



## Personal choices, the Constitution's endurance

### Allahabad HC Observation

1. In short and well-reasoned order, the Allahabad High Court declared last month that religious conversions, even when made solely for the purposes of marriage, constituted a valid exercise of a person's liberties.
2. The High Court ruled that the freedom to live with a person of one's choice is intrinsic to the fundamental right to life and personal liberty.
3. In holding thus, the order recognised that our society rested on the foundations of individual dignity, that a person's freedom is not conditional on the caste, creed or religion that her partner might claim to profess, and that every person had an equal dominion over their own senses of conscience.

### Right to privacy: Person's choice of partner or faith

The High Court's order makes it clear that it is neither the province of the state nor any other individual to interfere with a person's choice of partner or faith. By invoking the Supreme Court's judgment in Puttaswamy, the High Court held that an individual's ability to control vital aspects of her life inheres in her right to privacy, that this promise includes the preservation of decisional autonomy, on matters, among other things, of "personal intimacies, the sanctity of family life, marriage, procreation, the home, and sexual orientation".

### Freedom of conscience and Ethical Autonomy

Article 25 of the Constitution expressly protects the choices that individuals make. In addition to the right freely to profess, practise and propagate religion, it guarantees to every person the freedom of conscience. By its dictionary definition, "conscience" refers to each person's own sense of moral right and wrong. It is an emotion that cannot be judged from the outside. It is certainly not something that the state can examine as a function of its sovereign authority.

This freedom of conscience is promised because questions of conscience — which include choices of faith — are matters of ethical autonomy. The provision's ultimate *raison d'être* is to allow individuals the freedom to lead their lives as they please.



## Rev. Stanislaus v. State of Madhya Pradesh

1. The Court upheld, on grounds of public order, two of the earliest anti-conversion statutes in India: the Madhya Pradesh Dharma Swatantrya Adhiniyam, 1968, and the Orissa Freedom of Religion Act, 1967.
2. These laws required that a District Magistrate be informed each time conversion was made and prohibited any conversion that was obtained through fraud or illegal inducement.
3. We cannot doubt the proposition that no person should be compelled to choose a certain religion, but to open up to scrutiny every act of conversion by placing on individuals the burden to prove that their decision was conscientious entrenches a form of hard paternalism, where purely private choices are made subject to the State's ultimate sanction.
4. Today, it is hard to see how Rev. Stanislaus constitutes good law. In his treatise on constitutional law, the jurist, H.M. Seervai, wrote that the "judgment is clearly wrong, is productive of the greatest public mischief and ought to be overruled".

## In the farmers' protests, the core is procurement

**Context:** Farmers' protests have erupted once again in north India. The farmers' unions want nothing short of a complete withdrawal of the recently enacted Farm Acts, which they claim will ruin small and marginal farmers. Their main worry is about a possible withdrawal of the Minimum Support Price (MSP) and a dismantling of the public procurement of grains. They also contend that by leaving farmers to the mercy of the open market, the stage has been set for large private players to take over agriculture.

### The epicentre of the unrest

It needs to be noted that the protests are largely in the States of Punjab and Haryana.

### MSP based procurement is the lifeline here in Punjab and Haryana

1. The Public Distribution System (PDS) is the lifeline in these States. Farmers in Punjab and Haryana are heavily dependent on public procurement and assured price through MSP.



2. This is far greater than farmers in any other State. Nearly 88% of the paddy production and 70% of the wheat production in Punjab and Haryana (in 2017-18 and 2018-19) has been absorbed through public procurement, Food Grains Bulletin and Agricultural Statistics at a Glance, Government of India.
3. In contrast, in the other major paddy States such as Andhra Pradesh, Telangana, Odisha and Uttar Pradesh, only 44% of the rice production is procured by public agencies.
4. In the case of wheat, this percentage is even lower. In the major wheat States of Madhya Pradesh and Uttar Pradesh, only a quarter (23%) of the production is procured by public agencies.
5. This clearly shows the heavy dependence of farmers in Punjab and Haryana on MSP and the public procurement system.
6. In a sense, this system has been the lifeline of these States. It is conceivable then that any disruption to the system, real or perceived, will cause a major upheaval. The farmers are now up in arms against the government as they perceive their very existence to be at stake.

### **Government's obligations: Food security angle and PDS**

1. The government needs to continue procurement too. If farmers of Punjab and Haryana need the procurement system, the government needs it even more. This is because of its obligations under the PDS and the National Food Security Act (NFSA). Support under the NFSA is a legal and rights-based entitlement.
2. There are nearly 80 crore NFSA beneficiaries and an additional eight crore migrants who need to be supported under the PDS. The government needs an uninterrupted supply of grain, particularly from these two States, to maintain the PDS.
3. In the last three years, nearly 40% of the total paddy production in the country (45 million tons) and 32% of wheat production (34 million tons) has been procured by public agencies to supply the PDS.

### **Why Punjab-Haryana States matter**

1. If the government intends to procure such huge quantities of grains, then it needs to turn to these two States, because it is these States that have always been in the forefront in supplying grains to procurement agencies.



2. Nearly 35% of the rice and 62% of the wheat procured in the last three years has been from these States. Also, nearly 50% of the total coarse grains came from these two States.
3. Thus, the government has little option but to continue its procurement from these States in the foreseeable future. Even after the COVID-19 situation improves and the migrant crisis abates, the obligations under the NFSA will continue.

It is clear that dismantling the procurement system is neither in the interests of farmers nor the government. Therefore, it is imperative that the government reaches out to the farmer groups and assures them of the indispensability of MSP-procurement system. The government needs to start this initiative immediately to allay their legitimate concerns.

### **Improvements needed**

1. Apart from addressing the core issue of the MSP-procurement system, many more improvements are needed in the Acts.
2. The absence of a regulatory mechanism (to ensure fair play by private players vis-à-vis farmers) and the lack of transparency in trade area transactions are two of the major limitations that need to be addressed immediately.
3. India needs more regulated markets or APMC mandis. In 1976, there were 4,145 large markets in India, with the average area served at 775 km<sup>2</sup>. The National Commission on Agriculture (NCA) had recommended that the number of mandis was to increase to at least 41,000. But there were only 6,630 mandis in 2019 with an average area served of 463 km<sup>2</sup>.
4. Second, we need not just more mandis, but also better mandis. APMCs need internal reform to ease the entry of new players, reduce trader collusion and link them up with national e-trading platforms. The introduction of unified national licences for traders and a single point levy of market fees are also steps in the right direction.

### **Conclusion:**

The severe trust deficit that resulted from the way the Farm Bills have been rushed through needs to be addressed by adopting a conciliatory approach towards farmers and the States.



## The Iran challenge

**CruX:** Donald Trump pulled the U.S. out of the Joint Comprehensive Plan of Action (JCPOA), as the nuclear deal is called, and reimposed sanctions on Iran. Biden must go back to nuclear deal without expecting further concessions from Tehran.

### Highlights:

1. After the election, Mr Biden has reaffirmed his commitment to the nuclear deal. But he has said he will seek to extend the restrictions on Iran (15 years, according to the JCPOA) and discusses the Islamic Republic's "malign" activities in West Asia. This suggests that Mr Biden would want amendments to the original accord.
2. It is in everybody's interest that the nuclear deal is revived which would not only deny Iran a path to the bomb but also restore some order in the region.
3. Mr Biden will have to press Tehran to return to the terms of the agreement and further talks on the country's regional activities in return for economic and security assurances.
4. Iran, on its part, should observe strategic patience and give diplomacy another chance.

## Does India's neighbourhood policy need reworking?

**Context:** Recent visits by Foreign Secretary Harsh Vardhan Shringla and National Security Adviser Ajit Doval to countries in the region appear to show new energy in India's neighbourhood policy. Over the past few years, there have been many strains in ties with neighbours — for instance, with Nepal over its Constitution in 2015 and now over the map, and with Bangladesh over the Citizenship (Amendment) Act (CAA).

### The need for reworking in India's Foreign Policy

1. It is extremely important that our engagement with our neighbouring countries should not be episodic. And we should have a plan for a continuous engagement at various levels.



2. Also, the present political dispensation's domestic drivers have relegated foreign policy objectives to the background, whether it is with respect to Bangladesh and the CAA or, much more dramatically, with Pakistan.
3. India should fashion its diplomacy in a manner which does not give rise to feelings [amongst smaller neighbours] of being slighted or marginalised.
4. India can not go on using the security threat from China as an excuse to limit the capacity [of neighbours] to deepen relations with China or to accept Chinese investment for their own infrastructure modernisation. Naturally, all these countries in India's neighbourhood will try to balance.

### **Diplomacy in Complex neighbourhood**

1. It is almost impossible for India to get all its ducks in a row in the neighbourhood at one time as it's a very complex region.
2. It is one of the least integrated regions with tremendous deficits in terms of infrastructure, connectivity, and interdependence.
3. And it is a region that is now being exposed to various geopolitical competition dynamics, with China making a grand entry and the U.S. developing relations on its own with some of India's neighbours.
4. The capacity of China to deliver on its commitments exposed India's deficit, and I would say that China has done India a great favour because it's really pushed India to do much more, to focus on its neighbourhood, which for a long time it took for granted.

### **Way forward:**

1. The only way to really solve all this is to focus on creating interdependence in this region that will give India strategic leverage.
2. Connectivity is certainly a very important area. Building connections with all our neighbours, whether it is through highways, railways, the revival of riverine transportation or sub-regional energy grids, are things that we can do, because what they do is they bring into play what is one of the greatest assets which we have with respect to all our neighbours, and that is proximity.
3. The procedures for allowing in cargo or people are still archaic compared to, for example, what we find in Southeast Asia or Europe. We should make compliances easier.

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4. We can consider giving 'national treatment' to our neighbours with respect to the use of our transportation network or ports, and exports and imports. We should aim to be the best possible alternative in terms of the economic development of our neighbours. If we can do that, the picture will dramatically change.
5. India has been much more open to coordinating and aligning policies in South Asia. That has an advantage because it increases synergies with the Japanese in Sri Lanka for infrastructure financing and with the U.S. and India on political issues, for example.
6. The bottom line is working closely together with like-minded partners that are fellow democracies, that think alike about developmental priorities and also about economic connectivity with the rest of the world.
7. BBIN and BIMSTEC should be pursued for their own merits, but they can replace SAARC.

### Conclusion:

The overall objective and the idea of a fully integrated South Asia is something we should always keep in front of us. Our other neighbours, with perhaps the exception of Bhutan, are interested in SAARC. We should not be in a hurry to abandon SAARC.