Topics

- Interim Bail
- Model code of conduct
- Freshwater beyond EEZ
- Alphafold 3
- Palestine as UN Membership

By saurabh Pandey

- Essay topic

THE HINDU

Target Mains -2024/25

“‘Free from all thoughts of ‘I’ and ‘mine’, man finds absolute peace.’”

"'मैं' और 'मेरा' के सभी विचारों से मुक्त होकर, मनुष्य को पूर्ण शांति मिलती है।"

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Voting for relief

Interim bail for Delhi CM reverses damage to level playing field in polls

In granting interim bail to Delhi Chief Minister Arvind Kejriwal, the Supreme Court of India has reversed a development that upset the level playing field for the ongoing general election. When Mr. Kejriwal was arrested in March for his alleged involvement in corruption in the formulation of a liquor policy for Delhi, it might not have seemed an obvious setback to federalism and democracy. But the arrest of a serving Chief Minister and a key figure in the Opposition, when the election process was already on, sent shock waves among regional parties. And, as he remained behind bars, it stoked fears that States run by parties other than those in power at the Centre could easily be undermined by getting central agencies to arrest Chief Ministers on charges that may or may not be based on evidence. In Mr. Kejriwal's case, the Court is right in both citing the general election as a good enough reason to grant him interim bail until June 1, when the last phase of polling will be held, and in rejecting the Centre's argument that it would amount to favourable treatment to politicians. As the Court has pointed out, interim release orders relate to the "peculiarities associated with the person in question and surrounding circumstances". The absence of a notable leader from the campaign arena, especially when he is yet to be convicted, will be a factor that will cast a doubt on the free and fair nature of the election.

The Court has made his bail conditional on his keeping away from the Delhi Secretariat and the CM's office. And he is to abide by his statement that he would not sign any official file, unless required to do so to get the Lieutenant General's approval for something. That Mr. Kejriwal did not respond to several summonses from the Enforcement Directorate (ED) does not show him in a good light. But, at the same time, it cannot be forgotten that be it the CBI's corruption charge, or the ED's money-laundering charge, the case against him is based on a belated statement made by suspects who had turned approvers and obtained pardon on the promise of testifying against him. The probative value of these statements will be tested during trial. Another factor to be noted is that there are statutory restrictions under the Prevention of Money Laundering Act on seeking bail, resulting in many questioning the validity of their arrest, as Mr. Kejriwal has done, rather than file for bail. If only courts applied the basic principle of granting bail to those who are unlikely to flee from justice, with appropriate conditions to neutralise their likely influence over witnesses and to safeguard evidence, orders granting bail would not evoke political reactions and doubts whether the political class is being unduly favoured.

Interim Bail

- It is basically for a short duration and before the hearing or final disposal of regular or anticipatory bail application.
- Interim bail is important as when application for regular or anticipatory bail goes to court, certain documents are required like charge sheet or case diary etc.
- So, that they can judiciously decide the application.

- But this process requires time and the accused has to remain in legal custody until the court gets the documents and can decide the bail application.
- But according to interim bail, an accused can apply for it to avoid jail till court gets the documents etc.
- Thus, interim bail is a temporary bail for a shorter time period during which the court can call the documents to make a final decision on the regular or anticipatory bail application.

The fraying of the model code of conduct

P.D.T. Achary

is former Secretary General, Lok Sabha

The model code of conduct has, once again, attracted national attention because of its egregious violation by senior politicians during the election campaign for the 18th Lok Sabha. Political parties are duty bound to obey the code as it was framed by the Election Commission of India (ECI) on the basis of a consensus among all political parties in order to have a peaceful, orderly and civilised election. However, as elections in India are a no holds barred war, this consensus often breaks down with party leaders losing no opportunity to hit their opponents below the belt. Of late, elections are a free for all. Distortions, blatant falsehoods, mischievous misinterpretations, slanging matches – all are par for the course.

The Constitution mandates the ECI to conduct elections in a free and fair manner. In fact, free and fair elections are a part of the basic structure of the Constitution. Article 324 confers on the Election Commission, plenary powers to enable it to ensure a free and fair election. In *Election Commission of India vs State of Tamil Nadu and Others* (1993), the Supreme Court of India restates the role and powers of the Commission in the following words: "The ECI is a high constitutional authority charged with the function and the duty of ensuring free and fair elections and of the purity of the electoral process. It has all the incidental and ancillary powers to effectuate the constitutional objective and purpose. The plenitude of the Commission's powers corresponds to the high constitutional functions it has to discharge."

Key provisions

The model code of conduct was framed by the Commission to ensure that the elections are free and fair and the electoral process remains pure. Also, a level playing field is a necessary condition to ensure that elections are free and fair. The key provisions of the code are: no party or candidate shall indulge in any activity which may aggravate existing differences or create communal hatred or cause tension between different castes, communities – religious or linguistic; criticism of other political parties shall be confined to their policies and programs. No unverified allegations or distortions against other parties shall be allowed; there shall be no appeal to cast or communal feelings for securing votes; no party or its candidate shall indulge in corrupt practices or commit offences under the election law.

Needless to say that violation of these directions are serious infractions of the code, making it impossible to hold free and fair elections and maintain the purity of the electoral process. So, it is the duty of the ECI to quickly examine those violations and take suitable action against the violators so that the purity of the electoral process is maintained. Here a question arises as to what action the Commission can take in such cases.

It is the duty of the Election Commission of India to quickly examine violations and take action so that the purity of the electoral process is maintained

On deterrent action

It is common knowledge that the model code of conduct is not legally enforceable. So, it is not possible to seek any relief from the court for violation of the code. The only way open to the aggrieved party is to complain to the Commission and seek its intervention. It must be noted here that neither The Representation of the People Act nor The Conduct of Election Rules makes any provision for the model code of conduct. However, the Election Symbols (Reservation and Allotment) Order brought out by the ECI in 1968 makes a provision to deal with the violation of the Model Code of Conduct. The Symbols order was issued in exercise of the powers conferred by Article 324. Paragraph 16A of the Symbols order says that in case of violation of the model code of conduct or other direction or orders of the Commission, it can suspend the recognition of a party, or, in an extreme case, even withdraw its recognition. Suspension or withdrawal of recognition of a party will deprive it of the symbol reserved for it. This will pose enormous problems to a recognised party as it will not be able to use its reserved symbol in the election. So, the ECI has the power to act decisively against the violators of the model code of conduct. We have seen the ECI taking violators off the election campaign for 24 to 48 hours. It can also take the violator off the campaign in the elections no matter how high he or she is in the party. Such actions by the ECI will definitely act as a deterrent and send the right message to the political parties.

However, experience shows that after the late T.N. Seshan, the ECI has never acted so decisively as he used to do. T.N. Seshan struck terror in the minds of politicians. Elections in India today are a do-or-die battle and the only aim here is to defeat the enemy. Political adversaries are treated as enemies and the goal is to exterminate them. Elections have long ceased to be the civilised democratic exercise they are meant to be, where each player scrupulously adheres to be norms set by law. Now, every effort is made to stir the basest passions in men. At one time there existed a consensus among politicians that nothing should be done to exacerbate the divisions in the society especially on the basis of religion.

We should not forget that religion in India is a potent tool which can be effectively used to divide society. The founding fathers of the Constitution wisely chose secularism and democracy as the warp and woof of the Constitution. They believed that only secularism can hold this country of immense diversities together. The Representation of People Act 1951, has made any appeal in the name of any religion a corrupt practice which will invalidate an election. Thus, religion is kept out of the electoral battle by the statute. But it is brought back and installed at the centre of this battlefield by politicians. The nation wants the ECI to address this issue with full seriousness.

A violation of oath

The issue of senior members of the Council of Ministers making communally charged speeches during the election campaign has not been dealt with sternly by the ECI or the courts. Speeches of such persons during the election campaign, which have extremely toxic references to the followers of a particular religion or community or caste and which can promote hatred in a section of voters, flagrantly violate the oath they have taken as Ministers. A Minister, through the oath he takes, gives a solemn assurance to the people of the country that he will do right to all manner of people without favour or ill will. By speaking directly or indirectly against a section of the society, they demonstrate their inherent bias and ill will against them which is a violation of oath. The Constitution or the election law does not prescribe any punishment for violating the oath by Ministers. Section 125 of the Representation of People Act 1951, provides for a three-year sentence as maximum punishment for promoting feelings of enmity or hatred between different classes of citizens on the ground of religion. Members of the Council of Ministers of the Union as well as the States are holding high constitutional office and are oath bound to do right to all without ill will towards anyone. Therefore, any utterances on their part to the contrary need to be seriously dealt with. The apex court can give a standing direction to the ECI to initiate criminal proceedings under Section 125 of the Representation of People Act 1951 whenever such occasion arises and also take the violators off the campaign till the ongoing elections are over.

The top court has always laid stress on maintaining the purity of an election. It says: "what is meant by purity of elections? According to us, it means that the elections should not only be free from corrupt practices but also free from evil practices" (*A. Neelalohithadasan Nadar vs George Mascrene*). Promoting hatred between two sections of people on the ground of religion , cast or community is an evil practice. The Constitution puts a lot of powers in the hands of the ECI. These powers are meant to be exercised when the need arises.

Model code of conduct

- free and fair elections are a part of the basic structure of the Constitution.
- Article 324 confers on the Election Commission, plenary powers to enable it to ensure a free and fair election.
- In Election Commission of India vs State of Tamil Nadu and Others (1993), the Supreme Court of India restates the role and powers of the Commission in the following words: “The ECI is a high constitutional authority charged with the function and the duty of ensuring free and fair elections and of the purity of the electoral

Key Provisions of Model code of conduct

- The key provisions of the code are: no party or candidate shall indulge in any activity which may aggravate existing differences or create communal hatred or cause tension between different castes, communities — religious or linguistic; criticism of other political parties shall be confined to their policies and programs.
- No unverified allegations or distortions against other parties shall be allowed; there shall be no appeal to cast or communal feelings for securing votes; no party or its candidate shall indulge in corrupt practices or commit offences under the election law.

Enforcement

- It is common knowledge that the model code of conduct is not legally enforceable.
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- However, the Election Symbols (Reservation and Allotment) Order brought out by the ECI in 1968 makes a provision to deal with the violation of the Model Code of Conduct.
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- Paragraph 16A of the Symbols order says that in case of violation of the model code of conduct or other direction or orders of the Commission, it can suspend the recognition of a party, or, in an extreme case, even withdraw its recognition.
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- Members of the Council of Ministers of the Union as well as the States are holding high constitutional office and are oath bound to do right to all without ill will towards anyone.

Freshwater quest, the likely new gold hunt

Archana Reddy

is Advocate, LLM International Shipping Law-IMO-International Maritime Law Institute (IMLI), Malta

One would never imagine that huge volumes of freshwater exist under the saline ocean. In the 1960s, says a media report, the U.S. Geological Survey drilled boreholes off the New Jersey coast and unexpectedly struck freshwater. Similarly, with time, a team of scientists from Vietnam and even in other countries have discovered underwater sources of fresh water. For example, a river under the sea was discovered at the bottom of the Black Sea. This river appears to be over a 100 feet deep and has a flow rate of about four miles per hour; about 22,000 cubic meters of water passes through this particular channel. It would count among one of the largest rivers in the world when compared to land-based rivers, say media links. This makes one thing certain: there is scientific evidence of rivers under the sea.

Statistics show that the total volume of water on earth is estimated at 1.386 billion km^3, where 97.5% is salt water and 2.5% freshwater. Out of this freshwater, only 0.3% is in liquid form on the surface, which means that the rest of the freshwater is underground, including on or under the ocean bed.

Considering that freshwater is a depleting resource, countries will begin exploring for and exploiting freshwater from above or under their ocean bed, within their maritime zones. Eventually, countries will expand exploration beyond their Exclusive Economic Zone (EEZ), into what is commonly known as the "Area", which is covered under Part XI of the United Nations Law of the Sea Convention, 1982 (UNCLOS). The "Area" under UNCLOS is defined as the seabed and ocean floor and subsoil thereof, beyond the limits of national jurisdiction and is referred to as the common heritage of mankind. This means that it is available for everyone's use and benefit, keeping in mind the future generations.

India can take the lead in shaping non-controversial legislative text that addresses the gaps in the laws of the sea, especially in exploratory activities that concern freshwater extraction

The law of the sea

Although UNCLOS arrays most of the internationally accepted law on the subject, customary international law continues to remain an important source of the law of the sea. While UNCLOS is known as a single comprehensive text covering the constitution and the governance of the oceans, it is interesting to know that the Convention on the Territorial Sea and the Contiguous Zone, the Convention on the High Seas, the Convention on Fishing and Conservation of the Living Resources of the High Seas and the Convention on the Continental Shelf (Geneva Conventions on the Law of the Sea, 1958) cover most of the issues as UNCLOS and these Geneva conventions are mostly platformed over customary international law.

To complicate matters further, Article 311 of UNCLOS states that this Convention shall prevail as between states parties, over the Geneva Conventions on the Law of the Sea, 1958. Hence, not only is UNCLOS not applicable to these non-signatory states but also these countries do not recognise the doctrine of Exclusive Economic Zone (200 nm) or the "Area" (beyond 200 nm). The least of the surprise is that the United States is a signatory to the Geneva Conventions 1958 and not UNCLOS.

Exploration and exploitation of the "Area" under UNCLOS is limited to the term "resources", which is defined as all solid, liquid or gaseous mineral resources in situ in the Area at or beneath the seabed, including polymetallic nodules – and resources when recovered from the Area are referred to as "minerals". If this be the case, does the definition of the term "minerals" cover "freshwater"? The International Seabed Authority (referred to as the Authority) is empowered under UNCLOS to administer and control the activities in the Area. Consequently, exploration of all minerals from the Area is required to be in accordance with the rules, regulations and procedures laid down by the Authority. If state parties to UNCLOS are regulated by the Authority, who regulates state parties to the Geneva Conventions, especially in activities concerning mining and exploratory activities in the "Area"?

A zone of exploration

As evident from current events, the next wars are expected to be fought over water and expansion. Given that in the years to come freshwater will become a very scarce and an expensive commodity, the Area will qualify as a potential zone for freshwater exploration and extraction. Just as oil wells are explored and capped for future use, fresh water wells may be identified and capped for future use. In the lacuna of specific legislation and terminologies governing and controlling the advancement of resource beyond national jurisdiction (such as fresh water) integrated with multiple legislations governing the law of the sea, the "Area" will once again attract controversy.

Given that a large international community is diligently working towards Sustainable Development Goals and activities beyond national jurisdictions, arriving at an amicable non-controversial legislative text, addressing various lacunae in the laws of the sea, especially exploratory activities concerning freshwater from the Area, ought to be the next logical milestone. In this, India can take the lead role. This would be an area which would truly benefit mankind, rather than spending gallons of money, looking for water and proposing plans for human settlement on Mars and the moon.

Freshwater beyond EEZ

- **Statistics show that the total volume of water on earth is estimated at 1.386 billion km3 , where 97.5% is salt water and 2.5% freshwater.**
- **Out of this freshwater, only 0.3% is in liquid form on the surface, which means that the rest of the freshwater is underground, including on or under the ocean bed.**

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Folds and faults

Free use of AlphaFold 3 must extend to scrutiny of its inner mechanisms

Proteins are long chains of amino-acid residues that fold into specific shapes. Properly folded proteins function normally whereas misfolded ones can lead to debilitating diseases. Since these chains are quite long, a given protein can actually fold into one of a very large number of shapes – yet it makes a beeline for a specific shape while avoiding all the others. How and why this happens constitute an important mystery in structural biology called the protein-folding problem. In 2018, five decades after it was mooted, a Google subsidiary named DeepMind developed a purpose-built AI tool to predict the shapes into which different proteins could fold, called AlphaFold. The upgraded AlphaFold 2 followed two years later. Many scientists and technologists acknowledge that these two deep-learning systems have transformed human awareness of protein structures, a feat the machines demonstrated in the biennial Critical Assessment of Protein Structure Prediction contest. Recently, DeepMind launched AlphaFold 3, which can reportedly predict the shapes with nearly 80% accuracy as well as model DNA, RNA, ligands, and modifications to them. As with the first two AlphaFolds, no. 3 is great for being able to elucidate the folded proteins' structures in seconds rather than the years humans have required with advanced microscopic techniques.

Not surprisingly, the excitement that followed the release of AlphaFold 3 has been unable to escape the hype and overblown expectations that dogged the launches of its predecessors. These machines can predict protein structures with relatively high accuracy but they cannot say why they are folded that way; this is still the task of human scientists. How the AlphaFolds will catalyse drug discovery is also unclear. Many drugs fail to make it to the market from the laboratory because medical researchers are unable to anticipate all the interactions between the drugs' various components and various parts of the body. The protein-folding problem is important to crack but it will not magically improve drugs' chances in human clinical trials. It is a step in that direction. Finally, the free use of AlphaFold 3 is limited while its inner mechanisms are unavailable for public exploration or scrutiny, so far. While the motivation to innovate of DeepMind is laudable, the cutting-edge value AlphaFold 3 presents to health care means the company should explore alternative revenue models in which the system is not trapped behind paywalls or exorbitant prices – a fate that has already befallen scientific papers and medicines born of publicly funded research. Recall that the AlphaFolds' training data itself includes protein structures first elucidated by such research.

Alphafold 3

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- machines can predict protein structures with relatively high accuracy but they cannot say why they are folded that way; this is still the task of human scientists. How the AlphaFolds will catalyse drug discovery is also unclear.

India backs Palestine's bid for full UN membership

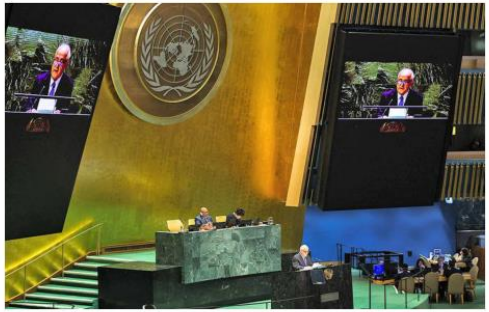
The UNGA adopted a resolution with 143 votes in favour and nine against while 25 countries abstained; it does not give Palestinians full membership, but recognises them as qualified to join

Press Trust of India
UNITED NATIONS

India on Friday voted in favour of a draft UN General Assembly resolution that said Palestine is qualified and should be admitted as full member of the United Nations and recommended that the Security Council "reconsider" the matter "favourably".

The 193-member General Assembly met in the morning for an emergency special session where the Arab Group resolution 'Admission of new Members to the United Nations', in support of the State of Palestine's full membership in the UN, was presented by the UAE, as Chair of the Arab Group in May.

The resolution got 143 votes in favour, including by India, nine against and 25 abstentions. The UNGA hall broke into an applause after the vote was cast.



Key milestone: Palestinian Ambassador to the UN Riyad Mansour speaks at the UN General Assembly, in New York on Friday. AFP

The resolution determined that "the State of Palestine is qualified for membership in the United Nations" in accordance with Article 4 of the Charter of the UN and "should therefore be admitted to membership in the United Nations". It recommended that the Security Council "reconsider the matter favourably, in the light of this determination".

India was the first non-Arab State to recognise the Palestine Liberation Organisation as the sole and legitimate representative of the Palestinian people in 1974. India was also one of the first countries to recognise the State of Palestine in 1988 and in 1996, Delhi opened its Representative Office to the Palestine Authority in Gaza, which was later shifted to Ramallah in 2003.

Rights and privileges

An annex to the resolution said the additional rights and privileges of participation of the State of Palestine will be effective as of the 79th session of the General Assembly that begins in September this year.

These include the right to be seated among member states in alphabetical order; the right to make statements on behalf of a group, including among representatives of major groups; the right of members of the delegation of the State of Palestine to be elected as officers in the plenary and the Main Committees of the General Assembly and the right to full and effective participation in UN conferences and international conferences and meetings convened under the auspices of the General Assembly.

Palestine, in its capacity as an observer state, does not have the right to vote in the General Assembly or to put forward its candidature to UN organs.

Palestine as UN Membership

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Benefits of UN MEMBERS

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How does a country become a Member of the United Nations?

- **Membership in the Organization, in accordance with the Charter of the United Nations, “is open to all peace-loving States that accept the obligations contained in the United Nations Charter and, in the judgment of the Organization, are able to carry out these obligations”.**
- **States are admitted to membership in the United Nations by a decision of the General Assembly upon the recommendation of the Security Council.**

The procedure is briefly as follows:

- The State submits an application to the Secretary-General and a letter formally stating that it accepts the obligations under the Charter.
- The Security Council considers the application. Any recommendation for admission must receive the affirmative votes of 9 of the 15 members of the Council, provided that none of its five permanent members — China, France, the Russian Federation, the United Kingdom of Great Britain and Northern Ireland and the United States of America — have voted against the application.
- If the Council recommends admission, the recommendation is presented to the General Assembly for consideration. A two-thirds majority vote is necessary in the Assembly for admission of a new State.
- Membership becomes effective the date the resolution for admission is adopted.

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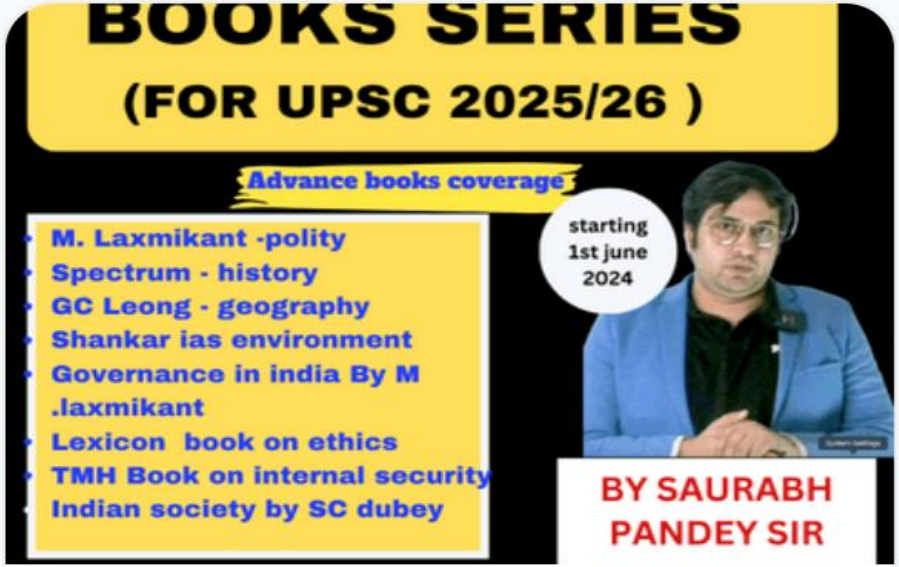

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