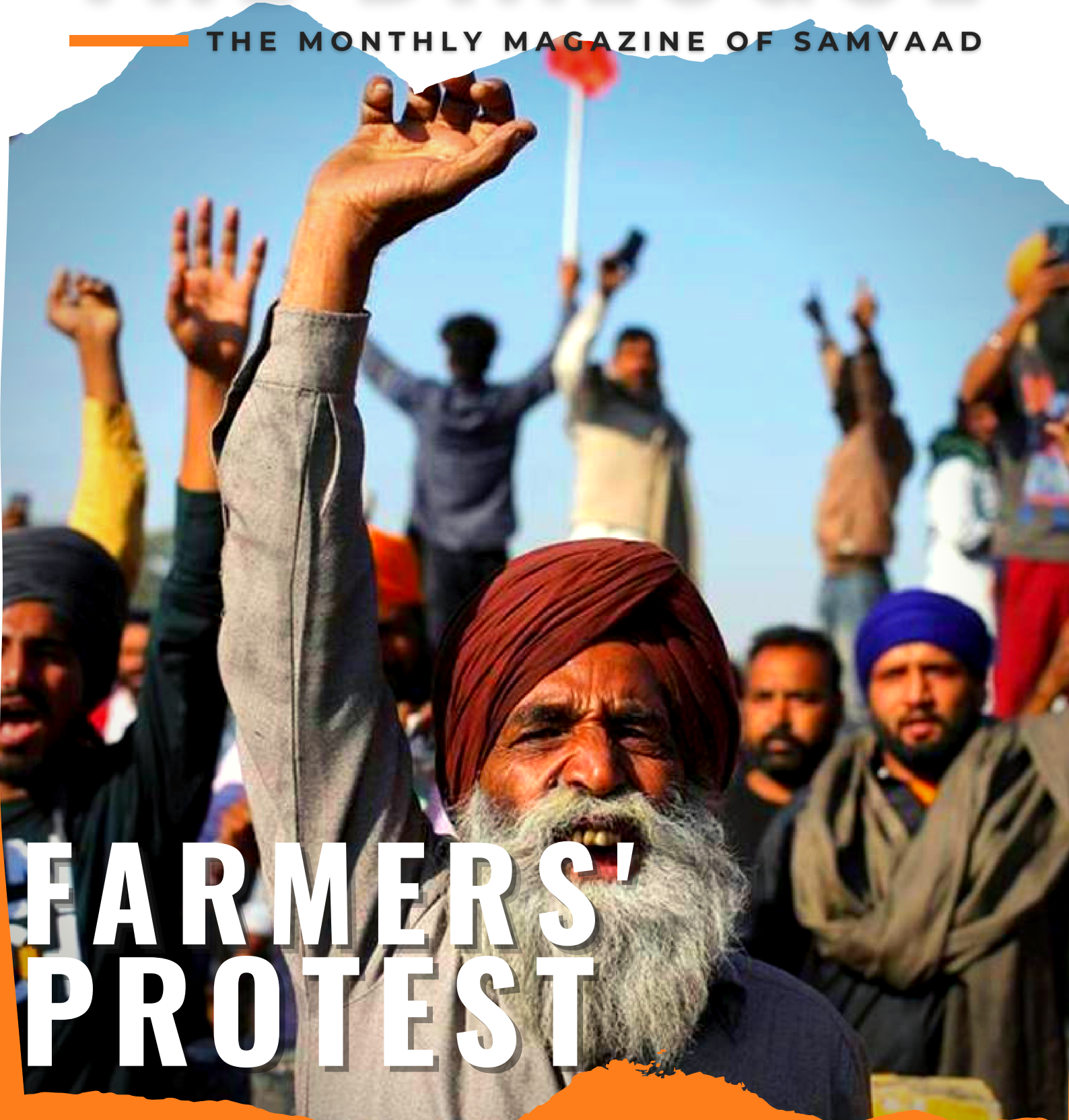


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THE DIALOGUE

— THE MONTHLY MAGAZINE OF SAMVAAD



FARMERS' PROTEST

PRESIDENT JOE BIDEN | "LOVE JIHAD" LAW | INDIA AT UNSC

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PREFACE

Samvaad, The Political Science Department of PGDAV College, has a distinct place among all departments and societies of the college. It's more than a group of people studying the same subject. The department represents the society and studies it as well. Dialogue or Samvaad is the core of any socio-political institution. Even the smallest unit of it, a household, can't function without Samvaad. The world has established great international organisations and institutions to conduct Dialogues, and to what end? Well, a simple practice of constant dialogues has prevented another world war and has de-escalated many regional conflicts. While it's established that dialogue has brought Peace and Trust around the world, but a not so celebrated end of Dialogue is that it's a means of Participation. Whereas participation is intrinsic to Democracy, even in anarchic order, widespread participation ensures win-win for all. We have all experienced how a simple 'Certificate of Participation' at Annual Functions during School time puffed our chests with pride. And here we are, grown up, experienced, matured in our emotions and thoughts. What can Dialogue mean to us now? Not just participation, not just freedom of speech and expression. Dialogue to the us is the very essence of our 'youth-hood' and of our 'studenthood'. One must understand the intensity of ripples that a drop of youthful actions can create and it all starts with Dialogue. Within all of us, Reformers and Revolutionaries, just like the ones we read about in textbooks, are sleeping. Only Dialogue can wake them up. Only Dialogue will unite us with the like-minded and will bridge the gaps with those who think differently. Then and only then, will all of us move in a single direction. And that direction, will certainly lead us to a brighter future for the Nation and the World.

The ethos of Samvaad, our department run parallel to that of our nation, with Dialogue and Participation at it's core. Throughout years, the family grows bigger. There are only new comers, no one retires from the membership of Samvaad family. The pass outs live with us under the same roof in the face of legacy they left behind with their dialogue engraved on our minds. And it becomes the responsibility of each one of us to carry that legacy forward to add some feathers to the cap of Samvaad. This magazine is intended to be one such manifestation of the values that Samvaad carry, its a means to Dialogue, an invitation to Participation, a wake up call to all Reformers sleeping.

The January edition of 'The Dialogue' carries the tone that was set in the country. With Farmers' protest at it's core, the wind was ripe with an elation for getting a seat at UNSC and confusion behind the Anti- Conversion laws passed by various States. At International Stage, President Elect Biden and possible implications of his presidency were the 'talk of the world'. Hope the readers will enjoy the very first edition of 'The Dialogue'.

Radhika Gupta

Head- Research Department
SAMVAAD



FARMER'S PROTESTS AND JUDICIAL ACTIVISM

-Ankit Agrawal

In our country Judiciary is hailed for its countless acts of indomitable courage and its standing against injustice and abuses of power. Few landmark cases that highlight judicial activism of Indian courts, most prominently the Supreme Court of India, include the Keshvananda Bharati versus State of Kerala, Minerva Mills versus Union of India, Indira Gandhi versus Raj Narain, SP Gupta versus Union of India, etc. The active role of the Indian judiciary, particularly that of the Supreme Court, has been appreciated both within and outside India. The independence ensured through the constitutional provisions in favour of the judiciary and subsequently strengthened by the judicial interpretation has definitely contributed to the present powerful status of the Indian judiciary.

HOW JUDICIARY BECAME SO ACTIVE?

After the independence, judicial activism was almost silent for the first decade and the executive and legislative organs of the government actively

dominated and intervened in the working of the judiciary. It was only in 70s that the Apex court started judging based on the structural view of the constitution, but the big break came only with the institution of Public Interest Litigation (PIL). It made judicial outreach possible even for the last person in the line. It introduced a new dimension to judiciary's involvement in the domain of public administration. In the beginning, the PIL was confined only to improving the status of the disadvantaged sections of the society. Consequently, the expectations of public went high and the demands on the courts to improve the administration by giving appropriate directions for ensuring compliance with statutory and constitutional prescriptions increased.

HOW JUDICIAL ACTIVISM PLAYED OUT IN INDIA?

But in the name of judicial activism, the theory of separation of powers was overthrown and the judiciary continued to undermine the authority of the legislature and the executive by encroaching upon the spheres reserved for them. If the judiciary intervenes too much in the working of other organs of the government and tries to overreach the constitutional powers then this concept of judicial activism loses its importance and essence.

Let us understand that by the recent development that was seen after the Supreme Court stayed the 3 contentious farm-laws passed by the centre last year. It wrote in its order, "The representatives of all the farmers' bodies, whether they are holding a protest or not and whether they support or oppose the laws shall participate in the deliberations of the Committee and put forth their view points. The Committee shall, upon hearing the Government as well as the representatives from the farmers' bodies, and other stakeholders, submit a Report before this Court containing its recommendations. This shall be done within two months from its first sitting."

After the court passed an interim order on a clutch of petitions related to three farm reform laws passed by Parliament, it found itself in the midst of a firestorm originating from all sides of the political spectrum. Both sides made one common point that the court had entered a 'political thicket' and raised questions on why did the court did not give any coherent reason why it stayed the implementation of the three laws.

THE TWO VIEW-POINTS

The “so-called liberal” side, believes and alleges that this step by the court amounts to ‘judicial rescue’ of the Government. The basis for this claim is that after multiple rounds of ‘negotiations’ between protestors and the Government, there has been no forward movement. The Government was willing to create a committee to consider farmers’ grievances about the laws, a proposal they rejected at the outset. Now the court has done what the Government wanted to: create a four-member committee, allegedly packed with pro-law experts. This will either dilute the farmers’ protest or will serve as a dilatory tactic and enable the Government to move ahead with its objectives.

The other side of the debate, consisting of the views provided by the “government sympathisers”, believes that the court should have pronounced the constitutionality of the three laws instead of staying their implementation and that by doing so it has transgressed into the domain of the Parliament. An even more alarming claim is that by staying these laws without going into their merits, the court has allegedly acquired a veto over anything passed by the Parliament. Their opinion is based on the claim that the court is interfering in the executive’s domain and the latter alone has the power to sort out political issues, including the farmers’ protest.

WHY “THE QUESTIONS” ON COURT DECISION?

The fundamental problem with the court order is that its legal basis itself is questionable. Ordinarily, an interim order staying a legislation can be passed while the court adjudicates on the constitutional validity of a legislation, as long as there is a prima facie case made against its constitutionality. Instead of showing any urgency in adjudicating these important legal issues, and thus performing its judicial role as a constitutional court, it has seemed keener to perform an executive role to help handle the protests.

CONCLUSION

The court’s intervention is practical and well-intentioned and placed on the premises that the executive had failed to perform its duties. But, there is a narrow demarcation between activism and overreach. Sometimes in the process of judicial activism, the judiciary intervenes too much and reflects its personal beliefs in the course of providing justice.

The interpretation of law is the primary function of judiciary but, the courts, rather than interpreting the law, start making the law, issue guidelines and directions which is to be done by the legislature. Due to judicial overreach, conflict takes place between the legislative and judiciary, and the legislative seems to be inactive or less competent to the people. Besides this, the separation of powers on which the democracy stands is also killed by this process of judicial overreach.

There are two remedies for restoring the original separation of powers as it was in 1950 when the Constitution was inaugurated. The more durable, and difficult, one is for different institutions to respect their boundaries and stay within their domains. So, this option which may seem to be practical and moderate, is quite difficult to be implemented as it goes against the human nature, which is power-hungry. The other option is to put an end to political fragmentation that led to unwieldy coalitions and a weak executive. Once that happens, restoration of institutional balance becomes feasible once again. But this option too can lead to a situation where the executive acquires overpowering power over the other pillars of democracy as it happened during the times of Indira Gandhi. Constitution of India did not provide for the judiciary to be a super legislature or a substitute for the failure of the other two organs. Thus, the need arises for the judiciary to lay down its own limitations. Hence, we need to strike a delicate balance between the powers of Legislature, Executive and Judiciary and have a clear-cut and well-defined demarcation of powers and responsibilities between the three organs in order to preserve our democratic structure.



Picture Credit: The Financial Express

THE FARMERS PROTEST: THE TRUTHS THAT GOVERNMENT CAN NEITHER NOTIFY NOR CONCEAL

-Kirti Rajput

The farmers' movement against the three farm laws which affects them hardly but have been passed without consulting them, has now entered in its third month. This is of historic significance and going to affect millions of people on Indian soil. It is not only about MSP but also about the public procurement by FCI (Food corporation of India) and distributing food grains on highly subsidized prices through PDS system, which despite its drawbacks, is lifeline to millions of people in India, as it is evident during the Pandemic. Framing of the farm laws by Indian Government is not a current issue but it has its root in history as well has its own attested truths which GOI can neither notify nor conceal.

GOI continue to announce benefits of the three farm laws for farmers like doubling farmers' income as mentioned by Ashok Dalwai Committee in 2015, rights to farmers to sell their produce, anywhere they want, will increase investment in agriculture sector by private investors, new infrastructure, cold storage at different places in country, food processing industries will rise, farmers could fulfil the demands of consumers (demand based production) and so on.

Agriculture in India is as sensitive issue and is linked to the emotional aspects of people.

Economic aspect of agriculture always gets ignored by Indians. Different governments in their terms gave protection to agricultural sector and have never allowed free competition for farmers in the market.

Today, we are living in a globalized world and recently GOI tried to link agriculture to global market, assuming pandemic as the best time to implement farm reforms. But this is not easy as it looks. Whenever an attempt has been made to touch ethical and spiritual life of people, some problems have always emerged in the process.

TRUTHS OF FARM LAWS

1. Agribusiness

GOI gives MSP to farmer for their produces and then again distributing food grain through PDS system on low price. In between MSP and issue price there is a huge gap which govt. is bearing on its shoulders. Before 1991 India was free to give any subsidy to its farmers but after India became part of WTO, it has to adhere to WTO norms. In this regard in 2001 Doha rounds, WTO pushed for the level playing field but provided India with "peace clause" allowed it to give 10% subsidy of its actual cost of production to its farmers. Earlier this year India had informed the WTO that it had breached the subsidy limit fixed at 10% of the value of food production for developing nations. Moreover, under the Peace clause, India is not allowed to export its produce if it is going to give subsidy to its farmers but India breached this rule also by exporting rice to China last year.

As a result GOI is not in a situation to give subsidy to its farmers after 2022.

2. The global angle of farm laws

Temperate countries used to grow only one crop in their farms and that crop is usually food grains, they urged tropical countries to grow cash crop for them and in return they will provide developing countries with food grains. But during 1990s developed countries moved towards Bio fuel and started to make bio fuel from the food crops and slowly and gradually by 21st century developing countries started to face food crises and this led to many movements and protest. The Arab spring was one of the great consequences of the food crises. Fearing these worldwide movements, the UPA government in India shifted its focus on food grains and adopted a new food policy in 2007. Manmohan Singh government provided incentives and MSP (higher than ever) to farmers to grow food crops. This policy is followed by NDA govt., as



Picture Credit: BloombergQuint

seen in the trends of rising MSP in subsequent years. This vote bank policy has a serious concern over budget of Indian government, and now this is too heavy a burden for the government to carry.

3. Debt of Food corporation of India

Rising debt of FCI due to rising MSP of govt policy have make FCI to face severe deficit in recent years. FCI is doing off budget financing to overcome its deficit. The trend of FCI debt is so bad over the years. In 2017 FCI had a total deficit of 1, 26,000cr for which it has to pay 6,899cr of interest every year. This deficit is 3, 33,000cr with 19,167cr annual interest in 2020. This is a very huge amount, and it's not feasible for FCI to pay this much big amount annually. It has to pay interest to NSSF (National small saving fund) from where it is getting loan to cover its deficit. This amount is expected to double this year due to Covid 19. In economic cost of food grain almost 72%of the total Cost of food grain for FCI is account to MSP of government and almost 6%of this cost accounts to interest paid by FCI for its Loan. In 2020-21, the economic cost of rice, fir instance is seen at Rs. 3,727/quintal against the issue price at Rs. 300/quintal.

SOLUTIONS

Solutions to farmers' problems really hard to find but GOI must consider the states' role in implementing the farms laws. There can't be same laws for all in this diverse country.

Government should consider Dalwai Committee's report which recommended that states should be incentivized for its reforms. In today's context also GOI should allow state to adopt the laws according to the condition in the particular state. If APMC mandis are working well in Punjab and Haryana then government should let the mandis to perform there as earlier and let the System as it is.

If states would feel that they should adopt the new reforms then they can adopt them afterwards. But implementing the same policies for whole country is not correct in my views. GOI should focus on the areas where system is not well, the new reforms could be implemented there in well manner without any problem but farmers of Punjab and Haryana are used to the mandi system and they are the great beneficiaries of these mandis, they are the food providers since green revolution to whole country on a large scale.

Moreover, GOI should find out the long term solutions for the problems. New alternatives should be searched for, focus should be given on crop diversification, reduce cost of production, focus on the 7 points given in Ashok Dalwai committee that are investment, infrastructure, insurance, industry, internet use, innovation, and animal rearing. India should focus on these areas if it wants to reform its agriculture sector. And save India from the future riots and protests as are going on currently in Delhi.

Picture Credit: Al Jazeera



EFFECTS OF PRESIDENT ELECT JOE BIDEN ON THE WORLD

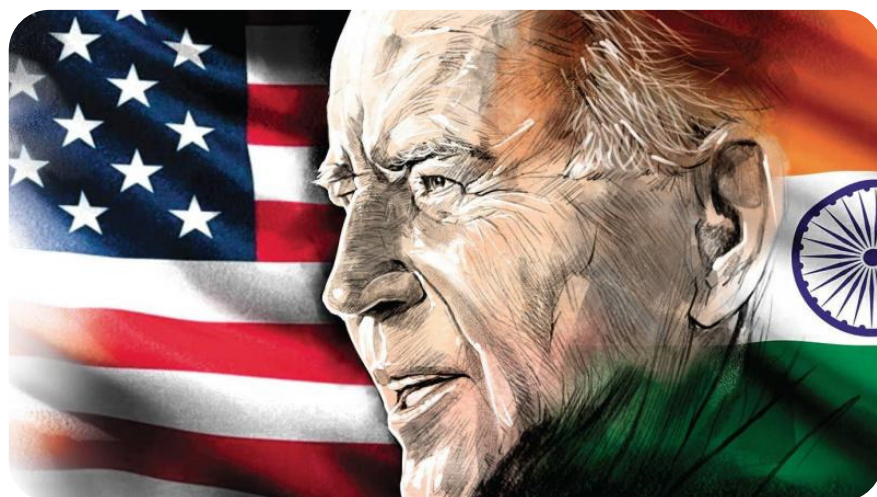
-Ritesh Sharma

US election was full of drama and finally, Joe Biden is the 46th president of America. Leaders from around the globe congratulated this veteran but Biden's policies will not please everyone. The statements given by Joe Biden during his election campaign give the signal that there are going to have some serious diplomatic changes around the world. Trump's administration showed unconditional support to some countries but this might not happen in Bidens rule. From reviving relations with old allies to provide green cards Bidens is expected to bring some drastic changes so let us analyze his implication on the world.

Pakistan: Pakistan is one of those countries which will undoubtedly receive benefits from the Bidens rule. Donald Trump during his period suspended the training of Pakistan officials (who later served in ISIS) and stopped giving military aid to Pakistan. America is calling back remaining troops from Afghanistan and Biden is likely to choose Pakistan to maintain peace in this area. Antony Blinken who will serve as secretary of state has stated that the US will restore its military relations with Pakistan. Also, it was under the trumps administration when India was able to carry out an airstrike in Pakistan. It is expected by many political experts that the US will start giving military aid to Pakistan and Pakistan's name may get removed from the FATF grey list. Joe Biden is expected to be busy with the COVID-19 issue and any aid to Pakistan (due to the Afghanistan issue) will help to revive its economy.

India: Biden's views on India are not very clear. Biden and Kamala Harris have openly criticized India on the issue of Kashmir but during the election campaign, various photos were shared by Kamala Harris showing her Indian tradition may be to target 10 million Indian American votes. Till now Kamala Harris had never criticized Pakistan for sponsoring

terrorism and china for showing aggression on the borders. People in Biden's camp have said that any difference with India on issues related to human rights would be based on discussion among friends. Joe Biden may have criticized India on the Kashmir issue but he had also supported India in the past and he wrote to President George Bush and called for the upliftment of sanctions. He also visited Pakistan and wanted Pakistan's establishment to help India in bringing the culprits behind the 26/11 terrorist attack in Mumbai to justice. Joe Biden is expected to keep good relations with India and if we look into some of his recent statements then he will try to build strong military relations with India. Biden has promised to reduce the waiting period for visas. H-1b are suffering since January 2017 due to Trump's administration so Indians who want to live in the US can expect some stability. One major problem which India might face from Bidens administration is sanctions on s-400 purchase. Countering America's adversaries through sanctions act (CAATS) is imposed on North Korea, Iran, and Russia so it is not possible for any country including India to make a big defence deal with Russia without facing some sanctions. Serious Sanctions were imposed on china due to the s-400 purchase but America imposed some nominal sanctions in the case of Turkey (NATO Partner). The Indian government can expect some sanctions from the US but Biden might avoid serious sanctions to Strengthen the Indo-us relationship. America has secretly offered weapons to India and has openly supported India in the Indo-china border dispute and the Biden is likely to continue this tradition. But India has to work hard to get a permanent seat in the UN Security Council and to get membership of the nuclear suppliers group. India's Wish list will also include a restoration of trade benefits worth 6 billion.



China: Trade war was the biggest weapon of Trump's administration to counter china but Biden is expected to end this trade war and if you think that Biden will avoid conflict with china then you are mistaken. Former President Barack Obama has directly criticized (in his new book a promised land) china for violating the rules of the world trade organization. He refers to china's use of non-tariff barriers, alleging it also engaged in the theft of America's intellectual property and asserted Beijing placed constant pressure on us companies doing business in China to surrender key technology. Biden is likely to follow the advice of the former president. Biden may have criticized Trump's approach but also has hammered china's unfair practices. Also due to aggression shown by Chinese troops on the border has forced japan to purchase fighter jets in huge quantity and the US will avoid losing a buyer of weapons for china. The speech by Di Dongsheng (Renmin university academic) was removed by the Chinese government in which he said that China used to know people at the top of us the financial world (wall street) who had access to control over D.C. politicians and they were unable to control trump but now they are back. This video went viral and raised some serious questions on the Biden's to stand towards china.

Middle East: The things in the middle east are very confusing because Trump's administration has always supported Israel on the annexation of West bank (of course due to Iran) and Biden will support Iran in the middle east and might go against Israel. A very interesting event took place recently in which the US ambassador changed his Twitter bio from US ambassador in Israel to US ambassador in Israel, Ghazapatti and Westbank and again he changed his Twitter bio to the original one. This might indicate a major shift in America's policy as the new administration might not count any territories in the west bank as under Israel's control. Biden is likely to maintain a good relation with Iran and might re-join the nuclear deal and due to this India will be able to use Chabahar port for the export of goods to Afghanistan. Joe Biden will end the trumps unconditional support to prince Mohammad bin Salman (Saudi prince) who was involved in the murder of journalist Jamal Khashoggi because Saudi Arabia is one of the biggest customers of America when it comes to weapons. Biden is likely to end this unconditional support for the sake of human rights and will try to sell only those weapons which are defensive in nature.



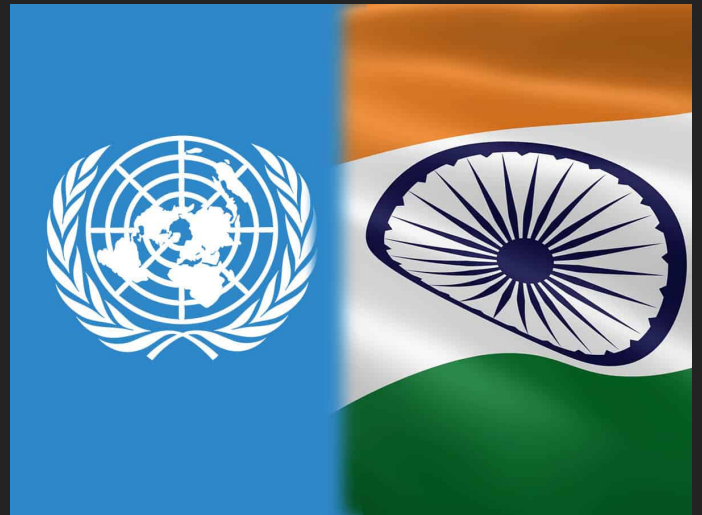
North Korea: Just before the inauguration of president-elect Joe Biden, North Korea held a parade attended by its leader Kim Jong-un that reportedly showcased a new submarine-launched ballistic missile. Trump and the Korean(north) leader had a handshake during the Singapore summit in 2018 with the aim of denuclearization of the Korean peninsula but no significant progress was made as North Korea continued to build nuclear capabilities. The incoming Biden team possesses advantages, including numerous experienced former officials and diplomats who have managed previous crises with North Korea. Notably, many have worked closely in the past with key U.S. allies in the region, including South Korea and Japan, and have long-standing personal relationships in both capitals. After weathering whatever crises Pyongyang may initially provoke, the Biden administration is expected to utilize these relationships in pressuring Kim to accept an interim freeze in nuclear production and missile testing. A temporary halt, which North Korea accepted during the presidencies of Bush and Bill Clinton, could set the stage for a hoped-for multilateral deal that would reduce or eliminate Kim's nuclear stockpile in exchange for reductions in economic sanctions.

Russia: Trump had maintained peaceful relations with Russia but Biden will not continue this tradition. The Russian economy is in not good condition due to sanctions imposed on it after the 2014 annexation of Crimea. The major problem will revolve around India. Biden will try to team up with India against Russia but India will not leave his friends. Russia had given military, economics, and political support from 1971. And even today 60% of India's defence comes from Russia. Also, Vladimir Putin's health is not in a good condition and Russia will need some time to find a leader who can go against Biden. so Biden is expected to dominate in this matter The above points show the expected action of joe Biden but only time will tell that how this veteran will change the political landscape of the world with the beginning of a new era.

INDIA'S SEAT AT UNSC: NON-PERMANENT OR PERMANENT?

- Shaurya Dev

A young country of more than 1.35 billion people, the 5th largest economy in the world, one of the largest growing markets and an aspiring and potential Superpower – India, since the dawn of the 21st century has had the global spotlight on it as a new emerging centre of power. The 21st Century has often been termed as the 'Century of Asia' as scholars believe that gone are the days when the hegemonic whims of the West would go on dictating the global order and it is these new powers of Asia namely China and India which could potentially be running the global show in this century. Among the two countries, China though initially appeared as a considerate and generous aid and partner for many countries in Asia and Africa but as the fog cleared over the years it has become clear that China is a lone wolf whose neo-colonist measures are all for its own pomp and growth and hence naturally the world is more hopeful of India because unlike China, India's growth is not seen as a threat to the existing world order rather its growth in the global ranks may bring about the essential reforms the international system long requires. India, time and again has been successful in garnering support of the majority of countries to lead the world towards betterment, from getting 177 countries to co-sponsor 'International Yoga Day' which is the highest number of cosponsors ever for any UNGA resolution, to initiating intergovernmental organisation and alliances like BRICS and the International Solar Alliance. From 1st January, 2021 India begins its two-year term as a non-permanent member of the United Nations Security Council (UNSC) and though India has served in the UN Security Council seven times previously (the last being in 2011-12), this term comes at a critical time as the world and India itself has gone through tremendous change in the decade since India's last term. India enters the UNSC at a crucial juncture when China and its expansive claims are growing rapidly, USA is going through a turbulent and unprecedented transition of power, UK has officially exited from the European Union (EU),



Picture Credit: latrobe.edu.au

President Putin amended the constitution and solidified his regime in Russia, while the differences among all these countries continue to grow intractable and all this happens as the world continues to fight the global COVID-19 pandemic.

The UN Security Council is one of the six main organs of the United Nations, the principal functions of which are ensuring international peace and security, recommending the admission of new UN members to the General Assembly, and approving any changes to the UN Charter. Its power includes establishing peacekeeping operations, enacting international sanctions and authorizing military action. The Security Council consists of fifteen members, of which five are permanent – China, France, Russia, United Kingdom and USA. The remaining ten members are elected on a regional basis to serve a term of two years, with five replaced each year. The number of seats in the Security Council held by each of the regional groups and its current members are as follows: -

- **Africa** – 3 seats (Niger, Tunisia, Kenya)
- **Asia-Pacific** – 3 seats (China, Vietnam, India)
- **Eastern Europe** – 2 seats (Russia, Estonia)
- **Latin America and Caribbean** – 2 seats (Saint Vincent and the Grenadines, Mexico)
- **Western Europe and others** – 5 seats (France, USA, UK, Norway, Ireland)

Among these, starting their two-year terms from 2021. India along with Ireland, Kenya, Mexico and Norway joined the UNSC. India will be chairing three important committees of the UNSC- Taliban Sanctions Committee, Libya Sanctions Committee and the Counterterrorism Committee in 2022, which coincides with the 75th Anniversary of India's Independence.

India has several ambitious goals for its place in the global system and for the betterment of the world in general. Indian Minister for External Affairs Mr. S. Jaishankar listed five key focus areas: terrorism, reforming the UN system, comprehensive approach to peace and security and promoting technology with a human touch. Terrorism is a key priority for India whether in the form of cross-border terrorism, extremist groups or terror inducing expansionist policies of countries, especially China. While the issue of Kashmir might also be raised again by China at Pakistan's behest, India can also use these two years to raise humanitarian and other critical issues like that of Hong Kong, Taiwan and Tibet.

One of the main aims on the top of the list, is getting India a permanent seat at the UNSC. The current permanent members of the UN Security Council are the victors of the Second World War and reflect the world as it was in 1945 and so this representation seems highly skewed and unjust in the second decade of the 21st century. Though the Permanent 5 (P5) seem reluctant on adding other countries for fairer representation but with all the aforementioned reasons India's claim to a permanent seat should be seen as legitimate and rightly due. India is clearly suited for the permanent membership at the UNSC by almost all objective criteria from population, territory, economic potential to its leadership and contributions in the UN activities, particularly in UN Peacekeeping operations. Albeit India is not the only country which sees itself as a suitable candidate for the permanent membership, as other countries like Japan, Germany and Brazil (G4 nations) too have been knocking the doors for reforms at the UNSC. Besides the G4 countries South Africa, the largest economy in Africa, is also a claimant as the African continent remains unrepresented on the high table of permanent members. The pitch for reforms of G4 has been

lowered by their rivals like Italy, Pakistan, Mexico and Egypt, and the Veto power remains the bone of contention, hindering all resolutions. Lately getting things done and passing new resolutions in the UNSC is becoming extremely difficult as the reality is that only the P5 can call the shots, but they are rarely in agreement or any consensus these days and as they remain at loggerheads with each other, using their all-powerful 'Veto' they often stop any resolution or change. Which is why some scholars have lately claimed that the UNSC is becoming rather toothless. So, even if the number of permanent members is increased, the effectiveness and efficiency of the UNSC would still remain stunted as long as the Veto power is not abolished in the reforms.

The United Nations completed its 75 years in 2020 and over the years has served as a very important and essential body in global politics but in order to stay relevant and have a greater outreach in the coming years, the UN needs some indispensable reforms to its structure and basic functioning. India possibly could be one of the key players to enhance the relevance of the United Nations if it is able successfully initiate some of the required structural changes. The foreign policy of India has always been guided by the 'Panchsheel' principles, talisman of Mahatma Gandhi, Non-alignment and the valuable tenets of non-violence, peace and a just, lawful and equal world order and so India's permanent seat in the UNSC would not only be the representation of the Indian masses or 17% of the world population but would be the representation of people of all the countries, big or small, of Asia, Africa and Latin America who have been for years treated as underdogs and whose voices fell short to reach the high global stage often run and orchestrated by the western powers. India with its principle of 'vasudhaiva kutumbakam' could be the voice of the global south and could improve and bring some parity in this new world order.



Picture Credit: New Indian Express

कृषि कानून, 2020

- आयुश पटेल

24 सितंबर 2020 को राष्ट्रपति महोदय ने तीन नए कृषि सुधारों को मंजूरी दी। ये सुधार किसानों के लिए वरदान है या अभिशाप, विस्तार से जानने का प्रयास करेंगे।

हाल ही में नए कृषि सुधारों पर जारी घमासान के बीच कानूनों की संवैधानिकता पर भी सवाल उठे। संवैधानिकता की परख की दो दृष्टिकोण हो सकते हैं, पहला विषयवस्तु की दृष्टि से और दूसरी प्रक्रिया की। कृषि सुधार ना तो मूल अधिकारों को सीमित करता है और ना ही संविधान के मूल ढांचे में संशोधन का प्रयास, जिस को न्यायालय ने केशवानंद भारती मामले (1973) में प्रतिपदात किया। तो क्या यह केंद्र की राज्य सूची के विषय में कानून बना देना व उनके अधिकार क्षेत्र में अतिक्रमण का मामला है?

संविधान के अनुच्छेद 246 में केंद्र व राज्यों के बीच शक्तियों के बँटवारे का विवरण है। राज्य सूची की प्रविष्टि संख्या 14 में कृषि, 26 में व्यापार व वाणिज्य तथा 27 में वस्तुओं व सेवाओं के उत्पादन, आपूर्ति व विवरण का उल्लेख है वहीं समवर्ती सूची की प्रविष्टि संख्या 33 में भी उत्पादन, आपूर्ति, वितरण, व्यापार, वाणिज्य व कृषि संबंधी सभी गतिविधियाँ शामिल हैं। साथ ही राज्य सूची की प्रविष्टि संख्या 26, 27 में समवर्ती सूची की प्रविष्टि संख्या 33 के आधीन रहने की बात स्वीकार की गई है। इसके अतिरिक्त अनुच्छेद 254 और सर्वोच्च न्यायालय के 'संसदीय सर्वोच्चता के सिद्धांत' के अनुसार अंतर्विरोध की स्थिति में केंद्र के कानून को प्राथमिक माना जाता है।

वही दूसरी ओर लोकसभा में सरकार का स्पष्ट बहुमत है तथा राज्यसभा में भी यह उपसभापति की मंजूरी से ध्वनिमत से पारित हुआ है, साथ ही अनुच्छेद 122 के अनुसार संसद की आंतरिक कार्यवाही के संबंध में सर्वोच्च या उच्च न्यायालय विचार नहीं कर सकता। अंततः हर दृष्टिकोण से ये सुधार पूर्णतः संविधानिक ही लगते हैं।

पहला अधिनियम, कृषक उपज व्यापार और वाणिज्य (संवर्धन और सरलीकरण) अधिनियम, 2020 है। जिसका मुख्य प्रावधान है किसानों को 'कृषि उत्पाद बाजार समिति' (APMC) के बाहर के व्यापार क्षेत्र में भी अपनी फसल को बेचने की आज़ादी देना। किसानों को ऑनलाइन भी अपनी फसल राज्य के भीतर या बाहर कहीं भी बेचने का विकल्प मिलेगा। सरकार का दावा है की किसानों को बिचौलियों के चंगुल से छुटकारा व उपज का सही मूल्य प्राप्त होगा। पर साथ ही कुछ दोष भी हैं जैसे APMC या सरकारी मंडियों (जिन्हें किसानों को साहूकारों व जमींदारों के चंगुल से बचाने के लिए बनाया गया था) के खत्म होने की आशंका क्योंकि निजी व्यापार क्षेत्र सभी प्रकार के शुल्क व कर से मुक्त होंगे। सरकारी मंडियों के प्रतिस्पर्धा से बाहर होते ही न्यूनतम समर्थन मूल्य का भी कोई महत्व नहीं रह जयगा। सरकार भारतीय खाद निगम के माध्यम से अनाज कि MSP पर खरीदारी व सार्वजनिक वितरण प्रणाली द्वारा उसको गरीब तबके के लोगों तक पहुंचने की ज़िम्मेदारी से छुटकारा पाने की ओर बढ़ सकती है। निजी क्षेत्र को बिना किसी पंजीकरण के क्रय-विक्रय की छूट व विवाद की स्थिति में सिविल कोर्ट ना जाने का प्रावधान किसानों को आतंकित कर सकता है।

दूसरा, कृषक (सशक्तिकरण या संरक्षण) क्रीमत, आश्वासन और कृषि सेवा पर करार अधिनियम, 2020 है, जिसको मुख्यतः अनुबंध आधारित खेती से जोड़ कर देखा जाता है। इस में किसानों को छूट है की वे किसी व्यापारी, खाद प्रसंस्करण इकाई, दवा फर्म या अन्य कंपनी से सीधा करार कर सकते हैं।



यह समझौता निश्चित अवधि, मूल्य, उपज की गुणवत्ता व भुगतान से संबंधित हो सकता है पर किसानों की ज़मीन से कोई समझौता नहीं होगा।

इस के साथ ही नकारात्मक पक्ष भी है, विवाद की स्थिति में यह अधिनियम सिविल कोर्ट जाने से रोकता है तथा SDM व DM के स्तर का जो विवाद सुलझाने का जो तंत्र है वह राजनैतिक व निजी धनाढ्य व्यापारियों से प्रभावित हो सकता है। इसके अलावा आम किसान अशिक्षा के चलते कानूनी दाव पेंच या धोखाधड़ी का शिकार हो सकता है।

तीसरा, आवश्यक वस्तुएं (संशोधन) अधिनियम, 2020 है, इसके अंतर्गत आवश्यक वस्तुओं व अनाज के भण्डार से सम्बंधित पुराने नियमों को उदार किया गया है। जिससे निजी क्षेत्र अनाज के उचित भंडारण, आपूर्ति व निर्यात की व्यवस्था कर सके।

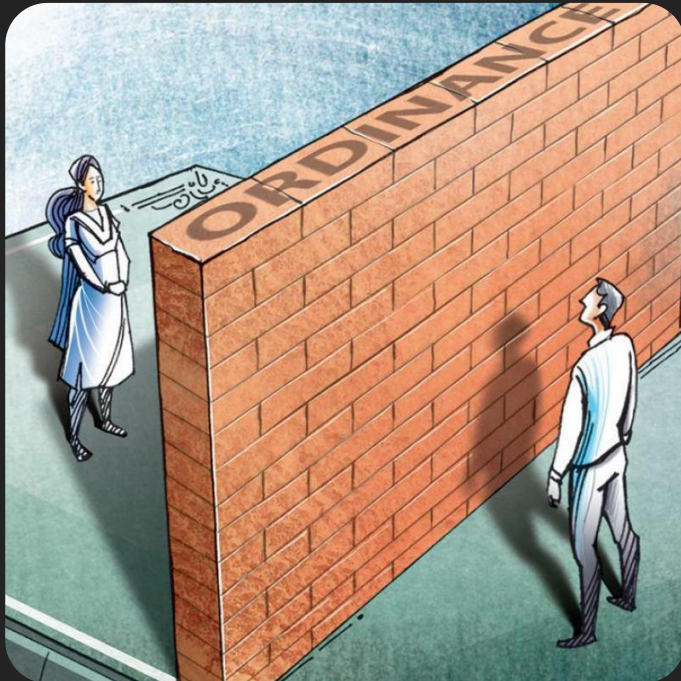
विरोधी तर्क है की असीमित भंडारण व जमाखोरी से बाज़ार में आवश्यक वस्तुओं की किल्लत के साथ ही महंगाई भी बढ़ सकती है, राज्य सरकारें भी इसे तभी निर्मित कर सकती है जब आवश्यक वस्तुओं की मूल्यवृद्धि बाज़ार से दुगुनी हो जाए।

इसके अलावा, आज कृषि क्षेत्र में देश की लगभग आधी श्रमशक्ति कार्यरत है, जबकि GDP में इसका योगदान लगभग 16 फ़ीसदी ही है। वही 1950 के दशक में GDP में कृषि क्षेत्र का योगदान 50 फ़ीसदी से भी अधिक था। वर्षों से चली आ रही व्यवस्था जिसका उद्देश्य खाद्य उत्पादन में आत्मनिर्भर व किसानों को अधिक उपज के लिए प्रोत्साहित करना था, क्या उसे उसके सीमित प्रभाव (पंजाब, हरियाणा व पश्चिमी उत्तर प्रदेश में हरित क्रांति) और सर्पर्स पैदावार के बाद भी चलते रहना चाहिए या देश को वैश्विक बाज़ार तक पहुँचना चाइए, अनाज के भण्डार की क्षमता, दाल, खाद्य, तेल, फल का आयात घटाने, व किसानों को सशक्त बनाने के लिए नय प्रयोगों की ओर बढ़ना चाहिए। हालाकी 2013 के राष्ट्रीय खाद्य सुरक्षा अधिनियम व सर्पर्स पैदावार के बावजूद बड़ी आबादी का कुपोषण व भुखमरी में जीवन यापन चिंतन का विषय है।

निष्कर्षित: नए सुधारों को लेकर व्यापक विचार-वेमर्श की आवश्यकता है।

A COMPREHENSION: PERSONAL FREEDOM RELIGIOUS CONVERSION LAW

- Nandani



Picture Credit: New Indian Express

In order to develop a sense about Love Jihad, we must have to know the meaning of the word Jihad, Jihad has been defined in the dictionary as religious warfare or a war for the propagation for the defence of Islam or a campaign for crusade in some cause as a secular state, India had envisioned the Special Marriage Act, 1954, as a means to clear space for citizens to marry outside the boundary of religion and caste identity against the strict endogamy and communitarian identities. Under section 5 of the Act which enable inter-faith marriages, the couple has to give notice to the marriage officer and under section 6 and 7, the officer has to publish the notice and call for objection, that is the provision, created a draconian situation and invited the vigilant group or families hostile to inter faith and inter caste union and the social prejudice of legal bureaucracy disproportionate power to police young couple. As a result, many preferred to convert and marry under respective personal law, rather than expose themselves to harassment. In a current time, the state Uttar Pradesh, Himachal Pradesh,

Madhya Pradesh and too other states have enacted laws about religious conversion in respect of love jihad. Most contentious laws related to religious conversion, enacted by the state Uttar Pradesh in the name of prohibition of unlawful conversion of religious ordinance, 2020 which makes religious conversion for marriage a crime, has a more draconian version of this provision. It demands a 60 day notice to the district magistrate and a police enquiry to ascertain the real intension behind conversion. The state government especially emphasized on the stopping of love jihad. Laws in the name of stopping love jihad strike at the very basic principles of human values and the fundamental rights. Nobody one can justify forceful conversion, when two adult fall in love, it can never be equated as much. Some of the most respected Indians from all walk of life – judges' lawyer, politicians, artist, bureaucrats, man in uniform belonging to both majority and minority community – have fallen in love and married. To regulate it in the grab of stopping forced conversion is to strike at the very freedom conscious that citizen possess. At least 91 persons have been booked and 54 arrested so far, an overwhelming number of them Muslims, under the Uttar Pradesh, prohibition of unlawful conversion of religion ordinance, 2020. A petitioner, Sourabh Kumar of Prayagraj, had called for ordinance to be declared ultra-virus as it was against the both morally and constitutionally repugnant. Allahabad high court judgment: private space the Allahabad high court judgment striking down provision , of the Special Marriage Act ,1954 that makes mandatory for couples to publish a 30 day public notice of their intent to marry - which often exposes them to vigilant and familial violence. By unambiguously underlining the primacy of individual autonomy and gave a backup of constitutional sanity at a time when anti conversion ordinance in Uttar Pradesh and Madhya Pradesh have licensed reckless state intrusion on inter-personal relationship in the name of countering love jihad. On 12 January 2021, a single bench of the high court ruled that the compulsory notice inviting scrutiny and objections encroached on the fundamental right of liberty and privacy, including within its sphere freedom to choose for marriage without interference from state and non-state actor of the persons concerned. Primacy of personal freedom the law commission of India report 2012 had made a recommendation to keep a check on the high handed and unwarranted interference by caste assemblies in Sagotra,

inter-caste or inter-religious marriages. it is also a reminder that, a series of landmark judgment by apex court in recent years pushes back against societal meddling in personal affairs, fundamental right – Puttaswamy vs. Union of India , the right to choose one's partner - Hadiya case, and ruling that decriminalized homosexuality. They form a long chain of decision growing stronger with time and firmly establishing personal liberty and privacy to be fundamental. India has a largest successful liberal as well as the mixture of socialist democracy, the founder of the Indian constitution – pundit Jawaharlal Nehru, Vallabhbhai Patel, V.N Rayo, B.R. Ambedkar and most of other member of constitute assembly without any debate had unanimity, must have to give focus on freedom of

citizens. As we know India has popularly characterized for its unity in its diverse elements. And such kind of laws aiming to stopping love jihad, has directly indicated to specific faith – Muslim, these laws abandon the emotions and dignity of such community's' faith. The founder of India had succeed completed a task of, accession of diversified princely state into, union of India and gave a confidence to a minority community and made a rope with the accommodation of largest diversified elements via harmony among them and made a dreamt realty. And the need of the time is that, the government must realize and maintain that rope with harmony and do not make a kind of law that exclude or abandon the dignity and faith of a respective community.