

Reassessing Legal Horizons: An Exploration Of Indian Migrant Worker's Journey Through Espionage Allegation, Conviction, And Release In Qatar

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Abstract

This paper critically examines the release of eight former Indian naval veterans in Qatar, focusing on the complex interplay of international law, diplomacy, and espionage dynamics. It delves into the complexities of Qatar's legal system, specifically the use of the death penalty and its departure from international human rights standards. The employment status of the former Naval officers at Dahra Global Technologies, a company linked to espionage allegations, is being investigated, raising concerns about fairness, transparency, and the treatment of migrants in Qatar. The debate over espionage regulation is examined through a historical and philosophical lens, emphasizing the complex relationship between state sovereignty, security concerns, and the need for clear legal structures. The involvement of Dahra Global Technologies in a submarine project serves as a lens through which the paper advocates for a comprehensive rethinking of the legal framework governing espionage during peacetime. This incident calls for a comprehensive reassessment of legal and ethical frameworks in complex geopolitical situations, with a focus on transparency, accountability, and the protection of fundamental human rights.

Keywords: *Espionage, International Law, Qatar Legal System, Diplomacy, Human Rights*

Introduction

As an ardent enthusiast of football, I fervently awaited the occurrence of the FIFA World Cup 2022 in Qatar, during which I encountered a moral dilemma. The tournament was characterised by a prevailing atmosphere of anticipation and enthusiasm, which was somewhat overshadowed by distressing news articles that drew attention to the challenges faced by migrant workers. The construction of the World Cup facilities in Qatar was contingent upon the presence of a workforce that unfortunately experienced egregious infringements upon their human rights.

The designation of Qatar as the host nation for the World Cup has garnered global attention. It has also prompted a considerable examination of its shortcomings in safeguarding the basic human rights of its migrant workforce, constituting a substantial 95% of its labour pool. Despite the alleged labour law reforms, the persistently disheartening state of affairs remains unaltered, as substantiated by the report titled 'How Can We Work Without Wages?' published by Human Rights Watch.

The recent announcement about the release of eight former Indian naval veterans stands as a testament to India's diplomatic prowess and the influence of its soft power on the global stage. However, this release did not unfold effortlessly; rather, it involved a complex interplay of international law and diplomatic manoeuvres. To view this incident in isolation would be an oversight, as it is crucial to delve into the underlying factors that preceded this release. Some IR scholars believe Qatar's motivation extends beyond its immediate diplomatic efforts. Currently, Qatar-India ties are primarily focused on natural gas sales, but in recent years, Qatari funds have made significant investments in high-profile Indian projects. Recognising that India's diplomatic focus in the Gulf region tends to be on the UAE and Saudi Arabia, Qatar may see the release of the veterans as a goodwill gesture to strengthen its relations with India. This move could potentially serve two purposes: shifting India's diplomatic attention and

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mitigating any potential backlash stemming from concerns about opacity and violations of due process in the early stages of the incident.

According to certain news outlets and scholars of international relations, this decision may have been influenced by a meeting between the Indian Prime Minister and Qatar's Amir Sheikh Tamim bin Hamad Al-Thani at the COP28 summit in Dubai. During this meeting, conversations were held regarding the welfare of the Indian community, which may have played a role in the subsequent improvement in the legal standing of the accused individuals. In addition, the Ministry of External Affairs has outlined India's approach to the case and said that the government is focusing on bringing our people back. *"We have said this is an important issue that we are following, and looking at how we can get our people back to India at the earliest. That is what is driving us..."*

The central focus of the paper is to address a noteworthy yet often overlooked subject within the realm of international law—an issue that has eluded thorough examination by state actors. This specific matter pertains to the complexities surrounding espionage.

Initially, when news of the capital punishment for the eight former Indian Navy personnel charged with espionage emerged. The limited public access to the trial generated a feeling of intrigue and unease, which caused considerable anxiety among international law students, including myself. The absence of transparency has generated apprehensions regarding the adherence of the legal proceedings to international law, thereby introducing an additional level of intricacy to the overall situation. Nevertheless, the subsequent diplomatic endeavours and the government's dedication to bringing back its citizens emphasise a favourable change in the story, which potentially reduced some of the previous uncertainties related to the case.

It is essential to provide a thorough overview of the legal system in Qatar, focusing on the execution of capital punishment, before delving into the complex dynamics of this disturbing case. Notable cases from 2018, 2020, and 2023 show that Qatar courts, which have had a moratorium on the death penalty, have nonetheless continued to hand down death sentences.

The Emir, Sheikh Hamad bin Khalifa Al-Thani, holds executive power in the constitutional monarchy of Qatar. Law No. 11 of 2004 and subsequent amendments to the penal code of Qatar list several crimes that carry the death penalty. Crimes of this nature include but are not limited to, murder, terrorism-related offences, fatal abductions, sexual assault, and various others. One contentious aspect of Qatar's legal system is applying the death penalty for certain offences like theft, alcohol consumption, and apostasy.

Moreover, it is worth noting that Qatar's legal system does not fully adhere to the criteria outlined in Article 6(2) of the International Covenant on Civil and Political Rights, as it fails to limit the application of capital punishment exclusively to offences deemed as the most grave and severe. The expansive interpretation of the death penalty allows for its imposition in cases that may not necessarily involve deliberate acts of killing, such as loosely defined offences against the State and crimes categorised as matters of 'honour.' Unfortunately, there is a noticeable absence of governmental endeavours to promote public discourse in line with international human rights standards regarding the death penalty.

In the context of the ongoing Qatar espionage case involving eight former Indian Navy personnel, a significant aspect regarding their employment status within Dahra Global Technologies and Consultancy Services is important. The aforementioned private company, which played an essential role in delivering specialised training and services to Qatar's Armed Forces, has emerged as the central focus of a complex network of espionage accusations.

The complex interconnections within this narrative were compounded by the disclosure that the company was owned by Khamis Azmi, a former squadron leader in the Royal Oman Air Force, who was arrested and subsequently released in November 2022. On the other hand, the reports alluded to the potential participation of

the apprehended Indians in a notable endeavour focused on an Italian technological advancement in the form of a submarine with stealth capabilities.

However, in this intense and significant narrative, necessary inquiries emerged regarding the legality of the Indian personnel's presence on Qatari soil, the authenticity and disclosure of their identities, and the legitimacy of their work permits. Nevertheless, a strong denial resonated in response to each inquiry, confirming that their employment was directly linked to the activities of the private Qatari company, which was closely connected to the national defence initiative. This fact serves to refute any allegations of wrongdoing on their behalf.

As a result, the attention was redirected towards an investigation into whether any alleged infractions, if they occurred, were carried out by the retired Indian naval officers within the parameters of their professional duties at the company. The aforementioned significant differentiation brought forth the concern of vicarious liability, which prompted a thorough analysis of the consequences surrounding the release of retired squadron leader Khamis Azmi. The advancements mentioned above have given rise to inquiries regarding the fundamental concepts of fairness, transparency, and equitable treatment of Indian citizens who are employed in Qatar's private sector. This incident also prompts inquiries into the safety and security of other migrant workers, shedding light on potential human rights concerns. The chain of events in this case starkly highlights a deviation from the principles meant to safeguard these rights, revealing a process shrouded in opacity.

In pursuing justice and protecting fundamental rights, it is crucial to analyse the complexities of this intricate case carefully, ensuring that legal procedures are guided by fairness and neutrality, regardless of an individual's nationality or professional role. As the global community closely monitors this intricate legal narrative, the principles of impartiality and openness must be upheld, forming the foundation for a just resolution that supports the dignity and rights of all individuals involved in this complex network of international affairs. There is currently a deficiency in the manner in which Qatar is conducting its affairs and the case of initially executing Indian Naval officers lawfully working in Qatar is a case in point.

Moreover, there have been assertions that espionage was carried out on behalf of the state of Israel. Notwithstanding this, the Gulf nation has refrained from issuing any official statements regarding the subject. This development occurred during a crucial period when Qatar was actively involved in mediating negotiations between the Jewish state and Hamas to secure the release of its civilians in the aftermath of the events that took place on October 7th and the subsequent violation and aiding violation of International humanitarian law by states directly or indirectly involved.

In response, the Israeli government has refrained from issuing a public statement. The absence of a response and the practice of maintaining silence hinders the resolution of incidents arising from espionage activities, if any, advocating for the utilisation of different branches of international law to address these issues rather than pursuing the establishment of a Customary International Law dedicated explicitly to espionage. The intentional methodology employed in this context impedes the formation of *opinio juris*.

At least two noteworthy observations demonstrate the conspicuous lack of state response regarding espionage. States have had numerous occasions to express *opinio juris* on peacetime espionage, such as before international bodies like the United Nations General Assembly and the Security Council, in cases brought before the International Court of Justice (ICJ), or during discussions within the International Law Commission (ILC). It is reasonable to anticipate that states would express their perspectives on the subject, even if they do not fully adhere to the customary norms governing espionage. Nevertheless, most states have abstained from participating in this discourse, thus impeding the development of customary exceptions for espionage.

Furthermore, various states have implemented a prudent strategy in regulating espionage during times of peace by employing a combination of legal euphemisms. These euphemisms encompass phrases such as 'acts that are incompatible with the diplomatic function,' 'non-innocent passage,' 'that are inconsistent with the objectives of the

Convention,' and 'activities conducted for peaceful purposes,' among other terms. The deliberate use of language in this context indicates a strategic intention by states to circumvent a straightforward resolution through espionage. The practical implication of this selection is that states can engage in discussions and express disapproval of espionage activities without explicitly disclosing their *opinio juris* or legal opinions on espionage conducted through different methods.

The discourse on the controversy surrounding espionage allegations within the Qatar incident seems deeply rooted in a polarised debate between individuals who support a comprehensive prohibition and those who advocate for a more intricate regulatory structure. The individuals advocating for a complete ban on espionage overlook any aspects of the activity that might be considered in line with customary international law. The observed selective approach sustains a self-constructed system of beliefs that imposes restrictive regulations, potentially to establish moral superiority.

Nevertheless, this viewpoint neglects the crucial responsibility of establishing concrete boundaries and regulations for espionage activities during times of peace. As a result, it inadvertently fosters a lenient atmosphere that enables the emergence of covert intelligence agencies. These agencies operate with limited legal restrictions and function as enigmatic sources of power within society, accessible exclusively to a select group of privileged individuals. These above-mentioned issues are comprehensively discussed in detail by Inaki and Russell Buchan in their article 'Out of the Legal Wilderness: Peacetime Espionage, International Law and the Existence of Customary Exceptions'.

Within this framework, a core principle of international law revolves around the inherent rights and responsibilities attributed to states as legal entities. The recognition of the right to gather intelligence is intricately intertwined with the rights to existence and self-defence. This principle reflects the longstanding wisdom expressed by strategic theorists such as Sun Tzu, Chanakya, and Nizam AI-Mulk, highlighting the crucial significance of espionage in safeguarding the survival of a sovereign entity.

Furthermore, when examining the historical period of the European Enlightenment, it becomes evident that the reverence for intellect as the fundamental basis of authority is undeniable. Prominent intellectuals and thinkers such as Sir Francis Bacon have praised the significance of explorers, discoverers, and spies as essential contributors to knowledge acquisition, playing a vital role in safeguarding the autonomy and protection of nations.

Given the historical and philosophical context, the ongoing discourse surrounding the regulation of espionage calls for a sophisticated approach that recognises the intricate dynamics between state sovereignty, security concerns, and the importance of establishing clear and reasonable legal structures.

The implementation of limitations on using force and coercive interventions, purportedly aimed at curbing aggressive behaviours, has restricted the entitlement to engage in espionage. The UN Charter emphasises the significance of intelligence gathering as a manifestation of a state's right to existence by the interpretation of Articles 2(4) and 2(7) of the Charter, in conjunction with the inherent right to individual self-defence enshrined in Article 51. Consequently, the practical application of the right to self-defence becomes imperative, encompassing the recognised customary international law principle of anticipatory or preemptive self-defence. The acknowledgement that sufficient defensive preparations rely on thorough information regarding potential threats highlights the clear connection between intelligence gathering and the Charter, as it serves both immediate national security concerns and broader goals of international stability and peace.

It is crucial to acknowledge that upholding a permissive approach towards lawful espionage is in the best interest of the global community as a whole. President George Washington's inaugural State of the Union Address underscores the enduring significance of preparedness for conflict as a cornerstone for maintaining peace, a concept that resonates with contemporary scholars. Washington's assertion that a well-equipped nation serves as a deterrent aligns with the strategic importance he placed on intelligence networks, notably employing spies during the American Revolution. This dual perspective highlights the nuanced approach Washington took in safeguarding

tranquillity, emphasising the interplay between military strength and covert tactics as essential elements in securing the young nation's interests. Such insights, rooted in historical wisdom, continue to offer valuable lessons for understanding the intricate dynamics of national security and diplomacy in the contemporary world. When policymakers have access to precise intelligence concerning the intentions and capabilities of potential adversaries, they are more effectively prepared to adjust their responses cautiously, thereby reducing the probability of relying on force as the primary approach in response to unexpected attacks or strategic surprises.

The participation of Dahra Global Technologies and Consultancy Services in the submarine project has prompted significant inquiries regarding the perceived risks to other states. This incident highlights the pressing necessity for the international community to employ this event as a catalyst for enhancing the current legal framework concerning espionage. My objective in this discourse is not to insinuate that the occurrence mentioned earlier constitutes an act of espionage but rather to underscore the importance of addressing the enigmatic and mysterious assertions put forth by the Gulf nation by claiming the act as espionage.

The repercussions of these allegations have unfairly impacted individuals from India, who, from my standpoint, were merely fulfilling their official and contractual duties in the course of employment, likely unaware of any potential malicious intentions. While they were eventually released, the ordeal they endured as migrants cast a shadow on their human rights, particularly the rights to life, liberty and fair trial. This episode underscores the need for greater vigilance within Qatar's legal system, advocating for a more rigorous due process to prevent the recurrence of such incidents. The unjust infringement upon their human rights during this incident, although followed by their subsequent release, necessitates a critical reevaluation of procedures to prevent individuals from enduring such unwarranted challenges in the future. The examination should focus on refining existing protocols to ensure the protection of individuals' rights, fostering a more just and equitable process that upholds fundamental human rights.

This incident can be seen as a compelling reason for the global community to reassess the legal and ethical aspects of espionage-related actions to establish thorough measures to safeguard the rights and welfare of all parties concerned. The intricate sequence of events surrounding the allegations of espionage, the ensuing conviction, the subsequent reduction to a jail term, and ultimately the release of the Indian migrants in Qatar demands a comprehensive reevaluation of both legal and ethical frameworks. The imperative for transparency, accountability, and comprehensive safeguarding of human rights has become increasingly crucial in contemporary times. In the future, the global community must participate in constructive dialogue to establish a more inclusive and fair legal framework that guarantees the equitable treatment of all individuals involved in complex geopolitical situations. These endeavours are of utmost importance in cultivating an environment that promotes the values of fairness, human rights, and collaboration on a global scale

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