

# India's Supreme Court approves nuclear plant, saying "destiny" to decide if it is safe

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1 June 2013

In a 247-page ruling marked by callous indifference to the safety and well-being of ordinary Indians and outright obscurantism, India's Supreme Court has given its approval for operationalizing the first of the two 1000 MW reactors at the Kundankulam nuclear plant located along the sea coast of the southern state of Tamil Nadu.

For the past two years, there have been widespread agitations by residents living near the vicinity of the plant. The residents are worried about the danger the nuclear plant poses to the lives and livelihood of people living along India's south-eastern coast.

First and foremost among these dangers is the vulnerability of the plant to a tsunami. The geographical exposure of India's South-Eastern coast makes the plant particularly vulnerable to the effects of undersea seismic activity in the Indian Ocean. This was amply demonstrated in December 2004 when a gigantic undersea mega-earthquake off the coast of Sumatra set off powerful ocean waves that repeatedly battered and inundated the coastal region where the nuclear plant is located.

The residents living in the surrounding villages are also angry about the threat the plant poses to their livelihood, which is principally derived from fishing and agriculture. Hot-water discharge from the plant and the various coastal exclusion zones established around it are expected to sharply reduce fishermen's catch. While a modern health facility has been constructed on the site of the nuclear plant to provide care to its workforce, the government has made no provision to provide health care to the surrounding local population, whether to monitor their exposure to radiation or provide emergency care in the event of an accident at the plant.

Peaceful protests against the plant have been met with brutal force, mass arrests and the laying of sedition charges. The villagers justifiably distrust the Indian government's pro-forma assurances that the plant is safe and there will be no significant disruption to their livelihoods. Indian authorities are notorious for their indifference to the lives of workers and toilers. Moreover, anything to do with the country's nuclear program is cloaked in a veil of secrecy.

Construction of the plant began in 1988. As is this case with virtually all major Indian "development" projects, the Indian and the Tamil Nadu state government unilaterally imposed the plant upon the local populace.

The Supreme Court's May 6 ruling was issued in response to a petition filed by protest organizations and their supporters calling for an injunction against plans to operationalize the plant's two 1000 MW Russian-made nuclear reactors despite revelations that substandard parts and components were used in its construction.

In spite of the length of the judgment, the judges do not address in any substantive way the multiple concerns about the plant—its location, construction, and impact on the lives and livelihoods of the local population. Their ruling rests upon an unquestioning faith in the assurances and technical competence of the so-called "public representatives," that is the Indian government and its nuclear agency.

Despite noting a long list of nuclear and industrial disasters such as Three-Mile Island in the US, Chernobyl in Ukraine, the recent Fukushima meltdown in Japan, and, last but not least, the Union Carbide plant disaster in Bhopal, the ruling essentially dismisses the widespread safety concerns with the Kundankulam plant as an "understandable emotional reaction."

It further asserts that the "national interest" must prevail over the "smaller" or local impact of any potential problems—including a catastrophic accident—arising from the plant's commissioning.

"The Parliament in unequivocal terms," declares the ruling, "has pronounced its national policy through the [1962 Atomic] Act, that is to develop, control and use atomic energy for the welfare of the people of India."

In fact, far from being for the "welfare of the people of India," India's use of nuclear energy for electricity generation has mainly been driven by the ruling elite's ambition to develop a large arsenal of nuclear weapons, which they consider indispensable for their pursuit of great power status.

Based on the false assertion that the development of

India's nuclear energy is in the public or "national" interest, the judges dismiss opposition to the Kundankulam plant as rooted in merely local concerns which should therefore be ignored: "It has to be respectfully accepted as a proposition of law that individual interest or, for that matter, smaller public interest must yield to the larger public interest."

That India's highest court is ready to countenance deaths from India's pursuit of its nuclear ambitions is subsequently spelled out. "While setting up a project of this nature," declares the Kundankulam judgment, "we have to have an overall view of the larger public interest rather than a smaller violation of the right to life guaranteed under Article 21 of the constitution."

In other words, if peoples' livelihoods are destroyed by the environmental damage caused by the plant or people are injured or die in nuclear accidents that is acceptable in "view of [the] larger public interest."

The Supreme Court judges have buttressed this callous and reactionary argument with one that invokes medieval obscurantism to try to cover up Indian authorities' inability to scientifically answer all the safety concerns about the Kundankulam plant. Claiming that the future is largely in the hands of an unknowable "destiny," India's highest court declares that "legitimate" fears about the plant's safety should not be allowed to prevent the plant from being operationalized, so long it has met the "justification test" of being in the national interest.

"Apprehension, however legitimate it may be, cannot override the justification of the project. *Nobody on this earth can predict what would happen in future and to a larger extent we have to leave it to destiny.* But once the justification test is satisfied, the apprehension test is bound to fail." [Emphasis added]

Given this cavalier and fatalistic approach, it is hardly surprising that in its judgment the highest court chose not to make any mention of the February 2012 arrest of the director of the ZiO-Podolsk machine building plant by the Russian Security Services (FSB). ZiO-Podolsk which makes components and parts for nuclear plants is a subsidiary of Rosatom, the Russian state-owned nuclear energy corporation that has supplied the Kundankulam plant's two nuclear reactors.

The FSB charged ex-director Shutov with supplying dangerously substandard nuclear parts and passing them off as high-quality while pocketing money in the process. This explosive development raises serious questions about the parts used not only in the Kundankulam reactors, but also in nuclear facilities in Russia, Bulgaria, Iran and China.

Investigative journalists from a European NGO have raised the possibility of a potential nuclear disaster because of the substandard parts and are calling for stopping all of

the reactors impacted so as to conduct a thorough safety examination. So shrouded in secrecy is the world's nuclear energy industry, Shutov's arrest was first revealed by a Norwegian NGO, not a government or nuclear regulatory body.

Because of the revelations concerning ZiO-Podolsk, the former chairman of India's Atomic Energy Regulatory Board (AERB), Dr. A. Gopalakrishnan, has demanded the constitution of an independent group of nuclear experts to investigate the safety of the Kundankulam plant. This is the first time that a former high official connected to the government's own nuclear watchdog has called into question the bald assurances of the nuclear establishment that the plant and its location pose no risk.

Gopalakrishnan has been joined by a group of 60 leading scientists who have written to the Prime Minister and the Chief Ministers of Tamil Nadu and Kerala, a neighboring state, calling for a renewed examination of components used in the power plants. They insist that this be done before any operationalization of the plant, since radioactivity will prevent the inspection of critical components once the reactor becomes active.

The Kundankulam reactor was originally to be operationalized in early 2010, but it has been repeatedly delayed by serious technical problems. Many of the protest organizers and even leading scientists have charged that the plant from design to construction has faced serious deficiencies including questionable environmental clearances, substandard materials and a disregard for the safety of the millions of people who would be impacted by any nuclear accident.

The Supreme Court's ruling in the Kundankulam case is a travesty with potentially catastrophic consequences. In its insistence that the "national interest" of the ruling elite must prevail over the life and livelihood or ordinary Indians and its invocation of medieval fatalism to dismiss an objective examination of safety concerns, the Kundankulam judgment exemplifies the state of "jurisprudence" in the "world's largest democracy."



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