Missed target

In sending a strong message to Pakistan, India should not shoot itself in the foot

The decision of the International Olympic Committee (IOC) to revoke Tokyo 2020 Olympics qualification status for the men's 25-metre rapid fire pistol event from the New Delhi shooting World Cup is a controversy Indian sport could have done without. This has come after India refused visas to two Pakistani competitors, in the backdrop of heightened bilateral tensions after the terror attack in Pulwama. The IOC has declared that this is against the Olympic Charter's principles, of which non-discrimination, equal treatment of all athletes and sporting delegations and political non-interference are supreme. It is clear that in the clamour to send Pakistan what it perceives to be the right message, India has shot itself in the foot. In the short term, the scrapping of two out of 16 quota places will deny three Indian shooters, including 16-year-old Anish Bhanwala who won the gold in the event at the 2018 Commonwealth Games, an opportunity to make the Olympic grade at home. While the National Rifle Association of India has thanked the IOC for sparing the 14 other places by restricting the withdrawal of recognition to just one event, three Indian shooters, for no fault of theirs, have ended up as collateral damage.

The long-term consequences, however, could be more severe. The IOC, in a strongly worded statement, said that it has decided to "suspend all discussions with the Indian National Olympic Committees and government regarding the potential applications for hosting future sports and Olympic-related events until clear written guarantees are obtained...to ensure the entry of all participants." This means negotiations regarding India's potential bids for the 2026 Youth Olympics, 2030 Asian Games and 2032 Olympics are set to go into cold storage. While it is true that the IOC's record in dealing with the overlapping worlds of geopolitics and sports is uneven, there have been precedents of strong action in similar cases. Ahead of the 2016 Rio Olympics, the Asian Shooting Championship in Kuwait had its qualification status removed after an Israeli delegate wasn't granted a visa. Less than a month ago, Malaysia was stripped of the World Para Swimming Championship for turning down visa requests from Israeli participants. The entire episode has also played out at a time when sections of the BCCI, egged on by a few yesteryear greats, seemingly mulled over the option of calling for a complete ban on Pakistan from the upcoming ICC World Cup in England. Going by experience, beyond feeding into a certain kind of atmospherics, such bans on sportspersons and interactions in international sports events will have no meaningful effect.

Mixed optics

The Saudi Crown Prince's visit highlighted the complexities in bilateral ties

As a standalone visit, the day-long trip of Crown Prince Mohammed Bin Salman Bin Abdulaziz Al-Saud (MBS) to New Delhi will be regarded as a diplomatic success, given the numerous outcomes. After talks with Prime Minister Narendra Modi, the two sides announced measures to upgrade the defence partnership, create a "Strategic Partnership Council" to coordinate on security issues, and institute regular talks between the two national security advisers to discuss counter-terrorism, intelligence-sharing and maritime security. Saudi Arabia has also expressed its interest in investing in infrastructure projects worth about $26 billion. This is beyond its already committed investments in India of $44 billion for the existing joint venture with the public sector oil undertakings and public fund investments of $10 billion. The language on terrorism in the joint statement was something of a dampener for those who would have hoped there would be stronger condemnation of the terror attack in Pulwama. But it was significant that the Saudi government agreed to insert an extra clause calling on states to renounce the "use of terrorism as an instrument of state policy". It also acknowledged that disputes between India and Pakistan must be resolved bilaterally. At the leadership level, Mr. Modi extended more than a personal touch to the visit by going to the airport and embracing the Crown Prince on landing. The prince repaid the compliment, agreeing to increase Haj quotas and release 850 Indians from Saudi jails after a plea from Mr. Modi.

These announcements and gestures would have been far more significant had it not been for the fact that MBS's trip came on the heels of his visit to Pakistan just after the Pulwama attack. As a result, his India visit is being measured against the statements made during his Pakistan visit, where he praised Islamabad for its fight against terrorism. He also announced $20 billion worth of investments, in addition to previously announced aid of $6 billion in cash and reserves. While such comparisons may be unwarranted, the visit to Delhi would have benefited in terms of optics if it hadn't been preceded so closely by the one to Islamabad. The Modi government also overplayed its expectations from the visit by billing it as part of a diplomatic offensive aimed at 'isolating' Pakistan in order to hold it to account for Pulwama. India and Saudi Arabia have steadily built bilateral relations and taken great care over the past two decades to 'de-hyphenate' them from ties between Pakistan and Saudi Arabia. India-Saudi Arabia ties were strengthened into a strategic partnership announced in 2010 in the Riyadh Declaration when Prime Minister Manmohan Singh paid a visit, and were bolstered by King Salman's visit in February 2014 and Mr. Modi's 2016 trip to Saudi Arabia. Point-scoring with Pakistan, or attempting to compare the outcomes of the two visits, now only undermines the carefully built compact between New Delhi and Riyadh.

Without land or recourse

The Supreme Court order on the eviction of forest dwellers raises very disturbing questions

KALPANA KANNABIRAN

The order of the Supreme Court issued on February 13 with respect to the claims of forest-dwelling peoples in India – the Scheduled Tribes and Other Traditional Forest Dwellers – is a case of the Supreme Court speaking against itself. In effect, the court has ordered the eviction of lakhs of people whose claims as forest dwellers have been rejected under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, or FRA. That this order negates the claims of citizens under special protection of the Constitution, viz. the Scheduled Tribes and other vulnerable communities already pushed by gross governmental neglect precariously to the edge, is another matter altogether. The question before us today centres on the responsibility of the Supreme Court in upholding constitutional claims and equal citizenship.

The background

The order in question was issued in the case of *Wildlife First & Ors v. Ministry of Forest and Environment & Ors*. The question before the court as stated in the order of 2016 when the matter was last heard related to "the constitutional validity of the [FRA] and also the questions pertaining to the preservation of forests in the context of the above-mentioned Act." The details regarding claims made under the FRA that were placed before the court by the petitioner in 2016 showed that of the 44 lakh claims filed before appropriate authorities in the different States, 20.5 lakh claims (46.5%) were rejected. The order of 2016 went on to observe: "Obviously, a claim in the context of the above-mentioned Act is based on an assertion that a claimant has been in possession of a certain parcel of land located in the forest areas." True. A claim is made either for individual or community rights by the people/communities covered by the FRA. This is a plain reading of the Act, which is unambiguous on this score.

From here, however, that order did a jurisprudential somersault to observe, "If the claim is found to be not tenable by the competent authority, the result would be that the claimant is not entitled for the grant of any Patta or any other right under the Act *but such a claimant is also either required to be evicted from that parcel of land or some other action is to be taken in accordance with law*" (emphasis added). This was the material part of the order. In other words, the claimant cannot contest the decision of the authority, said the court. With respect to action to be taken against those "unauthorisedly in possession of forest land", the States were then asked by the Supreme Court to report on concrete measures taken to evict the Scheduled Tribes and Other Traditional Forest Dwellers from the forest. In the very next paragraph, which pertained to the State of Tamil Nadu, the order referred to action against those people whose claims had been rejected as "eviction of encroachers".

What now?

In the present order of February 2019, the Supreme Court specifically directs governments in 21 States by name to carry out evictions of rejected claimants without further delay and report on or before July 12. There are several questions that must be foregrounded for immediate attention.

K.R. DEEPAK

The most obvious one has to do with the meanings attached to the rejection of claims. According to the 2014 report of the High-Level Committee on Socio-Economic, Health and Educational Status of Tribal Communities in India, constituted by the Government of India (Xaxa Committee), 60% of the forest area in the country is in tribal areas – protected by Article 19 (5) and Schedules V and VI of the Constitution. With specific reference to claims under the FRA, reiterating the finding of several other studies that have documented the deep procedural flaws in processing claims, the Xaxa Committee observed that "claims are being rejected without assigning reasons, or based on wrong interpretation of the 'OTFD' definition and the 'dependence' clause, or simply for lack of evidence or 'absence of GPS survey' (lacunae which only require the claim to be referred back to the lower-level body), or because the land is wrongly considered as 'not forest land', or because only forest offence receipts are considered as adequate evidence. The rejections are not being communicated to the claimants, and their right to appeal is not being explained to them nor its exercise facilitated." The mere rejection of claims by the state therefore does not add up to a finding of the crime of "encroachment" – the sheer volume of rejections should instead set alarm bells ringing in the court of procedural improprieties.

Interestingly, in this case it appears as if a private party – Wildlife First – is pitted against the state. A closer examination reveals that it is, in fact, Wildlife First and the state together which have joined forces against the most vulnerable communities in the country living in areas constitutionally protected from encroachment even by the state – can we forget the stellar *Samata* judgment of the Supreme Court in 1997?

Why must we worry about this order of the Supreme Court in 2019? As has been widely reported, the immediate result will be the forced eviction of over one million people belonging to the Scheduled Tribes and other forest communities. Importantly, the area marked for eviction falls under areas designated under Schedule V and Schedule VI of the Constitution – there is no reference to the implications for governance in the Scheduled Areas and whether the Supreme Court, in fact, has the authority to order evictions of Scheduled Tribes from Scheduled Areas. In a democratic country with citizens (not subjects) and a written Constitution which is affirmed by the people who are sovereign, how can we countenance the dismantling of an entire constitutional apparatus that prescribes the non-derogable boundaries to Adivasi homelands and institutional mechanisms that promote autonomy and restrain interference in self-governance?

Against the safeguards

At an even more fundamental level, we are speaking of special protections under the Constitution – even more today than ever before. The presence of Article 19(5) in the Fundamental Rights chapter of the Constitution, which specifically enjoins the state to make laws "for the protection of the interests of any Scheduled Tribe", is vital. How has the Supreme Court ordered the eviction in complete disregard of this core and express fundamental right protection to Adivasis (as distinct from legal/statutory protection), which protects them from a range of state and non-state intrusions in Scheduled Areas as well as from the perennial threat of eviction from their homelands? Is it not the supreme obligation of the Supreme Court to protect the Scheduled Tribes and other vulnerable communities from the grave harms of violent dispossession?

Finally, in the recent judgments of the apex court on the right to privacy and Section 377, the court has sung paeans to autonomy, liberty, dignity, fraternity and constitutional morality – the pillars of transformative constitutionalism. It is the same court in the same era that has now ordered the dispossession of entire communities protected under the Constitution. We, as citizens, have every reason to worry.

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How the U.S. aids Maduro

It allows him to present himself as the last bulwark against a return to American corporate domination

LESLIE C. GATES

On February 18, U.S. President Donald Trump amped up yet again the pressure on Venezuela's recalcitrant military. If they do not defect to Juan Guaidó, Venezuela's head of the national legislature who proclaimed himself the constitutional president in late January, Mr. Trump declares they will not benefit from amnesty. It is widely believed that many in the military fear sanctions for corruption, illicit narcotics trafficking and human rights abuses. Thus far, though, the U.S. has failed to recruit their Venezuelan equivalent of Chile's Pinochet, the leader of the 1973 coup against the elected socialist, Salvador Allende. Nor has Mr. Guaidó succeeded as Nicaragua's Violeta Chamorro did in 1990, to leverage devastating economic sanctions to win over large swaths of the population once sympathetic to Nicaragua's Sandinista-led revolution against a U.S.-backed dictator.

Venezuelans' dilemma

Why wouldn't Venezuelans flock to Mr. Guaidó? Why would anyone support Mr. Nicolás Maduro? After all, his claim to the presidency is based on elections last year widely deemed fraudulent with the lowest turnout in Venezuela's long democratic history. His regime has clamped down on freedom of the press, jailed dissenters and stands accused of numerous human rights violations. His military is blocking humanitarian aid.

Ironically, the answer points back to the U.S. I don't mean that the U.S. and its oil companies support Mr. Maduro. Nothing could be further from the truth. Although, of course, we should not forget that the U.S. oil industry has remained one of Venezuela's biggest clients since 1998 when Hugo Chávez won in a landslide. I mean we cannot understand the contours of politics today without an appreciation for how U.S. oil companies "developed" Venezuela.

Venezuela is not just any oil-producing society. It is the U.S.'s oil society. It was the cash cow for the largest of Rockefeller's duelling sister companies after the company's court mandated break-up in 1911: Standard Oil of New Jersey. We know this company today as ExxonMobil. Jersey took a significant interest in Venezuela in 1928, shortly after the first major gusher in 1922. It quickly towered over Venezuela's oil industry. By 1941, it controlled 65% of its reserves. By 1945, it produced more oil than all other oil companies in Venezuela. Venezuela made Jersey rich. By the mid-1940s, it generated more than half of Jersey's total revenue. Venezuela's oil, indeed, facilitated the U.S.'s rise to world hegemony, an ascent rooted in shifting the world to rely on the primary energy source it controlled: oil.

REUTERS

Moreover, as historian Miguel Tinker Salas reveals, Jersey did more than just suck oil out of the ground. It sought to re-make Venezuelan social and political life in its own image. It proclaimed that what was best for the oil companies was best for Venezuela. It did so, even as it crushed employee dissidents and effectively turned labour unions into company spies. This was oil's "enduring legacy," a lore which Chávez burst. Even after they nationalised oil in 1976, the industry remained in the hands of professionals seasoned by the company's long-standing commitment to maximise profit. Venezuela's establishment parties struggled to deliver credibly on the promise to "sow the oil": to use the oil revenue to grow Venezuela's domestic industry.

The U.S. companies, in fact, sowed a very different kind of seed: a deep distrust of U.S. oil companies and Venezuela's political establishment which collaborated with them for decades. This is the distrust which anchored support for Chávez's Bolivarian revolution for a 21st century socialism; a distrust only intensified by their 1990 efforts to re-privatise elements of the oil industry. Seen from this vantage point, even Mr. Maduro's blatant vote-for-food campaigning may appear as a means of delivering, literally, Venezuela's oil-based revenue to the people. This history also likely complicates Mr. Guaidó's prospects of unifying Venezuelans against Mr. Maduro. Plenty of Chavistas oppose Mr. Maduro's corruption and repressive turn, even as they still believe in Chávez's initial goals to take back national control over oil. Mr. Guaidó is a hard sell for this loyal opposition among Chavistas. His unwillingness to denounce the U.S.'s thinly veiled attempt to force regime change likely deepens such misgivings.

The U.S.'s current hard-driving strategy may actually backfire. It validates Mr. Maduro's appeal to stick with him as the last bulwark against a return to U.S. corporate, not to mention military, domination. The appointment of Elliott Abrams, as Special Representative for Venezuela, plays right into such an appeal. After all, he notoriously defended El Salvador's brutal military offensive against that country's national liberation movement, denying its role in one of that country's bloodiest massacres. He was deeply implicated in the U.S.'s covert efforts to fund the Contras against Nicaragua's democratically elected socialist government. In naming Abrams, Mr. Trump signalled that the U.S. believes that Venezuela could go the way of Nicaragua in 1990: erode sympathy for the regime by combining crippling economic sanctions with the threat, if not the actual use, of lethal force.

The EU initiative

Not surprisingly, the best chance for a peaceful transition comes not from the U.S. The European Union announced the formation of an "international contact group" in January 2019 to address the Venezuelan crisis. The group includes nations that have already recognised Mr. Guaidó (France, Germany, Spain, Portugal, Sweden, The Netherlands, the U.K. and Costa Rica) as well as those with more ambiguous positions (Italy, Ecuador, Uruguay and Bolivia). When the group met for the first time early in February, they committed themselves to establish the "necessary guarantees for a credible electoral process" and to "enable... delivery of assistance." Cornered, Mr. Maduro and Mr. Guaidó have yet to agree to talk. Meanwhile, millions of Venezuelans starve and flee.

Leslie C. Gates is Associate Professor of Sociology at Binghamton University, New York, and is the author of 'Electing Chávez: The Business of Anti-neoliberal Politics in Venezuela'

LETTERS TO THE EDITOR

Letters emailed to letters@thehindu.co.in must carry the full postal address and the full name or the name with initials.

An eviction?

The Supreme Court's order to 21 State governments which could lead to the eviction of lakhs of forest dwellers seems unfair and will lead to countless innocent and poor tribals being denied their rights (Inside pages, "Lakhs of forest dwellers face eviction", February 22). Most of the claimants are illiterate and are not in a position to assert their rights with necessary documentary evidence. The government, which is supposed to be defending them, appears to be treating the issue in a casual manner, especially as the numbers are massive.

DR. D.V.G. SANKARARAO,
Nellimarla, Andhra Pradesh

After Pulwama

The Pulwama attack is disturbing and the current national mood is, understandably, that of retribution (OpEd page, 'Yes, No, It's Complicated, "After the terrorist strike in Pulwama, is war even an option?", February 22). But any sudden reaction might compromise the long-sought peace for which our jawans have bled for long. Instead of a pompous surgical strike, what is needed is a comprehensive, long-term strategy which can cut off the assistance the Pakistan military army extends to terrorist groups and eliminate all terrorist bastions stealthily.

KSHITIJ MANI TRIPATHI,
Lucknow, Uttar Pradesh

■ While expressing outrage at the Pulwama attack, a distinction ought to be made between Kashmiri militants and innocent Kashmiris. The ostrich-like attitude of the Union Minister concerned and a certain Governor only give legitimacy to the "oust-Kashmiri" line. I am afraid that with such an attitude, we are playing right into the hands of militants and Pakistan who want Kashmiris to be disowned by India. The whole nation should stand up to this divisive communal onslaught and the militancy. The rest of India needs to assure Kashmiris that they have been, are and will be very much a part and parcel of the Indian nation, and not just a piece of land sans its people (Editorial, "Healing touch", February 22).

ABDUL ASSIS P.A.,
Thrissur, Kerala

■ It is a strange situation where we have the country being united in ending terror but spewing venom against those from Kashmir. Targeting the people of Kashmir will never yield any positive outcome. Rooting out every terror organisation should be the sole goal.

JASPREET SINGH,
Patiala, Punjab

■ There is no doubt that what happened at Pulwama is horrendous and that India needs to take steps to make Pakistan see reason. However, the move to stop India's share of the Indus going to Pakistan may be a bit extreme ("Will stop India's share of water going to Pak., says Gadkari", February 22). It is against *pacta sunt servanda*, an important principle in international law. Governments should abide by the treaties they have signed. Denying anyone access to water, the elixir of life, will be depriving innocent citizens a basic right. India should go for a pacific means of settlement of international disputes such as mediation and seeking good offices.

SHIVAM AGGARWAL
Ludhiana, Punjab

Angel tax

Fixated on tax evasion, money laundering and the like, diligent bureaucrats conjure up demons where none need exist. Instead they ought to lay out formats that provide information on investments into such ventures. Adequate laws exist to tackle the deviants. The U.K. provides up to as much as 60% tax relief on investments in eligible start-ups, to introduce more capital into this risk-prone yet potential asset class. Given such impetus and transparency, the process would automatically reflect the status of an investor and the funding. Singapore operates several platforms assisting medium-sized companies fuelled by start-ups and the government has generous budget allocations for their active promotion. In contrast, India's narrow approach, such as the angel tax, is not only primitive but retrograde.

R. NARAYANAN,
Navi Mumbai

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CORRECTIONS & CLARIFICATIONS:

It was a 20-20 match: The scorecard in "Rajasthan roars past Tamil Nadu in a one-sided contest" (Sport, Feb. 22, 2019) erroneously said that Rajasthan scored 181 for four in 21 *overs*.

The opening sentence in "Alone, you are nothing, says Wenger" (Sport, Feb. 21, 2019) erroneously said that Arsene Wenger once called Jose Mourinho a specialist in failure. Actually, it's the other way. It was Jose Mourinho who called Arsene Wenger that.

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