

Daily Editorial Analysis 26 February 2026

February 26, 2026 • vajiramandravi.com



Balancing Faith, Dignity and Constitutional Rights

Context

- In September 2018, a five-judge Bench of the Supreme Court of India delivered its landmark judgment in *Indian Young Lawyers Association vs State of Kerala*, allowing women of all ages to enter the Sabarimala temple in Kerala.
- The ruling sparked nationwide debate and protests, especially in Kerala, reflecting tensions between **religious autonomy** and **constitutional morality**.
- At stake was not merely temple entry, but the deeper question of how a **secular democracy** reconciles **faith, equality**, and **individual dignity**.

Background of the Case

- **The Practice in Question**

- The Sabarimala temple, dedicated to Lord Ayyappa, traditionally barred women between the ages of 10 and 50, citing the deity's celibate nature and long-standing custom.
- The exclusion was supported by **Rule 3(b)** of the Kerala Hindu Places of Public Worship (Authorisation of Entry) Rules, 1965.

• The Majority Judgment

- By a 4:1 majority, the Court held that:
 - Devotees of Lord Ayyappa did not form a separate religious denomination.
 - The exclusion violated women's freedom of religion.
 - Rule 3(b) was unconstitutional and contrary to statutory guarantees of temple access.
- The majority emphasised gender justice, non-discrimination, and the primacy of fundamental rights.

• The Dissenting Opinion: Justice Indu Malhotra's Perspective

- Justice Indu Malhotra's dissent advanced a contrasting constitutional vision.
- She argued that **collective rights** of religious communities must be harmonised with individual rights.
- A broad principle of **formal equality**, she held, cannot override long-standing religious customs.
- Central to her reasoning was the **essential religious practice**. She viewed the exclusion as integral to the temple's religious character and therefore constitutionally protected.

The Essential Religious Practices Doctrine

• Origins and Application

- The essential religious practices (ERP) test empowers courts to determine whether a practice is fundamental to a religion.
- If deemed essential, it receives protection under **Articles 25 and 26**; if not, the State may regulate it.
- In *Sastri Yagnapurushadji vs Muldas Bhudardas Vaishya* (1966), the Court interpreted Hindu scriptures to define doctrinal essentials.

• Criticisms of the Doctrine

- The ERP doctrine presents serious challenges:
 - It invites **theological adjudication** by secular courts.
 - It lacks procedural depth for resolving complex religious disputes.
 - It fails to resolve conflicts where an essential practice undermines **human dignity**.
- By conditioning protection on judicial recognition of essentiality, the doctrine risks entrenching exclusionary practices.

The Anti-Exclusion Test: A Constitutional Alternative

• Conceptual Framework

- To address these limitations, Justice D.Y. Chandrachud proposed the **anti-exclusion test**. This approach shifts the inquiry from theological necessity to constitutional impact.
- Religious groups retain autonomy in defining their tenets, but practices that systematically exclude individuals in ways that impair dignity must yield to constitutional values.
- The test focuses on whether exclusion restricts access to spaces central to civic or spiritual life and whether it violates **equal moral membership**.

• Key Distinction from the ERP Test

- The distinction between the two approaches is foundational:
 - The ERP test asks whether a practice is essential to religion.
 - The anti-exclusion test asks whether its consequences are compatible with **equality, liberty, and constitutional governance**.
- Under this framework, courts avoid doctrinal evaluation and instead assess the **constitutional harm** caused by exclusion.
- The emphasis shifts from preserving tradition to safeguarding **substantive equality**.

Broader Constitutional Implications

- The principles emerging from Sabarimala extend beyond temple entry.
- Questions concerning the Dawoodi Bohra community's practice of excommunication and the rights of Parsi women who marry outside the faith raise similar tensions between **communitarian claims** and **individual conscience**.
- India's constitutional framework recognizes both religious freedom and the authority of denominations to manage their affairs.
- However, these rights are subject to **public order, morality, and other fundamental rights**.
- In a society, where religion shapes social identity, courts cannot ignore the real-world effects of exclusion.

Religion, Secularism, and Constitutional Morality

- The Indian Constitution envisions a model of **principled secularism**, neither hostile to religion nor subordinate to it.
- Religious belief remains protected, but its outward expression must align with the Constitution's commitment to **equal citizenship**.
- The anti-exclusion approach affirms that faith is autonomous in doctrine yet accountable in practice.
- It reinforces the idea that no community can deny individuals access to institutions central to civic participation and spiritual life in the name of custom alone.

Conclusion

- The Sabarimala verdict represents a pivotal moment in Indian constitutional jurisprudence.
- It exposes the limitations of the **essential religious practices doctrine** and foregrounds the need for a dignity-centred framework.

- If the individual is the core unit of constitutional concern, then **communitarian autonomy** cannot override access to public religious spaces.
- By placing **dignity**, **non-discrimination**, and **constitutional supremacy** at the heart of the inquiry, the anti-exclusion test aligns religious freedom with the Constitution's transformative vision.

Balancing Faith, Dignity and Constitutional Rights FAQs

Q1. What was the central issue in the Sabarimala case?

Ans. The central issue was whether the exclusion of women between the ages of 10 and 50 from the Sabarimala temple violated their fundamental rights under the Constitution.

Q2. What did the majority of the Supreme Court decide?

Ans. The majority held that the exclusion of women was unconstitutional and violated their rights to equality and freedom of religion.

Q3. What was the main argument in Justice Indu Malhotra's dissent?

Ans. Justice Indu Malhotra argued that courts should respect essential religious practices and that equality principles should not override legitimate religious customs.

Q4. What is the essential religious practices (ERP) test?

Ans. The ERP test allows courts to determine whether a religious practice is fundamental to a religion and therefore deserving of constitutional protection.

Q5. What is the anti-exclusion test proposed in the judgment?

Ans. The anti-exclusion test examines whether a religious practice excludes individuals in a way that violates dignity and constitutional guarantees of equality.

Source: **The Hindu**

Rethinking Tribal Women's Inheritance Rights

Context

- The issue of inheritance **rights for tribal women** stands at the intersection of gender justice, constitutional protection, and indigenous identity.
- The Hindu Succession Act, 1956 grants daughters equal rights in ancestral property, yet it expressly excludes Scheduled Tribes.
- Consequently, many tribal women remain **subject to customary laws** that often deny them equal or absolute property rights.
- The Supreme Court's ruling in **Nawang v. Bahadur** clarified that the Act cannot apply to Scheduled Tribes unless Parliament decides otherwise.
- While this resolves long-standing legal ambiguity, it sharpens the debate between equality and cultural autonomy.

Historical Background: The Legal Exclusion of Scheduled Tribes

- Section 2(2) of the Hindu Succession Act explicitly bars its application to Scheduled Tribes unless notified by the Central Government.
- This exclusion was intended to preserve **tribal customs, social practices**, and community-based systems of inheritance.
- However, the result has been a dual framework: non-tribal Hindu women benefit from statutory reform, while tribal women remain governed by traditional norms.
- This distinction produces **legal disparity** among women based solely on tribal status and reinforces structural inequalities within certain communities.

Judicial Inconsistency and the Practice of “Hinduisation”

- Prior to 2025, courts adopted inconsistent interpretations. In some cases, inheritance rights were extended to tribal women who had adopted Hindu customs, a process described as Hinduisation.
- Courts relied on a broad reading of Section 2(1), treating such individuals as falling within the scope of Hindu.
- This interpretation overlooked the overriding effect of Section 2(2).
- The consequence was **judicial inconsistency**, uncertainty in property disputes, and pressure on women to negotiate between **tribal identity** and statutory rights.
- The approach risked weakening constitutional guarantees meant to protect indigenous communities from forced assimilation.

The Supreme Court’s Clarification: Nawang v. Bahadur (2025)

- In Nawang v. Bahadur, the Supreme Court overturned a High Court decision that had granted inheritance rights to ‘Hinduised’ tribal daughters.
- The Bench reaffirmed that only **Parliament** holds the authority to extend the Act to Scheduled Tribes.
- Two principles were reinforced:
- **Legislative supremacy** over judicial expansion.
- Continued governance of tribal inheritance by **customary practices** unless validly amended by statute.
- The ruling restored doctrinal clarity and upheld the constitutional design that provides **special protection** to indigenous communities.

Equality Versus Cultural Protection: A Constitutional Dilemma

- The judgment followed closely after **Ram Charan v. Sukhram**, where exclusion of daughters from ancestral property was held to violate fundamental rights and Article 14 guarantees of equality.
- The constitutional tension becomes evident:
- The commitment to **gender equality** demands equal inheritance rights.
- The framework protecting Scheduled Tribes seeks to preserve distinct customs and institutions.
- Prioritising tribal autonomy without addressing internal inequalities may perpetuate discrimination. Conversely, imposing uniform statutory law risks eroding cultural identity.
- Balancing **constitutional morality** with respect for tradition remains a central challenge.

Defining Hindu and the Question of Identity

- In **Sastri Yagnapurushadji v. Muldas Brudardas Vaishya**, Hinduism was described broadly as a way of life, not confined to a single doctrine or prophet.
- Conversion depends on bona fide intention and conduct.
- However, religious conversion does not automatically dissolve tribal membership if customary practices continue.
- Granting rights based solely on religious alignment risks reducing tribal status to a matter of faith rather than recognizing it as a distinct **socio-cultural identity**.
- The earlier reliance on Hinduisation effectively created a conditional path to equality, undermining the idea that **indigenous communities** deserve both recognition and protection without sacrificing their heritage.

The Need for Legislative Reform

- The reaffirmation of Section 2(2) leaves unresolved concerns about discrimination under certain customary systems.
- If statutory reform remains inapplicable and customs deny equal rights, tribal women may continue to face exclusion justified as tradition.
- A sustainable solution requires legislative reform. Parliament may consider:
- Enacting a **special statute** for tribal succession.
- Codifying customary laws with safeguards ensuring **gender parity**.
- Designing reforms that preserve **cultural distinctiveness** while securing equality.
- Such an approach would avoid forced assimilation into Hindu law and instead create a framework rooted in both **social justice** and community autonomy.

Conclusion

- The ruling in *Nawang v. Bahadur* decisively ends judicial ambiguity surrounding the application of the Hindu Succession Act to Scheduled Tribes.
- It reinforces **legislative authority**, protects **tribal autonomy**, and rejects inheritance claims based on conditional Hinduisation.
- Yet the deeper constitutional question persists: how to harmonize equality with cultural preservation.
- Protecting identity cannot justify continued exclusion, and enforcing uniformity cannot erase diversity.
- Meaningful progress depends on thoughtful parliamentary intervention that secures **equal inheritance rights**, respects **customary governance**, and advances the broader goals of **substantive equality** and constitutional justice.

Rethinking Tribal Women's Inheritance Rights FAQs

Q1. What does Section 2(2) of the Hindu Succession Act, 1956 provide?

Ans. Section 2(2) of the Hindu Succession Act, 1956 excludes Scheduled Tribes from the application of the Act unless the Central Government notifies otherwise.

Q2. What was the main ruling in *Nawang v. Bahadur* (2025)?

Ans. In *Nawang v. Bahadur*, the Supreme Court held that the Hindu Succession Act cannot be extended to Scheduled Tribes unless Parliament decides to do so.

Q3. Why was the practice of “Hinduisation” legally problematic?

Ans. The practice of Hinduisation was problematic because it pressured tribal women to choose between their tribal identity and statutory inheritance rights.

Q4. How did *Ram Charan v. Sukhram* (2025) influence the debate?

Ans. In *Ram Charan v. Sukhram*, the Court recognized that excluding daughters from ancestral property violates their fundamental right to equality.

Q5. What solution is suggested to ensure equality for tribal women?

Ans. A special legislative framework or codified customary law ensuring gender parity is suggested as a balanced solution to protect both equality and tribal identity.

Source: **The Hindu**

India's Defence Surge - A Sign of Strategic Maturity, Not Militarism

Context

- The Union Budget 2026–27 has significantly increased defence expenditure, allocating ₹7.85 lakh crore (~\$86.7 billion) — a **19% increase** from the previous year's ₹6.81 lakh crore.
- The increase is driven primarily by a 21.8% rise in capital outlay to ₹2.19 lakh crore, aimed at accelerating military **modernisation** and strengthening **deterrence**.
- The enhanced allocation reflects a **strategic shift** toward credible deterrence, operational readiness, and defence self-reliance, rather than military escalation.

Key Features of Defence Budget 2026-27

- **Increased defence allocation:** One of the largest increases (total ₹7.85 lakh crore, 15.19% increase over previous year) in recent years, reflecting growing recognition of hard-power requirements in national security.
- **Focus on capital modernisation:**
 - Capital outlay of ₹2.19 lakh crore (21.8% increase), with fighter aircraft, submarines, drones and unmanned systems, air defence systems, and modern combat platforms as focus areas.
 - This marks a shift from manpower-heavy expenditure to **technology-driven** capability building.
- **Push for defence indigenisation:**
 - Around 75% of modernisation funds earmarked for domestic procurement, reinforcing **Atmanirbhar** Bharat in defence manufacturing.
 - This will promote indigenous weapons platforms, domestic defence industry, **strategic autonomy**, and reduced import dependence.
- **Strengthening operational readiness:**

- Revenue expenditure of ₹3.65 lakh crore will support logistics, maintenance, training, and operational preparedness.
- Increased spending partly linked to recent operational requirements after **Operation Sindoor**.

Deterrence Consolidation vs Arms Race Narrative

- **International criticism:** Some international observers interpret India's defence expansion as destabilising, escalatory, triggering an Asian arms race.
- **Strategic reality:**
 - The budget increase reflects deterrence consolidation, closing capability gaps, and reducing vulnerability to coercion.
 - India's modernisation is characterised by defensive orientation, capability correction, and **strategic realism**.

Structural Weaknesses

- **India's military preparedness:**
 - **Air power deficiencies:** Fighter squadrons below sanctioned strength, aging aircraft fleets, and limited air defence coverage.
 - **Naval constraints:** Increasing maritime responsibilities in the Indian Ocean Region (IOR), overstretched naval assets, and need for submarine expansion.
 - **Army modernisation gaps:** Continued reliance on legacy platforms, slow mechanisation, and equipment obsolescence.
- **Impact:** These deficiencies affect deterrence credibility and adversary perceptions.

Changing Security Environment

- **Pakistan factor:** Pakistan's strategy is closely linked with nuclear deterrence doctrine. Potential reliance on risk-taking behaviour during crises. Possibility of limited conflicts under the nuclear umbrella.
- **China challenge:** Rapid military modernisation, expanding naval presence, military infrastructure along the Line of Actual Control (LAC), and lessons from the 2020 Galwan crisis.
- **Two-front threat:** Growing China-Pakistan strategic coordination, possibility of simultaneous pressure along: Western and Northern borders.
- **Strategic autonomy concerns:**
 - Global uncertainty and transactional foreign policies among major powers. Reduced reliability of external security guarantees.
 - True strategic autonomy requires independent military capability, defence self-reliance, and crisis resilience.

Strategic Significance of Defence Spending

- **Deterrence as a material condition**

- Deterrence depends on military capability, technological superiority, and operational readiness.
- Underinvestment in defence can encourage adversary coercion, increase their risk-taking abilities, and raise conflict probability.

- **Defence spending as strategic insurance**

- The defence budget aims to prevent quick military advantage by adversaries, increase conflict costs, strengthen crisis stability, and improve resilience.
- It is not intended to match adversaries platform-for-platform, and pursue militaristic expansion.

Challenges and Way Forward

- **Fiscal constraints:** Defence spending competes with social sector spending, infrastructure investment, and welfare schemes.
 - **Build sustainable defence financing:** Multi-year defence budgeting, efficient expenditure management, and lifecycle cost planning.
- **Fast-track procurement:** To minimise slow acquisition processes, bureaucratic hurdles, and cost overruns.
- **Technology gaps:** Dependence on foreign technologies. Limited domestic R&D capacity.
 - **Prioritise emerging technologies:** AI-enabled warfare, Autonomous systems, Cyber warfare, and Space capabilities.
- **Capability-planning gap:** Persistent mismatch between strategic ambitions and military capability.
 - **Strengthen defence indigenisation:** Expand the domestic defence ecosystem. Promote private sector participation. Improve technology transfer.
- **Limited two-front preparedness:** Simultaneous conflict readiness remains limited.
 - **Improve jointness and integration:** Strengthen theatre commands, improve tri-service coordination, and enhance integrated planning.
 - **Maintain credible deterrence on:** Northern border, Western front, and Maritime domain.

Conclusion

- The Defence Budget 2026–27 represents a strategic course correction rather than militaristic escalation.
- The increased allocation reflects India's recognition that peace is preserved through credible deterrence and capability, not restraint alone.
- By addressing long-standing capability gaps and strengthening defence self-reliance, India is moving toward a more secure and **strategically autonomous posture**.
- This is essential for maintaining stability in an increasingly uncertain Asian security environment.

India's Defence Surge FAQs

Q1. Why is India's recent increase in defence expenditure described as a strategy of deterrence rather than militarisation?

Ans. India's defence spending aims to build credible capability to deter aggression and reduce strategic vulnerabilities.

Q2. How does credible military capability contribute to India's strategic autonomy?

Ans. Strategic autonomy depends on the ability to defend borders and interests independently.

Q3. What is the significance of defence modernisation in addressing India's structural military weaknesses?

Ans. It helps bridge long-standing capability gaps such as outdated platforms and inadequate force strength.

Q4. What is the role of the China-Pakistan axis in shaping India's defence preparedness?

Ans. Growing China-Pakistan strategic coordination creates a potential two-front challenge, necessitating stronger deterrence and military readiness.

Q5. Why can underinvestment in defence pose a strategic risk for India?

Ans. Underinvestment weakens deterrence and may encourage adversaries to undertake coercive or aggressive actions against India.

Source: IE

Source: <https://vajiramandravi.com/current-affairs/daily-editorial-analysis-26-february-2026/>

© Vajiram & Ravi. For personal use only.