). But the spirit and character which is the basic structure of this profession can never be altered," the Court said.

The object of any business or trade is profit. It cannot be termed as a business, when it is not driven by profit. However, the legal profession cannot be treated as business. Legal profession can never be profit driven, or only for the rich and mighty. It

In India, the legal profession is governed by the Bar Council of India. The BCI has established strict rules regarding the advertisement of legal services to maintain the dignity of the profession. Rule 36 of the BCI Rules explicitly prohibits advocates from soliciting work or advertising, whether directly or indirectly.

serves the needs of anyone and everyone who knocks on the doors of justice. Law is not about the survival of the fittest, but it is more about the survival of the distressed, the Court observed.

The Court observed that marketing of lawyers brings down the nobility and integrity of the profession. The process of delivery of justice is strongly based on the Constitution and lawyers being the upholders of law cannot treat the profession as a business. It noted that it would be contradictory to say that a lawyer who fights for justice is doing so with a profit motive.

The Court said that such advertisements of lawyers without any regulation can spread misinformation among the public. The BCI is the authority to regulate the standards of professional conduct and etiquette of lawyers. Section 49 of the Advocates Act,1961, stipulates the general power of the BCI to make rules.

The Court noted that the object here is to narrow down the chasm of inequality. In professions such as law, it is difficult to establish a level-playing field mainly due to economic factors. Such being the scenario, allowing advertisements in this profession will widen the inequality. Lawyers with money power can easily place advertisements and gain an added advantage as compared to others. It is noteworthy that since law cannot be treated as a business, economic factors cannot be used as a grading mechanism to decide on categorising a lawyer. Every lawyer has his/her own skill sets and are all contributors in this justice delivery system. Mere ranking or grading of lawyers based on economic factors or otherwise degrades the virtues of the profession.

Lawyers with more money power can place advertisements across different websites and economically disadvantaged lawyers will be unable to approach these sites. Moreover, a legal profession is not a race to the top, it is about service to the downtrodden. Today, there are innumerable lawyers who are working *pro bono* for different public causes. Excellence is not an accident. It is always the result of sincere effort and intellect execution. In no way can their services be measured monetarily or otherwise. They pragmatically work towards progress of both the judiciary and the society. Therefore, the advertisements of lawyers in websites covertly and overtly stand against elements of fairness and justice.

The Court further said that "lawyers are defenders for the cause of the oppressed and they strive towards upholding equality under the law. The reason we wear black robes holds testament to the fact that all are equal before law. It symbolises impartiality and equality. There are innumerable jobs where the sole object is money making, but legal profession is not a commercial activity." ■

—By Shivam Sharma and India Legal Bureau

A bench of Justice Jasgurpreet Singh Puri (inset) of the Punjab and Haryana High Court directed the Corporation to refix the pension and all pensionary benefits of the clerk, starting from the time when he retired from the post of Lower Division Clerk, and grant all the other benefits to the widowed wife, with regard to the benefits which the clerk was entitled as LDC along with interest within a period of three months.

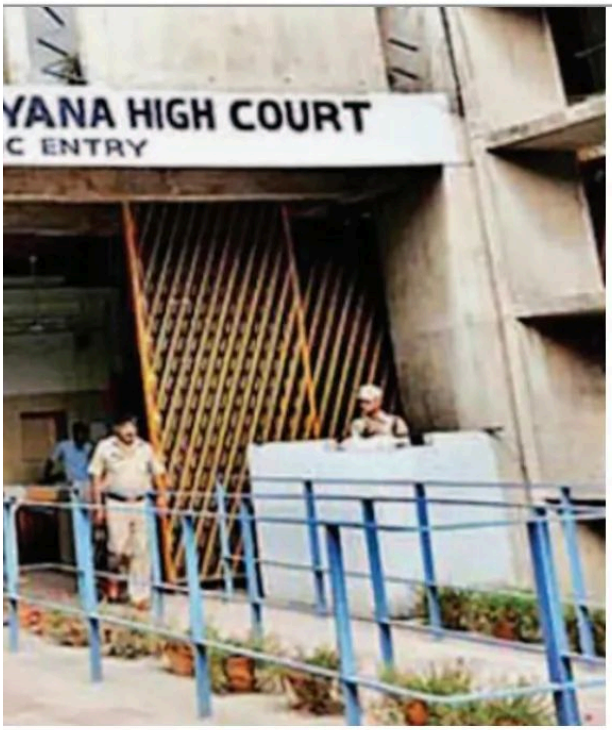
CLERICAL ERRORS

Recently, the Punjab and Haryana High Court criticized the Haryana government and imposed a fine of Rs two lakh on it for demoting a retired clerk to the post of a *chowkidar* for not being able to pass the typing test. The clerk was also denied his due benefits like pension after his death

A single-judge bench of Justice Jasgurpreet Singh Puri was hearing a petition filed by the wife of the clerk. It was filed under Articles 226/227 of the Constitution for issuance of a writ in the nature of *certiorari* for quashing the letter dated April 10, 2013, and recovery letter dated December 6, 2013, whereby the pension of the husband of the petitioner (wife of the clerk) had been reduced by the Corporation and an amount of Rs 5,65,524 was sought to be recovered from him. The petitioner asked the Corporation he had worked for to release the full pension of her husband along with interest.

The clerk was working as a *chowkidar* in the Corporation and was promoted to the post of Lower Division Clerk (LDC) on September 15, 1989. There was a condition under the rules that a person who is promoted has to pass a typing test within a specific period. The clerk was informed with regard to the passing of the typing test. He sought exemption, but neither did he pass the typing test nor any exemption was granted to him, and ultimately the clerk retired on October 31, 2012.

After his retirement, the chief engineer wrote a letter to the clerk on April 10, 2013, directing him to pass the mandatory typing test within a period of three months otherwise he will be reverted to the post of *chowkidar*. Thereafter, after the retirement of the clerk, his pension and pensionary benefits were refixed on the basis of the reversion, although the order of reversion was not on record and he was paid the pensionary



benefits for the post of *chowkidar*. Unfortunately, the clerk died on April 29, 2018, and thereafter, family pension and other benefits of the petitioner, who is a widow, were also fixed on the basis of the salary of her husband as *chowkidar*.

The Court noted that it is a case where a widow has knocked the doors of the Court by filing the petition by raising a grievance that after her husband retired as LDC, the Corporation had issued a letter to her husband directing him to pass the mandatory typing test otherwise he will be reverted, and thereafter, he was actually reverted after his retirement because of non-passing of the typing test and his pension and pensionary benefits were refixed to that of the post of *chowkidar*, and thereafter, when he died on April 29, 2018, the family pension and other benefits were given to his widowed wife based on the post of the *chowkidar*.

The Court observed that when the husband of the petitioner was in service, although there might have been a provision for passing the typing test for the purpose of getting promotion or even after the promotion within the time limit otherwise as per the rules, he might have been reverted, but it is a case where the husband of the petitioner was never reverted while he was in service and he retired as LDC. Thereafter, it is very strange and shocking to read the language of the letter which has been issued by an officer of the rank of chief engineer wherein he directed the petitioner to pass the typing test after his retirement, otherwise he will be reverted, and thereafter, he was actually reverted although there is no order of reversion on record, but it is an admitted position. Thereafter, the entire benefits were recalculated to that of the post of *chowkidar*.

The Court further said that it is a settled law that after the retirement of an employee, the master and servant relationship ceases to operate. If any action is required to be taken after the retirement of an ex-employee, then the same can always be taken when there is an express authority of law and provision of law. In other words, an action can be taken against a retired employee only when the law permits to do so in a particular fashion, but not in such an arbitrary and capricious manner. When there is no provision of law or no authority of law or such kind of reversion being made after the retirement and directing the retired employee to pass a typing test, the action of the government authorities is arbitrary, *ex facie* illegal.

The Court also observed that this is a case where a widow had to knock the doors of the Court for the purpose of enforcement of not only her statutory rights, but also her Constitutional rights envisaged under Article 300-A of the Constitution. The action of the Corporation is absolutely arbitrary and shocking and *ex facie* illegal.

The Court directed the Corporation to refix the pension and all the pensionary benefits, starting from the time when the clerk had retired from the post of LDC and to grant all the consequential benefits to the petitioner, who is his widow, with regard to the benefits which the clerk was entitled as LDC along with interest @ 6% per annum within a period of three months. Similarly, the family pension and pensionary benefits and other retiral benefits of the petitioner shall also be refixed on the basis of his retirement from the post of LDC. ■

—By Adarsh Kumar and India Legal Bureau

The Court also observed that this is a case where a widow had to knock the doors of the Court for the purpose of enforcement of not only her statutory rights, but also her Constitutional rights envisaged under Article 300-A of the Constitution. The action of the Corporation is absolutely arbitrary and shocking and *ex facie* illegal it said.

The massive fish deaths (inset) in the Periyar river (right) due to the release of toxic effluents by industrial units located along its banks has not only pushed hundreds of marginal fishermen and aquaculturists to near starvation, but has also adversely affected 5.5 million-odd people in central Kerala who depend on the river for a range of requirements. The waters of the river are now so polluted that it virtually represents death.

POLLUTED FLOWS THE PERIYAR

After the major hullabaloo over the polluted Ganges died down, with the situation back to square one, the toxicity of the Periyar river water has now killed tonnes of fish. While the NGT has taken note, there is no guarantee that the administration will be eager to implement all court orders

By Sujit Bhar

EVERY now and then, news of yet another Indian river overflowing with putrid effluents hits the headlines. The National Green Tribunal (NGT) and/or the Supreme Court sit up, sometimes take *suo motu* cognisance of the news item and issue directives. As the polluted waters strike devastating blows for those whose livelihoods depend on the river, the courts' decrees are blatantly disregarded by governments and the public. The news dies a natural death in a few months.

One remembers the immense attention

that the *MC Mehta vs Union of India* case garnered among all stakeholders, including the public. It started in 1985, a year after the Bhopal gas leak, and renowned lawyer MC Mehta demanded that Shriram Food and Fertiliser Industry, located in a congested place in Delhi, had to close down after the industry leaked hazardous gas. The court ordered a relocation of the factory.

The scope of the Mehta's effort was further expanded when Mehta filed a PIL under Article 32 of the Constitution in the Supreme Court, alleging that the water of the river Ganges was too polluted for human safety. The main reason for such pollution was untreated effluents from tanneries in Kanpur and other factories along the river banks, plus untreated effluents from city sewers.

The case carried on for a long time, with the top court issuing specific directives on sewage treatment plants (STP). In the end, the Ganges today remains as polluted, with the STPs either not installed or barely working.

THE ISSUE GOES SOUTH

Now it is the turn of the Periyar River in Kerala. In a recent decision the NGT took *suo motu* cognizance of a news item that talked about how tonnes of fish died in a cage farm in the Periyar River at Shappukadavu near Cheranalloor in Kochi due to the uncontrolled levels of pollutants in the river. This was the ninth such incident in 2024 alone.

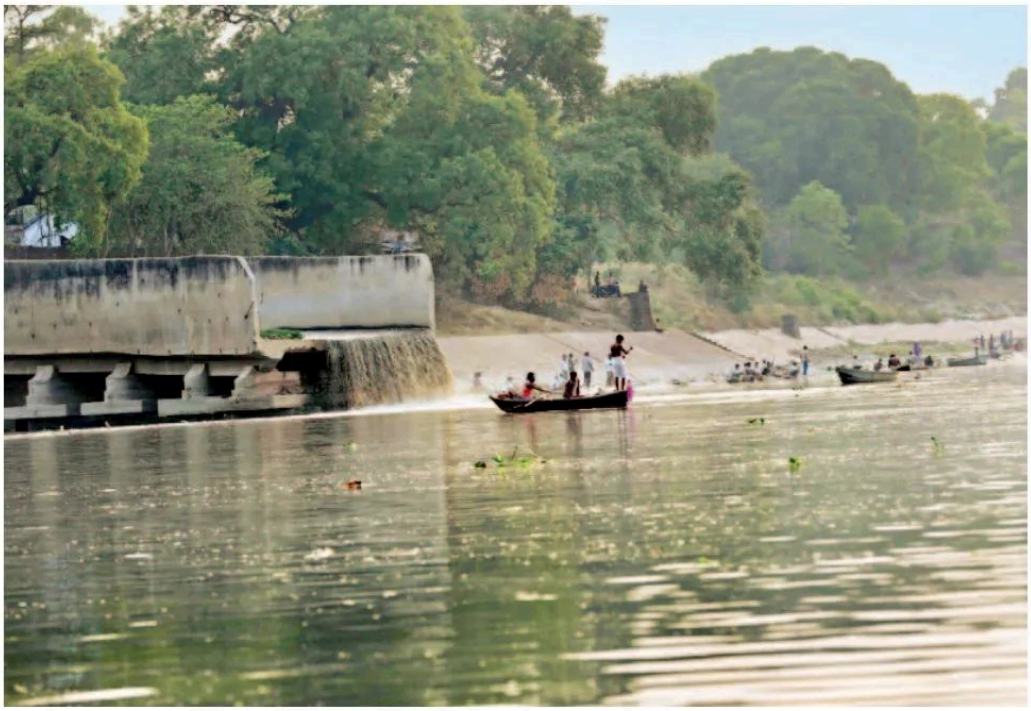
This has not only pushed hundreds of marginal fishermen and aquaculturists to near starvation, but has also adversely affected 5.5 million-odd people in central Kerala who depend on the river for a range of requirements—from drinking water supply to irrigation of farms to fishing and aquaculture.

As per the news item, the waters of the river are now so polluted that it virtually represents death. The river itself, says the news report, is dying, if not already dead, and the flow has shrunken to negligible levels. The pollution was a result of toxic effluents released by industrial units located along the Periyar banks. Interestingly, the Kerala Pollution Control Board had said in its preliminary report that no industrial effluents were detected in the water samples collected immediately after the fish death.

According to a study, though, the oxygen ▶

The NGT has taken *suo motu* cognizance of the incident. The Principal Bench of the green court has impleaded the Ministry of Environment Forest and Climate Change, the Kerala State Pollution Control Board, the Central Pollution Control Board and the District Collector, Ernakulam as respondents. Notices have been issued, and a positive judgment is expected.

One remembers the immense attention that the *MC Mehta vs Union of India* case garnered among all stakeholders, including the public. MC Mehta, a renowned lawyer, continued his crusade against pollution-causing industries when he filed a PIL in the Supreme Court, alleging that the waters of the river Ganges (right) was too polluted for human safety. The main reason was untreated effluents from tanneries in Kanpur and other factories along the river banks, plus untreated effluents from city sewers.



level in the water was very low. A preliminary report by the Kerala University of Fisheries and Ocean Studies pointed to low oxygen level and chemical pollutants in the water samples collected at the site of the fish death even as it expressed the suspicion that sulphur may have been released directly into the water.

UNCONCERNED GOVERNMENTS

Even as highly-polluting industries virtually ring-fence the river, the state government seems completely unconcerned and a 500-tonne fish processing plant is awaiting government clearance and may get permission to set up business. How this plant will fare is anybody's guess.

It has been alleged that this was a violation of the provisions of the Environment Protection Act, 1986; The Water (Prevention and Control of Pollution) Act, 1974 and Coastal Regulation Rules.

The NGT's Principal Bench of Justices Prakash Shrivastava and Arun Kumar Tyagi and Dr A Senthil Vel has impleaded the Ministry of Environment Forest and Climate Change, the Kerala State Pollution Control Board, the Central Pollution Control Board and the District Collector, Ernakulam as respondents. Notices have been issued, and a positive judgment is expected.

However, governments have been known to completely disregard the implementation of the court's orders and guidelines. This has happened with the tanneries and factories in Kanpur, as well as with effluents from riverside religious structures.

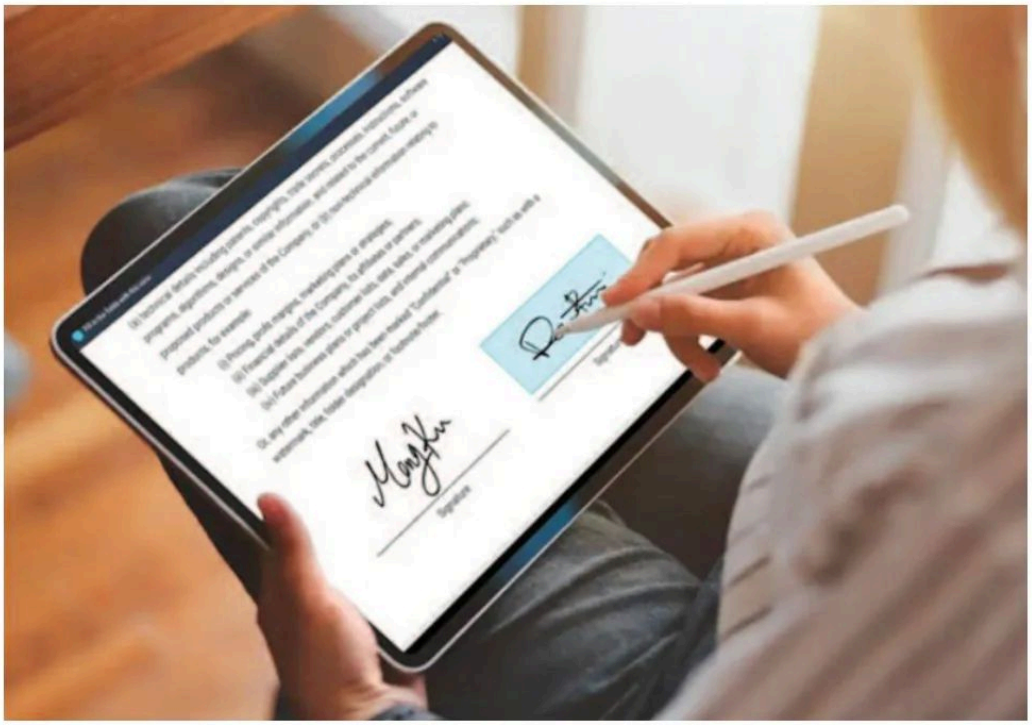
It is possible that, as the issue recedes from headlines to minor mentions in the media, quite like the grand policy of cleaning the Ganges, this issue too will be given a quiet burial.

India's effort at cleaning rivers has gone on for decades and the money spent has been considerable. According to a report released by the Central Pollution Control Board in December 2022, only in the three preceding years the country had spent over Rs 4,000 crore on two flagship programmes, Namami Gange and the National River Conservation Plan.

The final outcome: A massive 46 percent of the 603 Indian rivers remain polluted. And that is an official estimate. We all know how such reports juggle numbers and data.

If this news about Periyar dies, it would be no more than a continuation of the sad commentary of Indian administrative acumen and a complete disregard for the lives of the poor. ■

An eSign is the digital equivalent of a traditional handwritten signature and ensures efficiency and legal certainty. The Information Technology Act of 2000 revolutionised the legal framework by establishing the validity of e-signatures, provided they meet specific criteria. The Act, along with laws like the Indian Contract Act, the Electronic Securities Act and the Indian Stamp Act create a comprehensive legal framework governing e-signature usage in India.



LEGALITY OF ELECTRONIC SIGNATURES

In India, eSigns have been granted recognition due to the demands of online legal transactions such as e-contracts, cross-border agreements and online dispute resolution. What is the legal framework involved?

By Garima Mitra

WE live in a hyper-connected, digital world where technology has made its way into every aspect of our life. From a business standpoint, the days of paper-based workflows and physical signatures, though not obsolete, are rapidly giving way to electronic signatures (eSigns). Embracing electronic transactions and e-signatures ensures efficiency and legal certainty. In India, the legal landscape surrounding eSigns has evolved, granting them recognition due to the demands of online legal transactions such as e-contracts, cross-border agreements, and online

dispute resolution.

Traditionally, handwritten signatures served as unique identifiers, ensuring document authenticity and legality. The Information Technology Act of 2000 revolutionised the legal framework by establishing the validity of e-signatures, provided they meet specific criteria. The Act, along with laws like the Indian Contract Act, the Electronic Securities Act, and the Indian Stamp Act, create a comprehensive legal framework governing e-signature usage in India. Globally, the UNCITRAL Model Law on Electronic Signatures of 2001 laid the foundation for the legal recognition of e-signatures across nations.

An eSign is the digital equivalent of a traditional handwritten signature, eliminating the need for printing, signing and scanning physical paperwork. It utilises electronic methods to verify identity and bind individuals to documents, such as typing a name, drawing a signature, or using dedicated eSign software.

The legal framework for eSigns varies worldwide. In India, the Information Technology Act of 2000 established the legal foundation for eSign, ensuring its validity and widespread adoption. While the core function remains the same, the technicalities of eSigns differ across regions. The EU's eIDAS recognises three types of eSigns—simple, advanced and qualified—with varying levels of security and legal weight. In the US, ESIGN and UETA define an eSign as an electronic sound, symbol, or process attached to a record and executed with intent to sign.

India has taken e-signing a step further with Aadhaar-based eSign, leveraging the Aadhaar identification platform for Aadhaar holders. If you possess an Aadhaar card and linked mobile number, you can digitally sign documents with ease. The eSign service verifies your identity through Aadhaar eKYC, ensuring a secure and reliable experience. The document to be e-signed first needs to be converted into digital formats like PDF, and the signer is then presented with various signing methods based on the security level. Simple signatures might involve typing names or uploading images, while advanced

India has taken e-signing a step further with Aadhaar-based eSign, leveraging the Aadhaar identification platform for Aadhaar holders. If you possess an Aadhaar card and linked mobile number, you can digitally sign documents with ease.

e-signatures leverage encrypted digital certificates. Biometrics like fingerprints can add extra verification layers. The eSign solution authenticates signers via passwords, one-time codes or certificate validation processes. Upon verification, the chosen method creates a unique electronic signature with a timestamp embedded in the document, alongside a tamper-proof audit trail recording signatory details. This combination ensures e-signatures' integrity, authenticity and legal reliability as an alternative to handwritten signatures.

Are eSigns legally valid in India? The simple answer is yes. This is primarily thanks to the Information Technology Act of 2000, which established the legal framework for eSigns, granting them the same weight as traditional handwritten signatures, when used correctly. The Information Technology Act, alongside laws like the Indian Contract Act (ICA) and the Information Technology (Electronic Signature Certificate Authorities) Rules (ESECAR), creates a comprehensive legal framework for e-signing in India. You can also use Digital Signature Certificates for enhanced security or leveraging Aadhaar eSign for a simpler signing experience—both recognised under the legal framework.

eSigns offer faster banking and financial services. Loan documents, account opening forms and investment agreements can be signed from anywhere, anytime, eliminating the need to visit branches while ensuring a secure and convenient experience.

To understand this better, it is essential to know the key aspects that ensure the legal validity of eSigns in India. These are:

- Equivalent to handwritten signatures: The Information Technology Act states that a contract cannot be denied enforceability solely because it was conducted electronically, provided it fulfils the essential elements of a valid contract under the ICA. eSigns have the same legal weight as traditional handwritten signatures.
- Digital Signature Certificates (DSCs): The Information Technology Act recognizes DSCs issued by licensed certifying authorities for enhanced security, acting as a digital identity verification tool for eSigns.
- Aadhaar eSign: India has simplified e-Signing with Aadhaar eSign, leveraging the Aadhaar identification platform. Aadhaar holders can digitally sign documents and the eSign service verifies their identity through Aadhaar eKYC for a secure experience.

There are multiple legal provisions when it comes to eSigns in India.

- Section 2(1)(ta) of the Information Technology Act, 2000, defines e-signature as the authentication of any electronic record by a subscriber by means of the electronic technique specified in the second schedule and includes a digital signature. This definition recognises two methods of signing digitally: (a) cryptography technique (hash functions, etc) and (b) marking e-signature using other technologies.
- Section 3 of the Information Technology Act, 2000, allows individuals to digitally sign e-contracts. Section 10A makes contracts created by electronic records and communication legally binding.
- Section 5 of the Information Technology Act provides legal recognition to digital signatures based on asymmetric cryptosystems.
- Section 65B of the Indian Evidence Act implicitly provides admissibility to electronic records. The Act states that electronically signed documents will be allowed as evidence if the signer can demonstrate the integrity and originality of the electronic or digital signature in court.
- Section 67A of the Indian Evidence Act, 1872, stipulates that in disputes concerning the native authorship (authenticity) of an e-signature, the individual whose e-sign is in question has to provide proof of originality.

The key question is how secure are eSigns? While eSigns offer unparalleled convenience, security is a top priority for any e-transaction. Fortunately, robust security measures ensure electronic transactions remain secure and tamper-proof. Many eSign platforms employ encryption to scramble data, making it virtually impossible to alter signed documents undetected. They also create detailed audit trails

recording the entire signing process, including timestamps, signer verification details, and document changes, providing transparency. For heightened security, DSCs can verify signers' identities and add an extra tamper-proof layer to eSigns, ensuring their reliability and security for electronic business transactions.

The eSign is making its mark across various sectors, streamlining business processes and enhancing security. In businesses, effortless sales and procurement become possible with e-signed sales agreements, invoices, trade and payment terms, and order acknowledgements. eSign ensures secure and legally binding transactions, eliminating the need for physical copies and manual approvals. Enhanced security for contracts and agreements is achieved through securely managing non-disclosure agreements (NDAs), certificates, and other sensitive documents with eSigns, creating a tamper-proof audit trail. Further, eSign enables streamlined HR management by allowing electronic onboarding of new employees, managing contracts, and facilitating approvals. Pre-approved HR templates and easy updates for each employee save valuable time and resources.

In businesses, effortless sales and procurement become possible with e-signed sales agreements, invoices, trade and payment terms, and order acknowledgements. eSign ensures secure and legally binding transactions, eliminating the need for physical copies and manual approvals. Enhanced security for contracts and agreements is achieved.

Besides businesses, eSigns offer faster banking and financial services. Loan documents, account opening forms and investment agreements can be signed from anywhere, anytime, eliminating the need to visit branches while ensuring a secure and convenient experience. The electronic signing of lease agreements for both residential and commercial properties makes real estate transactions hassle-free. Another advantage of eSigns is efficient government services. eSigns allow individuals to access and electronically sign government documents like permits, applications, and licenses, making interactions with government agencies faster and more user-friendly.

eSigns offer a plethora of benefits, including the following:

- They save time and money by eliminating printing, scanning and mailing physical documents. Aadhaar eSign simplifies the process with Aadhaar KYC-based verification.
- eSigns expedite transactions and improve customer experience while eliminating the need for physical documents, as they work with any device and internet connection.
- Easy usage: E-signatures are applied electronically with a typed name, drawn signature, or dedicated software. It is secure with biometric or OTP verification and creates a clear audit trail with obvious electronic signatures and identification of the signatory.
- eSigns are versatile, integrating seamlessly with various applications. They also enhance security as they are tamper-proof and more difficult to forge than traditional signatures.

Over the past few years, particularly since the pandemic, eSign adoption in India has accelerated, emerging as a critical tool for ensuring business continuity amidst disruptions to traditional document processes. This has paved the way for potential advancements in the legal framework, including updates to the Information Technology Act of 2000 and streamlining the online document registration process.

As India embraces this new era of digital transactions, initiatives to improve user-friendliness, enhance authentication mechanisms, develop fraud-resistant methods and eliminate security vulnerabilities will be essential. By focusing on legal clarity, user experience and robust security measures, India can solidify e-signatures' position as a cornerstone of a secure and efficient digital future, fostering public awareness and building trust in this innovative technology. ■

—The writer is Co-founder, Treelife

The fisheries dispute between India and Sri Lanka is a multifaceted issue that requires a deep understanding before seeking a resolution. At its core, it involves Tamil-speaking fishermen from both nations, who, despite their historical bonds, face conflicts over livelihood. Sri Lankan Tamil fishermen in the North and occasionally the East accuse their Indian counterparts from southern Tamil Nadu and Puducherry of violating the International Maritime Boundary Line and poaching.

FISHING IN TROUBLED WATERS

Recent incidents of Indian fishermen being arrested by the Lankan Navy have the potential to affect bilateral relations. Both countries have the chance to enhance maritime security and should seize it

By Annunthra Rangan

Representative picture

JUST a week after the annual fishing ban was lifted, the Sri Lankan Navy on June 22, 2024, seized three Indian boats carrying 25 fishermen from Ramanathapuram for allegedly crossing the International Maritime Boundary Line (IMBL) near Delft Island. Over 500 boats from Rameswaram had ventured out the previous night of the arrest. This marks the fifth incident since fishermen resumed operations in mid-June following the conclusion of the mandatory 61-day fishing ban on the east coast of Tamil Nadu.

Over the years, hundreds of Indian fishermen have been arrested by Sri Lankan forces. Last year alone, 240 fishermen were detained and 35 trawlers were seized. While the number of arrests has decreased since 2014, when around 800 fishermen were detained, the issue remains unresolved.

Additionally, a boat carrying four fishermen from Rameswaram capsized near the IMBL due to a malfunction right after this incident. The crew, however, was rescued by nearby boats and safely brought to shore. Fishermen's associations in Rameswaram plan to protest, condemning the arrests and urging the Indian government to secure the release of the fishermen and their boats. They state that fishing rights in international waters remain unresolved and call for government intervention. Conversely, Sri Lankan fishermen have been protesting, urging their navy to prevent Indian fishermen from entering their waters, claiming that Indian trawling methods harm their catch.

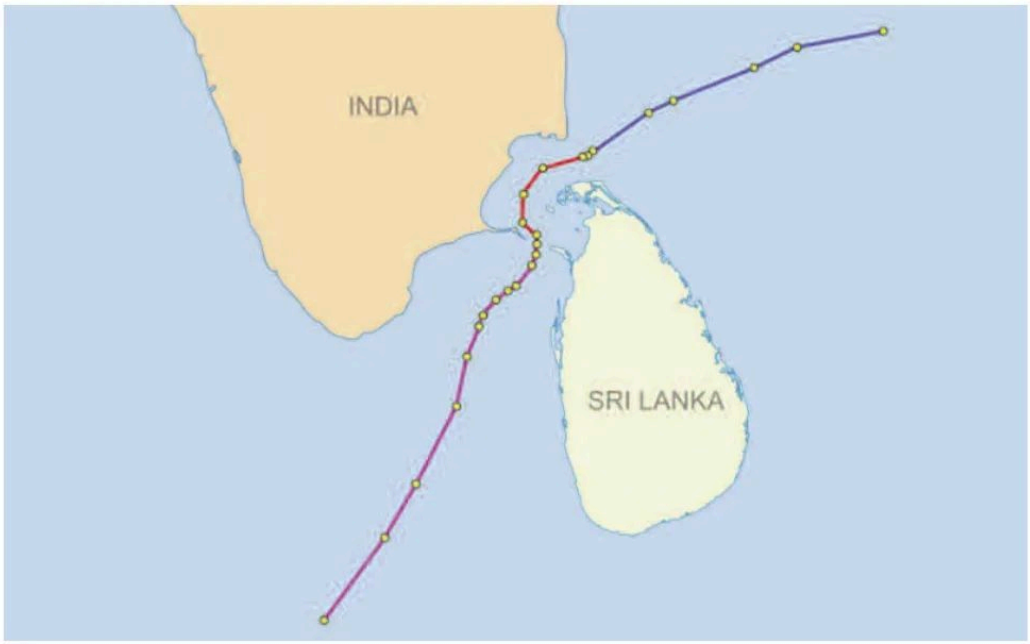
Sri Lankan Navy officials reported that the Northern Naval Command deployed Fast Attack Craft (FAC) to intercept and chase away a cluster of Indian boats in Lankan waters. The seized boats and fishermen were taken to Kankesanthurai Harbour and will be handed over to the Mailadi fisheries inspector for legal proceedings. The arrested fishermen have been placed under judicial custody for two weeks. With this incident, the Lankan Navy has seized 27 Indian boats and detained 204 Indian fishermen in 2024.

The IMBL between India and Sri Lanka was established through bilateral agreements in 1974 and 1976 under the United Nations Convention on the Law of the Sea (UNCLOS). These agreements demarcated the boundary in the Palk Strait, Gulf of Mannar and Bay of Bengal, but did not address the complex issues affecting Tamil-speaking fishermen in both countries.

India secured clauses allowing its fishermen to use Katchatheevu Island for drying nets, fishing and pilgrimage, and ensured free movement of vessels in the Palk Bay. The 1976 agreement recognised India's sovereign rights over the Wadge Bank and allowed limited Sri Lankan fishing there for three years, followed by a five-year period where India would sell fish to Sri Lanka.

There have been issues with other neighbouring countries too. In recent years, the Indian government enacted a constitutional amendment to implement the land boundary agreement with Bangladesh, initially ▶

The International Maritime Boundary Line between India and Sri Lanka was established through bilateral agreements in 1974 and 1976 under the United Nations Convention on the Law of the Sea. These agreements demarcated the boundary in the Palk Strait, Gulf of Mannar and Bay of Bengal, but did not address the complex issues affecting Tamil-speaking fishermen in both countries.



concluded in 1974, and finally executed in 2015-16 with the exchange of enclaves. India also accepted a 2014 ruling by the Permanent Court of Arbitration on the maritime boundary, favouring Bangladesh. These agreements have significantly improved relations between India and Bangladesh. Reopening such issues with neighbouring countries would create unnecessary anxieties and set a bad precedent.

Under the 1974 and 1976 agreements, Katchatheevu Island is on the Sri Lankan side of the India-Sri Lanka IMBL. These agreements did not grant Indian fishermen fishing rights in Sri Lankan waters or around the Island. Historically, Indian and Sri Lankan fishermen had fished together in the Palk Strait, but since these agreements, many Tamil fishermen have been killed by the Lankan Navy for allegedly crossing into their country's waters. The Lankan Navy frequently accuses Indian fishermen of poaching, leading to arrests and shootings.

Indian fishermen argue that climate change and declining catches force them to venture into Sri Lankan waters. During the island-nation's civil war in the 1980s, security restrictions limited the activities of Sri Lankan fishermen, allowing Indian fishermen greater access. However, after the war ended in 2009, Sri Lanka increased its naval presence off its north coast, leading to more confrontations with Indian fishermen.

These agreements clarified the maritime boundary, recognised India's rights over the Wadge Bank, and established the tri-junction point with the Maldives. Wadge Bank, located south of Kanyakumari, includes a continental shelf rich in resources and provides deep-sea fishing grounds. Before the 1976 agreement, Sri Lankan fishermen had been commercially fishing in the Wadge Bank using trawlers since the 1920s. The resolution of the maritime boundary issue with Sri Lanka, however, clarified fishing activities, hydrocarbon resource exploitation and other rights.

Before strict maritime laws were enforced, clashes occasionally occurred between Indian and Sri Lankan fishermen at sea, akin to conflicts among fishing communities along Tamil Nadu's coast. The rise of Tamil militancy in Sri Lanka, including the LTTE's "Sea Tigers", marked a significant period until the Sri Lankan Navy (SLN) gained control post-2009. After the civil war's end, Indian fishers returned, followed by Sri Lankans. To prevent the resurgence of militant groups and curb cross-border support, the SLN, citing sovereignty concerns, has at times fired upon or detained Indian fishers, resulting in fatalities and increased

In recent years, the Indian government enacted a constitutional amendment to implement the land boundary agreement with Bangladesh, initially concluded in 1974, and finally executed in 2015-16 with the exchange of enclaves. India also accepted a 2014 ruling by the Permanent Court of Arbitration on the maritime boundary, favouring Bangladesh. These agreements have improved relations between India and Bangladesh.

legal action over recent decades.

India and Sri Lanka have an opportunity to collaborate on enhancing maritime security. This can help prevent drug trafficking from the Golden Crescent and the Golden Triangle and promote regional peace and stability. The ongoing fisheries dispute between India and Sri Lanka has the potential to affect bilateral relations. Both countries must approach the issue with sensitivity and a commitment to finding mutually beneficial solutions. A comprehensive approach that considers the concerns of all stakeholders, including the human rights of Indian fishermen, should be acknowledged.

Cooperative fishing arrangements, such as licensed access for Indian fishermen in Sri Lankan waters, face deep-cut hurdles. Sri Lanka demands cessation of bottom-trawlers and purse seine nets, complicating negotiations. As a viable alternative, deep-sea fishing remains, requiring enhanced governmental support in funding, training and motivation for affected fishermen. This shift reflects the evolution from contentious trawler usage in the 1960s to current challenges and necessary adaptations in fishing practices.

The fisheries dispute between India and Sri Lanka is a multifaceted issue that requires a deep understanding before seeking a resolution. At its core, it involves Tamil-speaking fishermen from both nations, who, despite their historical bonds, face conflicts over livelihood. Sri Lankan Tamil fishermen in the North and occasionally the East accuse their Indian counterparts from southern Tamil Nadu and Puducherry of violating the IMBL and poaching. This not only damages their smaller vessels and nets, but also leads to long-term harm to traditional fishing grounds and coral reefs, further depleting fish stocks. A sensitive and holistic approach is crucial to finding a mutually beneficial solution to these complexities.

It is also to be noted that the Indian fishermen from southern Tamil Nadu, particularly Thoothukudi, are increasingly facing arrests not only in distant Gulf nations, but also in Maldivian waters. Despite political relations, recent incidents underlined by the Maldivian National Defence Force's hefty fines on Indian vessels highlight ongoing tensions. The Maldives recently apprehended another Indian fishing vessel for violations.

India will need to find a solution for these troubled waters. ■

—The writer is a Research Officer at Chennai Centre for China Studies. Her research interests constitute China-WANA (West Asia and North Africa) relations and human rights

Another War?

Last week, Israel's Iron Dome intercepted multiple rockets and missiles fired from Lebanon where Hezbollah (the Lebanese equivalent of Hamas) is based. Hezbollah fighters, led by its leader, Hassan Nasrallah, and backed by Iran, have been targeting Israel ever since the October 7 attacks in support of Palestine and are emerging as a bigger threat than Hamas. If the cross-border firing escalates it has the potential to escalate into another war; it will inevitably include Iranian-backed militias in Iraq and Yemen, cause instability in the Middle East and entangle the US in the middle of its own electoral war.

The United Nations has warned of a "catastrophe beyond imagination". If Iran were to get involved directly, the destruction in Gaza would be dwarfed by a wider conflict. The tourists who visit Lebanon's pristine beaches have become used to hearing the sound of explosions. From the historic Lebanese city of Tyre, the Israeli border is just 15 miles away, within range of its vast arsenal of more than 1,50,000 rockets and missiles. The Shia Islamist armed group which, like Hamas, is also a political party, is the most powerful force in Lebanon. Also, like Hamas, it is classed as a terrorist organisation by many countries, including the UK and the US. Some countries have already told their nationals to leave Lebanon urgently, including Germany, the Netherlands, Canada and Saudi Arabia. The UK has advised against all travel to the country and is urging Britons who are here to leave—while they still can.

So far, both sides are mainly striking military targets, close to the border, leading to tens of thousands of residents having to flee from their homes. Official counts say more than 90,000 in Lebanon and about 60,000 in Israel have been affected. For Israel, fighting on two fronts could prove costly, but the rest of the world is hoping Iran reins in Hezbollah and prevents another war at a time when Israel's main backer, the US, is entangled in its own domestic political battle.

Israel's Iron Dome intercepted multiple rockets and missiles fired from Lebanon where Hezbollah (the Lebanese equivalent of Hamas) is based

Hezbollah fighters, led by its leader, Hassan Nasrallah, and backed by Iran, have been targeting Israel ever since the October 7 attacks in support of Palestine and are emerging as a bigger threat than Hamas

Lebanon and Israel are mainly striking military targets, close to the border, leading to tens of thousands of residents having to flee from their homes. Official counts say more than 90,000 in Lebanon and about 60,000 in Israel have been affected

Battle In Bangladesh

University students in Bangladesh have been holding protest rallies against the present system of reserving a large chunk of public sector jobs for the relatives of those who fought for the country's independence from Pakistan in 1971

Several cities in Bangladesh, including the capital, Dhaka, have been witnessing clashes between college students and police, leading to at least six deaths and hundreds injured. Schools and universities across Bangladesh were shut until further notice as the protests escalated and spread to more cities. The protests are to do with quotas in government jobs.

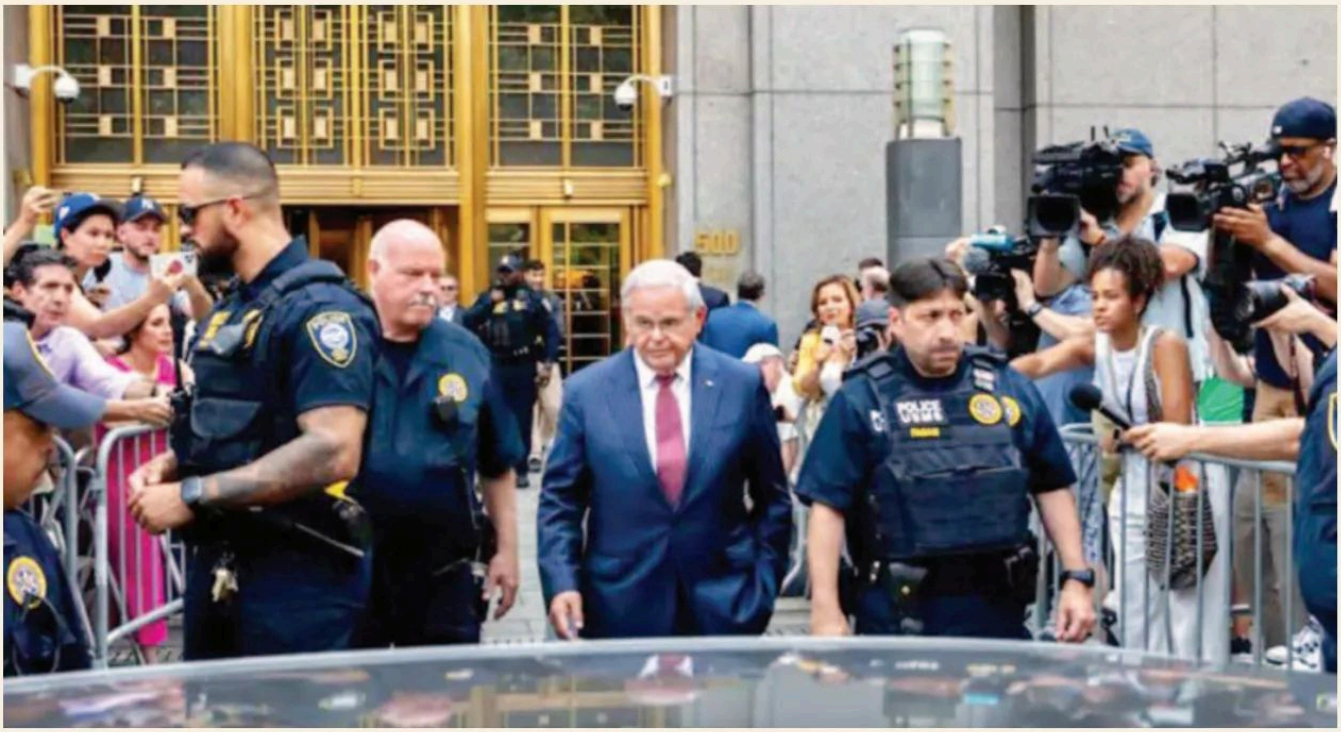
University students have been holding protest rallies against the present system of reserving a large chunk of public sector jobs for the relatives of those who fought for the country's independence from Pakistan in 1971. Jobs are also reserved for women, ethnic minorities and the disabled, but the largest number—a third of available posts—are reserved for the family members of those categorised as war heroes. In total, more than half of the positions—amounting to hundreds of thousands of jobs—are reserved for certain groups. The students want recruitment based on merit.

Bangladesh Prime Minister Sheikh Hasina's government abolished the reservation in 2018 following similar protests, but a court ordered the authorities to reinstate the quotas, leading to the latest round of protests

The anti-quota movement is led by the student wing of the governing Awami League known as the Bangladesh Chhatra League (BCL). Rival student groups have attacked each other while police fired tear gas and used rubber bullets. Hundreds of students have been injured in the attacks.

Like in India, government jobs are highly sought-after in Bangladesh because they offer job security. Prime Minister Sheikh Hasina's government abolished the reservation in 2018 following similar protests, but a court ordered the authorities to reinstate the quotas last month, leading to the latest round of protests.

The government now awaits a Supreme Court decision on the quotas, but the students have vowed to continue their protests until their demands are met.



New Jersey Senator Bob Menendez was found guilty on 16 counts on charges of bribery, accused of accepting gold bars and a Mercedes-Benz in exchange for helping foreign governments. Menendez was formerly the head of the powerful Senate Foreign Relations Committee. He pleaded not guilty in the trial

Senator Sleaze

While the news in the US was dominated by the Republican Convention in Milwaukee, a stunning side story was to do with New Jersey Senator Bob Menendez who was found guilty on 16 counts on charges of bribery, accused of accepting gold bars and a Mercedes-Benz in exchange for helping foreign governments. Menendez was formerly the head of the powerful Senate Foreign Relations Committee.

Democratic lawmakers have called on him to step down from Congress in light of his conviction. Prosecutors said the case represented "shocking levels of corruption". Menendez pleaded not guilty in the trial. His lawyers argued that the gifts he accepted did not qualify as bribes, because prosecutors had failed to prove that he took any specific action as a result of receiving them. His lawyers had attempted to shift blame to his wife Nadine, portraying her as a financially troubled individual who hoped to "get cash and assets any way she could". Nadine Menendez also faces charges in the bribery case, but her trial was delayed so that she could undergo breast cancer treatment. She has also pleaded not guilty.

Prosecutors relied on expert testimony, emails and Menendez's text messages to show that the senator accepted lavish rewards from foreign governments. They said the gifts included gold bars worth over $1,00,000. Some of the bars were handed to jurors as evidence in the trial. Jurors also heard that FBI agents had found more than $4,80,000 in cash inside Menendez's home, some of which was stuffed in envelopes and coats.

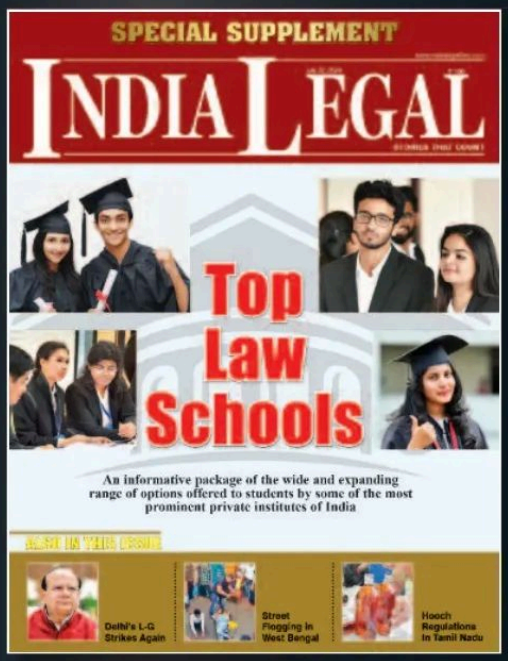
Two businessmen, Wael Hana and Fred Daibes, are also being tried on accusations that they sought out the senator to illegally aid the Egyptian government and secure millions of dollars from a Qatari investment fund. A third businessman, Jose Uribe, pleaded guilty and testified against Menendez in the trial. In exchange for the bribes, prosecutors said, Menendez helped secure millions of dollars in US aid for Egypt, where Hana had ties to government officials.

He was also accused of trying to influence criminal probes involving Daibes and Uribe. Both businessmen were co-defendants in Menendez's case and were also convicted on the counts they faced.

The senator has faced federal corruption charges before. He was tried in 2017, with the justice department alleging he did political favours for a wealthy Florida eye doctor in exchange for luxury holidays and other lavish gifts, but that case ended in a mistrial after he was acquitted on some charges and jurors were unable to reach a unanimous verdict. The latest verdict means he could spend decades behind bars, not gold ones this time.

ONLY THE STORIES THAT COUNT

Every week *India Legal* will bring you news, analyses and opinion from the sharpest investigative reporters and most incisive legal minds in the nation on matters that matter to you



Bringing You
The Stories That Count
An ENC Publication
To Stay Abreast With Today,
Pick Up Yesterday's India Legal

INDIA LEGAL
STORIES THAT COUNT

Don't miss a single issue of this independent, scintillating new weekly magazine and get special discounts for yourself and your friends

ENC
Entertainment and news communication

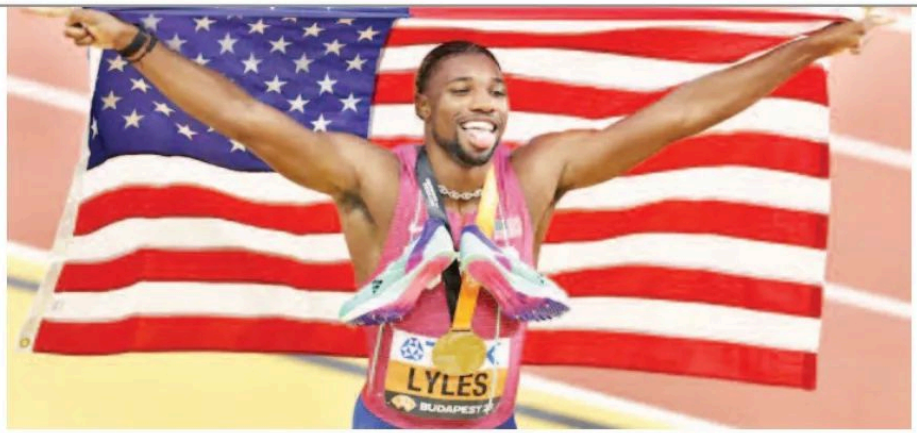
Contact :
EN Communications Pvt. Ltd.
A-9, Sector-68, Gautam Buddh Nagar, NOIDA (U.P.) 201309
Email : contact@indialegallive.com

Noah's Arc

A recent issue of *Time* magazine has him on its cover, proclaiming that the upcoming Olympics in Paris will be the Noah Lyles Games. Lyles, currently the fastest human on earth, is tipped to win the 100m, 200m and 4 x 100m relay golds, which will make him the first US athlete to win three Olympic golds in track and field since Carl Lewis in 1984 and the first to accomplish the track triple since Jamaica's Usain Bolt in 2016.

The Paris Olympics start on July 26 and Lyles is favoured to repeat his recent performance in the Budapest Worlds where he won all three golds. He is the World's Fastest Man, the title Lyles took with his 100-m win at Budapest. He has even said he could aim for a fourth gold, in the 4x400-m relay. No male track athlete has ever won that many sprint golds at an Olympics.

Lyles is an extrovert with ICON tattooed on his body and sports splashy outfits to attract attention. He broke Michael Johnson's US record in the 200 m—19.32 seconds—at the 2022 World Championships, recording 19.31. He was timed at 9.83 in Budapest and says he can go even faster, come the Olympics.



Noah Lyles (above), currently the fastest human on earth, is tipped to win the 100m, 200m and 4x100m relay golds, which will make him the first US athlete to win three Olympic golds in track and field since Carl Lewis in 1984 and the first to accomplish the track triple since Jamaica's Usain Bolt (above) in 2016

He turned professional and is already wealthy from endorsements and sponsors, but nothing equals an Olympic Gold, or three.

Napolean's Arms

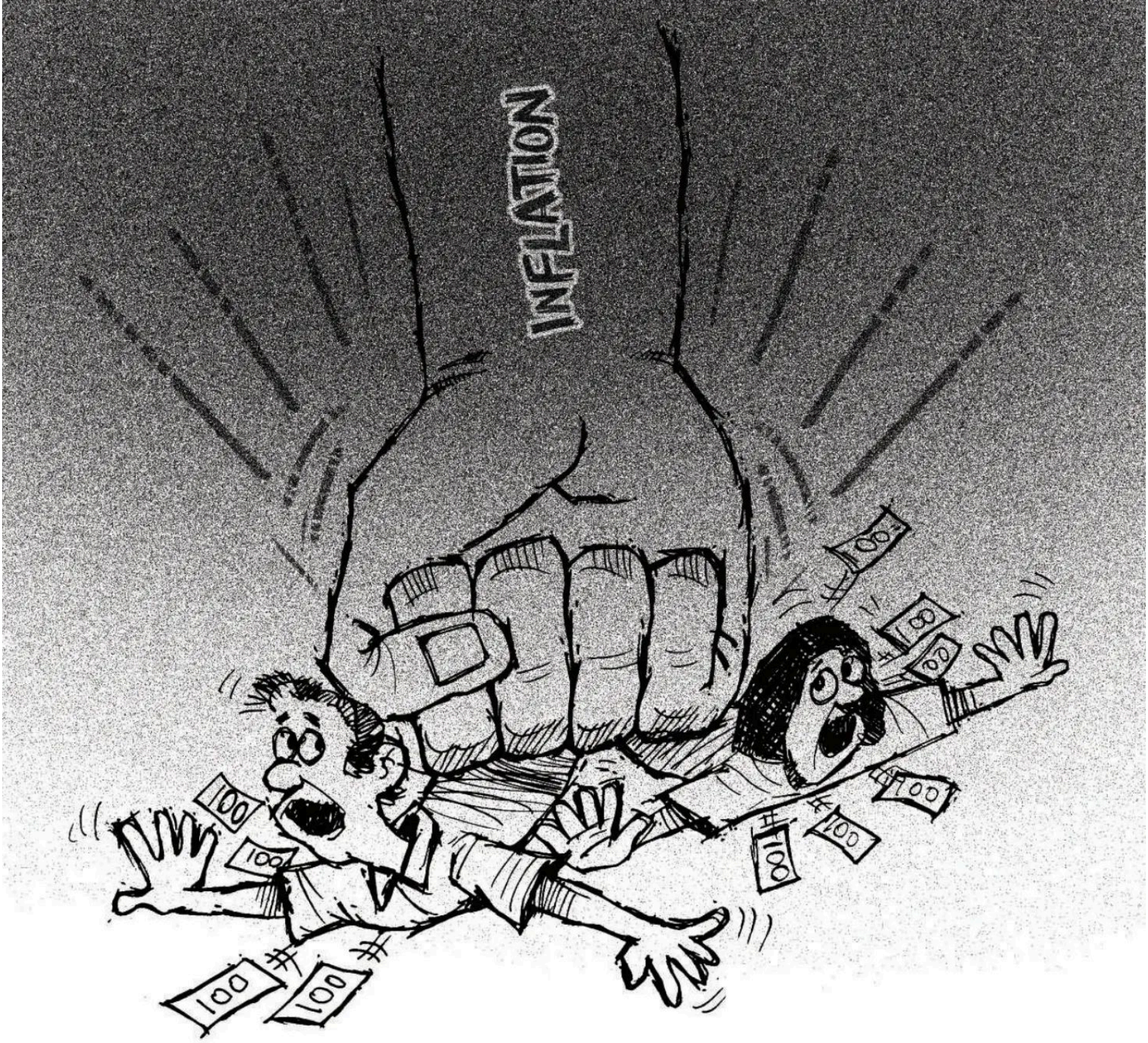
They are beautifully carved firearms, as befitting an emperor. A matching pair of flintlock Gossard pistols once owned by Napoleon Bonaparte sold at an auction last week for $1.83 million. The pistols were sold at French auction house Osenat. According to the auction house, the pistols were made specially for the Emperor and commissioned by his friend and aide, Armand Caulaincourt.

Osenat reports Caulaincourt as saying that Napoleon tried to kill himself using poison after one of his few military defeats and the Treaty of Fontainbleau. He survived, abdicated and was exiled to Elba, an island off the Italian coast. The pistols were recovered in excellent condition, in a Burr walnut box with an ebony inlay. The lid of the box is lined with green velvet embossed with the letter N, which is bordered with embroidered flowers. The box and two guns also bear Napoleon's cipher.

A matching pair of flintlock Gossard pistols once owned by Napoleon Bonaparte sold at an auction recently for $1.83 million. The pistols were recovered in excellent condition, in a Burr walnut box with an ebony inlay

Under French law, the firearms are a national treasure and cannot be taken out of France. The buyer remained anonymous, but the sale has brought back memories of one of France's greatest leaders. He was emperor of France from 1804-14, and is regarded as one of history's foremost military leaders.

RNI No. UPENG/2007/25763
Postal Regd. No. UP/GBD-197/2017-19
Printed on every monday & posted at Sub Post Office, Sector 62, Noida 201309



All Magazine Hindi English international magazine

Journalism (Indian)
India Today Frontline Open
India Legal Organiser The Caravan
Tehelka Economic and Political Weekly The Caravan

Journalism (International)

Time The Week The New Yorker
The Atlantic Newsweek New York Magazine Foreign Affairs National Review
Money & Business

Forbes Harvard Business Review
Bloomberg Businessweek Business India Entrepreneur inc ET Wealth
Monyweek CEO Magazine
Barron's Fortune International Financing Review Business Today
Outlook Money Shares Value Research Smart Investment
Dalal Street Investment Journal

Science, History & Environment

National Geographic National Geographic Kids New Scientist
Down to Earth Scientific American
Popular Science Astronomy
Smithsonian Net Geo History
Science Philosophy Now BBC Earth
BBC Wildlife BBC Science Focus
BBC History

Literature, Health & General
Interest

The Writer Publishers Weekly TLS
prevention OM Yoga Reader's Digest
The New York Review of Books
NYT Book Review Harper's Magazine The Critic Men's Health
Mens Fitness Women's Health
Womens Fitness Better Photography
Architectural Digest Writing Magazine Pratiyogita Darpan

Sport

Cricket Today The Cricketer
Wisden Cricket Monthly
Sports Illustrated World Soccer Tennis Sportstar FourFourTwo
Auto & Moto

Autocar India UK BBC TopGear
Bike Car

Tech

Wired PC Magazine Maximum PC
PCWorld Techlife News T3 uk India
DataQuest Computeractive
Popular Mechanics PC Gamer
Macworld Linux Format
MIT Technology Review

Fashion & Travel

Elle Vogue Cosmopolitan
Rolling Stone Variety Filmfare
GQ Esquire National Geographic Traveler Condé Nast Traveler
Outlook Traveller Harper's Bazaar
Empire

Comics
Tinkle Indie Comics Image Comics
DC (Assorted) Marvel (Assorted)
Indie Comics Champak

Home & Food

Real Simple Better Homes and Gardens Cosmopolitan Home
Elle Decor Architectural Digest
Vogue Living Good Housekeeping
The Guardian feast The Observer Food Monthly Nat Geographic Traveller Food Food Network

Other Indian Magazines
GB The Economist
Mutual Fund Insight Wealth insight
Electronics For You Open Source For You Mathematics Today Biology Today Chemistry Today
Physics For You Woman Fitness
Grazia India Filmfare India
Rolling Stone India Outlook
Outlook Money Entertainment Updates Outlook Business
Open Investors India The Week India
Indian Management Fortune India
Scientfic India India Today Brunch
Marwar India Champak Travel + Liesure India Business Traveller
Smart investment Forbes india
ET Wealth Vogue india Yojana
Kurukshetra Evo INDIA New India Samachar Small Enterprise India
Voice & Data

हिन्दी मैगजीन

समय पत्रिका साधनापथगृ हलकृष्मी उदयइंडिया नरिोगधाम मॉडरनखेतीइंडिया टुडेदेवपुत्र
क्रिकेट टुडेगृ हशोभा अनोखीहिन्दुस्तानमुक्ता सरिता चंपकप्रतियोगिता दर्पण सक्सेस मिरि
सामान्य ज्ञान दर्पण फार्म एवं फूड मनोहर कहानियां सत्यकथा सरस सलिल स्वतंत्र वार्ता लाजवाब आउटलुकसच्ची शक्षिावनिता
मायापुरी रूपायन उजाला ऋषि प्रसादजोश रोजगार समाचारजोश करेट अफेयर्सजोश सामान्य ज्ञान जोश बैंकिंग और एसएससी
इंडिया बुक ऑफरकिॉर्ड्सप्रकृ तमिल
राजस्थान रोजगार संदेश राजस्थान सूजससखी जागरण अहा! जदिगी बालभास्कर योजनाकुरुक्षेत्र
More.....

👇📚 **ENGLISH MAGAZINE** 📚👇

👉 **GET ALL FAST UPDATE OF ALL HINDI ENGLISH MAGAZINE JOIN OUR TELEGRAM CHANNEL.**

Frontline,SportStar,Business India,Banking Finance,Cricket Today,Mutual Fund Insight,Wealth insight,Indian Economy & Market,The Insurance Times,Electronics For You,Open Source For You,Mathematics Today,Biology Today,Chemistry Today,Physics For You,Business Today,Woman Fitness India,Grazia India,Filmfare India,Femina India,India Legal,Rolling Stone India,Bombay Filmfame,Outlook,Outlook Money,Careers 360,Outlook Traveller,India Strategic,Entertainment Updates,Outlook Business,Open,Investors India,Law Teller,Global Movie,The Week India,Indian Management,Fortune India,Dalal Street Investmemt Journal,Scientfic India,India Today,HT Brunch,Yoga and Total Health,BW BusinessWorld,Leisure India Today,Down To Earth,Pratiyogita Darpan,Marwar India,Champak,Woman's Era,The Caravan,Travel Liesure India,Business Traveller,Rishi Prasad,Smart investment,Economic and political weekly,Forbes india,Health The Week, Josh Government JOBS,Josh Current Affairs,Josh General Knowledge,Electronic For You Express,Josh Banking And SSC,Highlights Genius,Highlights Champ,Global Spa,Bio Spectrum,Uday India,Spice India Today,India Business Journal,Conde Nast Traveller,AD Architectural Digest,Man's world,Smart Photography India,Banking Frontiers,Hashtag,India Book Of Records,ET Wealth,Vogue india,Yojana,Kurukshetra

👇 **JOIN TELEGRAM CHANNEL** 👇
👉 https://t.me/Magazines_8890050582

👇📚**हिन्दी मैगजीन**📚👇

समय पत्रिका,साधना पथ,गृहलक्ष्मी,उदय इंडिया,निरोगधाम,मॉडर्न खेती ,इंडिया टुडे,देवपुत्र,क्रिकेट टुडे,गृहशोभा,अनोखी हिन्दुस्तान,मुक्ता,सरिता,चंपक,प्रतियोगिता दर्पण,सक्सेस मिरर,सामान्य ज्ञान दर्पण,फार्म एवं फूड,मनोहर कहानियां,सत्यकथा,सरस सलिल,स्वतंत्र वार्ता लाजवाब,आउटलुक,सच्ची शिक्षा,वनिता,मायापुरी,इंडिया हेल्थ,रूपायन उजाला,ऋषि प्रसाद,जोश रोजगार समाचार,जोश करेंट अफेयर्स,जोश सामान्य ज्ञान,जोश बैंकिंग और एसएससी,इंडिया बुक ऑफ रिकॉर्ड्स,राजस्थान रोजगार संदेश,राजस्थान सूजस,सखी जागरण,अहा! जिंदगी,बाल भास्कर,योजना,कुरूक्षेत्र,हिन्दुस्तान जॉब्स

👇 **JOIN TELEGRAM CHANNEL** 👇
👉 https://t.me/English_Newspaper_Banna

Like other groups, this list is not just written, we will make these magazine available to you with 100% guarantee.

JOIN TELEGRAM CHANNEL
👉 https://t.me/Premium_Newspaper

You will get the updates of all these magazinesfirst in the premium group.

👇 **JOIN BACKUP CHANNEL** 👇
👉 https://t.me/Backup_8890050582

SEARCH ON TELEGRAM TO JOIN PREMIUM GROUP
👉 @Lalit712Bot
Contact 👉 8890050582

🙏