

**RELIGIOUS VIOLENCE AN INFRINGEMENT OF BASIC HUMAN
RIGHT AND PEACEFUL CO-EXISTENCE**

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ABSTRACT

Whether it is a civilian, an army man, a resident in any area of Indian Territory an unemployed youth or students are being instigated by the different political ideologies, separatists or religious fanatics resulting in the violation of the basic human right to live in peace and with dignity. The heinous crime of brutal mass attacks is committed against the ethos of humanity. The fundamental reason for disturbances in India is 'terrorism'- terror of religion, terror of non ethical versions, terror of acquired territory, terror of fanatic ideology and cross-border terrorism promoted by neighbouring states as elements from different parts of the world being a threat to the peace and harmony of the local Indians residing in the country. It is essential to mention here that the ethical groups are violating the human rights of the people whom they call their own including students and citizen of India. The aim of these forces is to destabilise India or at least keep it engaged in worrying about the suppurating wounds. The diversity of religious belief systems exiting in India today is a result of, besides the existence and birth of native religions, assimilation and social integration of religions brought to the region by traders, travellers, immigrants, and even invaders and conquerors. This diversity of religion has been in a peaceful co-existence from time immemorial but the political wrath and hunger for power is ruining the ethos of our holy land brutally, resulting in killings and burning of one's own nation. In India, religion has been used to divide people, initially by the British and later by those who believed in majority and indulged in communal politics. Today, India continues to face this challenge. The immediate attack on religious freedom through the use of identity politics comes from those who profess and swear to fundamentalist ideology. Adherents of this ideology use political power and law to create social tensions.

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Introduction

Whether it is a civilian, an army man, a resident in any area of Indian Territory being North, North East or South India an unemployed youth or students are being instigated by the different political ideologies, separatists or religious fanatics resulting in the violation of the basic human right to live in peace and with dignity. The heinous crime of brutal mass attacks is committed against the ethos of humanity. The fundamental reason for disturbances in India is „terrorism“- terror of religion, terror of non ethical versions, terror of acquired territory, terror of fanatic ideology and cross-border terrorism promoted by neighbouring states as elements from different parts of the world being a threat to the peace and harmony of the local Indians residing in the country. It is essential to mention here that the ethical groups are violating the human rights of the people whom they call their own including students and citizen of India. The aim of these forces is to de-stabilise India or at least keep it engaged in worrying about the suppurating wounds. There are atrocities being carried out in different cities by the citizens against their own fellow countrymen and the enforcement agencies are standing in a bitter and brave struggle against their daily abuse and torture. Human rights violation is the basic issue of the era and majority of people in the country are living without jobs and ruined business. While especially for the youngsters, unemployment has made the matter worse. One important reason of agitation against the government or the policies of state is dissatisfaction. When a person is dissatisfied with the rulers and thinks that his rights are being humiliated or exiled, his living of life has not been compensated then he stands in support of some religious parties. It does not matter which organization it would be. None of the organizations or political parties has any importance for him. Development for them is no more of primary concern as they indulge themselves in a war which is against themselves, mankind, peace and security of their own people and families.

The diversity of religious belief systems existing in India today is a result of, besides the existence and birth of native religions, assimilation and social integration of

religions brought to the region by traders, travellers, immigrants, and even invaders and conquerors. This diversity of religion has been in a peaceful co-existence from time immemorial but the political wrath and hunger for power is ruining the ethos of our holy land brutally, resulting in killings and burning of one's own nation. Citizens of India are generally tolerant of each other's religions and retain a secular outlook, although inter-religious marriage is not widely practiced. Inter-community clashes have found little support in the social mainstream, and it is generally perceived that the causes of religious conflicts are political rather than ideological in nature. The introduction of the Citizenship Amendment Act, 2019 has brought much chaos among the people and natives in India who are not able to understand the depth of the said amendment which is to grant a swifter path to Indian citizenship under the assumption of religious persecution to any individual belonging to the specific minorities of Hindus, Sikhs, Buddhists, Jains, Parsis and Christians from Afghanistan, Bangladesh and Pakistan, who entered India on or before 31 December 2014.² The Amendment benefits Hindu, Sikh, Jain, Buddhist, Christian and Parsi refugees from Afghanistan, Pakistan and Bangladesh who sought refuge in India before 2015 and leaves out Muslims and others from these countries, as well as Tamil refugees from Sri Lanka, Rohingyas from Myanmar, and Buddhist refugees from Tibet which are in majority in these said countries and the younger generation and the political groups lack the insight to understand the difference that the citizens of India (which ever religion they belong to) are not being questioned about their existence. The issue of fee rise in JNU, the NRC in North East, and the CAA all are being mixed and utilised as a double edged sword to divide the country and mixing religion with politics at all the levels and at the cost of the lives of common man who is living for his bread and butter. Human rights are violated by the masses that are educated and should fight for a cause which helps in their development not being used by the political parties as puppets in their hands. Many have taken the amendment in form of discrimination and at the same platform people are coming to their support as giving a sense of security to minority religions outside India.

Violence has become the order of the day. Religious terror and especially terror by

² The Citizenship (Amendment) Act, 2019 No.47, Acts of Parliament, 2019(<http://egazette.nic.in>) (Last viewed 08Jan 2020)

indiscipline extremist has become a menace for the civil society. Millions of people have lost their lives, homes, and properties due to this rebellious violence. Earlier in Kashmir valley, the terrorism had spoilt the very nature of human beings and society and now the students and intellectuals are spoiling the nature of existence of the mankind in the country. The high number of casualties sustained by government through losses of public property is a reflection of the tremendous amount of restraint displayed by local people under the difficult circumstances. India has been and is a secular state and the rigid ideologies and political stunts cannot part the people into sections in name of religion as secularism is an integral and inseparable part of India and will always remain which the shameful activities against humanity of these separatists and extremist groups cannot deny. The freedom to live according to different religious beliefs has allowed men and women of different faiths to live, work, learn, and worship peacefully side by side. Any effort to repress our freedom to worship, teach, and live out our beliefs is an attack on human dignity and its existence.

Religion a Human Right

India is a country of religious diversity and religious tolerance is established in both law and custom. Throughout the history of India, religion has been an important part of the country's culture. A vast majority of Indians associate themselves with a religion. Religious freedom is premised on the belief that every human being has inherent dignity to explore his or her conscience and pursue the truth. Dr. Sarvepalli Radhakrishnan, former President of India and prominent member of the Indian Constituent Assembly, said that religion is a code of ethical rules and that the rituals, observances, ceremonies, and modes of worship are its outer manifestations. Religion also identifies with “feeling, emotion and sentiment, instinct, cult and ritual, perception, belief and faith”. “Religious practice promotes the well-being of individuals, families, and the community.” It turns out that the practice of religion has a significant effect on “happiness and an overall sense of personal well-being.” And because happy people tend to be productive and law-abiding they make good citizens. On the other hand, religions can also be used to polarize societies. In India,

religion has been used to divide people, initially by the British and later by those who believed in majority and indulged in communal politics. Today, India continues to face this challenge. The immediate attack on religious freedom through the use of identity politics comes from those who profess and swear to fundamentalist ideology. Adherents of this ideology use political power and law to create social tensions.³

The United Nations recognized the importance of religion or belief in the 1948 (Universal Declaration), Article 18 of which states “Every one shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have a religion or whatever belief of his choice.”

International Covenant on Civil and Political Rights (1966)

In 1966 the UN adopted the International Covenant on Civil and Political Rights, expanding its prior statement to address the manifestation of religion or belief.

Article 18 of the Civil and Political Covenant is widely regarded as one of the most important articles on freedom of religion or belief. It reads:

1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.
2. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.
3. Freedom to manifest one’s religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.
4. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.

Important though Article 18, it has not received the same international attention as

³ Faizan Mustafa & Jagteshware Singh Sohi, Freedom of Religion in India: Current Issues & Supreme Court Acting as Clergy, Vol. 2017, Issue 4, BYU Law Review (Page 916) (<https://digitalcommons.law.byu.edu>) (8 Jan 2020).

other provisions of the Civil and Political Covenant. Detailed treaties, for example, have further codified the Civil and Political Covenant's prohibitions against torture, discrimination against women, and discrimination based on race. Though the civil and political covenant is a binding international treaty, the brief nature of attention to religious and conscious freedom leaves much to be desired.⁴

Indian Constitution (1950)

The Preamble of the Constitution of India proclaimed India a "Sovereign Socialist Secular Democratic Republic". The word secular was inserted into the Preamble by the Forty-second Amendment Act of 1976. It mandates equal treatment and of all religions. India does not have an official state religion; it enshrines the right to practice, preach, and propagate any religion. No religious instruction is imparted in government-supported schools. In *S. R. Bommai vs. Union of India*, the Supreme Court of India held that secularism was an integral tenet of the Constitution. The first reason secularism was adopted as a fundamental principle was to help in preventing religious strife by establishing equality between all religions. The principle of equality sighted with a notion of assurance to everyone that they have the freedom to practice their religion, which is codified in Article 25 of the Fundamental rights in the Indian Constitution. The right to freedom of religion is a fundamental right according to the Indian Constitution. The Constitution also suggests a uniform civil code for its citizens as a Directive Principle.⁵ Secularism was not inserted in Indian Constitution to create a wall of separation between religion and state. It was shaped to assure minorities that their culture, religion and identity would be protected and that a fundamental view would not be imposed on them.

Infringement of Human Rights in the Present Scenario

Human rights are relevant to violence as concerns both its victims and its enforcer. The concept of human rights expressed in the 1948 Universal Declaration of Human

⁴ Study Guide: Religion or Belief, Human Rights Library, University of Minnesota (<http://hrlibrary.umn.edu>) (Last viewed 08January 2020)

⁵ Dr. Usha Ramachandran, Tort Law in India, Page no. 203, Universal Law Publishing House, Allahabad

Rights, is "recognition of the inherent dignity and inalienable rights of all members of the human family." The innocent victims of terror either of losing their identity or their lively hood suffer an attack on their most basic right to live in peace and security.

The suspected executers of attacks also have rights, as members of the human family, in the course of their apprehension and prosecution. They have the right not to be subject to torture or other degrading treatment, the right to be presumed innocent until they are deemed guilty of the crime and the right to public trial. Today India is facing daunting challenges in the task of protecting human rights of common people regardless of the country they belong to. The destinies and the interests of the nations and their citizens have become interlinked to such an extent that, invariably, the action of one has adversely affected the other, leading to strife and suffering. In all such tragic situations, it has been mostly the common people, men, women and children whose rights have been violated. In fact people from all walks of life, irrespective of their caste, creed, colour or religion have been equally affected by violation of their Human Rights.

The situation in Kashmir was not good from a long time as agitation and cross border terrorism had and has an effect on the settlement of the local people and economy of the state. The attack on the Central Reserve Police Force, the paramilitary force that was targeted by a suicide bomber on 14 February 2019, resulted in the worse situation of students in whole country. The repercussions of the attack and reaction from the people across the country over the killing of the soldiers of a convoy resulted in harassment of many. The attack itself was a violation of peace and harassment for both the people who supported it and the ones who plead for justice against such a shameful act. Human rights violation is not just considered for the one who is arrested or beaten but for those innocent people who are from the same community but face the wrath of the others because of the behaviour approach of their own fellow men. We came across many cases in which the Kashmiri students who were residing and studying in different parts of India faced many dire consequences. Among these who supported the terror attack of Jammu and Kashmir's Pulwama District came across staunch actions of the administration. In

Rajasthan four women paramedical students of Kashmiri- origin faced sedition charges and were suspended from a private institute for allegedly celebrating the Pulwama attack by posting an “anti-national” message on social media, a woman teacher of a private school in Karnataka was arrested for allegedly praising Pakistan, a 28-year-old Kashmiri man, who allegedly shouted anti-India slogans at Delhi’s Jantar Mantar, was beaten up by a group of people who had gathered there to mourn the killing of the CRPF troopers, their human rights were violated in a way but at the same time these cases are marked as anti national.⁶ Because of some notorious groups the genuine students of the Kashmir valley also faced many bitter consequences as they were asked to vacate the houses where these Kashmiri students were residing peacefully. The administration in Jammu and Kashmir, reviewed the safety of the state’s youngsters studying in different parts of the country after reported disturbances and the authorities were in constant touch with different states, which had assured of providing adequate security to the students. The Kashmir Valley was under a shutdown as a mark of protest against the alleged attacks and harassment of the students outside the region. These conditions show the harassment and violation of the human rights of the people who want to stay in peace and security of their life and property, not only in the region but across the country. Regional and religious politics has played a vital role in creating disturbances in the area where relationship between the state and different religious groups can be maintained. The students from Kashmir valley have been acquiring education from different institutions across the country and globe displaying the facts that secularism was meant to assure minorities that they a legitimate place in the country and they will not be discriminated.

The abolition of Article 370 from Jammu & Kashmir brought much pride and humiliation, celebrations to anger both to the co-existence of human beings in a peaceful environment. People celebrated the triumph of abrogating Article 370 as it had chained many opportunities of development and rights of many residents of the state. At the same time it was a subject to violence and fury for the ones who had been reigning the region from decades. Religious and regional politics has played a

⁶ Shutdown in valley, Times of India (11 August 2019) (<https://msn.com/news/newsindia>) (Last viewed 24 March 2019).

major role in violating human rights of many Kashmiri Pandits and Muslims either residing away or staying in the region of Kashmir. Kashmiri Pandits were made to leave their native homes and live a nomadic life and Pak occupied Kashmir is the area where a normal Muslim cannot call himself an Indian. History has witnessed only deterioration of the natives of this region in the name of Article 370, no progress, no development (personal or economical) of the people or the state which has resulted in the infringement of their fundamental rights and indirectly violation of the basic human rights. There has been suppression and terror among the youth in name of Jihad which is again an ugly face of religious violence.

The government's decision brought development and peace in the state which has suffered three decades of violence, nobody else has a greater vested interest in peace and development than an average Kashmiri residing outside the region. With triumph came shadows at social level, the helplessness of not being able to reach out to families back home has been emotionally shattering and hard to come to terms with. The total clampdown on all means of communication has left families disconnected. It was inconsiderate and inhumane at multiple levels. Most of people residing out have elderly parents or small children at home. It was painful to think just how they must be coping inside their besieged homes. On the positive side, if the decision helps in resettling the uprooted Kashmiri Pandits back home, it will be a big win. Most of these Pandits want to go back to their homes, especially those still living in abject conditions in refugee camps in Jammu and elsewhere. Ending the discrimination against women deprived of property rights after marrying outside the Valley is also a welcome step. The decision to divide the state has been welcomed by Ladakh. They have been demanding UT status for a while. However, the decision hasn't gone down well in Kargil, a predominantly Muslim district, where people have come out on the streets to protest.⁷ Such protests and fight among the community itself is a phase of violations which result in infringements of basic rights to live, work, property, environment, development and movement.

The condition with the students and masses that are agitating and protesting against the Central Government over the amendments of the Citizenship Amendment Act

⁷ Jaibeer Ahmad, Will the Removal of Article 370 Bring Peace?, Economic Times(11January 2020) (<https://economictimes.indiatimes.com>) (Last viewed 11January 2020)

and The National Register of Citizens. Protests have broken out across India, a few of them violent, against the Citizenship (Amendment) Act 2019. The Act seeks to amend the definition of illegal immigrant for Hindu, Sikh, Parsi, Buddhist and Christian immigrants from Pakistan, Afghanistan and Bangladesh, who have lived in India without documentation. They will be granted fast track Indian citizenship in six years. So far 12 years of residence has been the standard eligibility requirement for naturalisation. At the first hearing on petitions challenging the CAA, the Supreme Court declined to stay the contentious law but asked the Centre to file its reply against the petitions that say it violates the Constitution. The petitioners say the Bill discriminates against Muslims and violates the right to equality enshrined in the Constitution.⁸

Is it not unconstitutional and against India's secular ethos to discriminate on religious lines?

Sixty-five writ petitions have been filed in the Supreme Court challenging the legal validity of the CAA. The apex court has asked the Union government to respond over the said issue. Constitutional expert Subhash Kashyap said that there are arguments both in favour of and against the act. "Article 14 says that all persons are entitled to equality, but there have been several Supreme Court judgments which say that reasonable classification can be applied to this principle of equality. Even all fundamental rights are subject to reasonable classification. Anyone can challenge the act in the apex court and the future of the act will depend on whether the Supreme Court accepts the classification made within this act as reasonable enough. The fear among the indigenous people of Assam is the act will primarily benefit illegal Bengali Hindu migrants from Bangladesh who have settled in large numbers across the state. The Assamese fear that if citizenship is granted to Bangla-speaking Hindu immigrants from Bangladesh, they will outnumber Assamese-speaking people in the state. They cite the example of Tripura, where Bengali-speaking Hindu migrants from Bangladesh now dominate political power, pushing the original tribal population to the margins. Unlike in the rest of India, where people are questioning

⁸ Citizenship (Amendment) Act 2019: What is it and why is it seen as a problem (Dec 31, 2019) (<https://economictimes.indiatimes.com>) (Last viewed 11 January 2020)

the exclusion of Muslims, the Assamese don't want immigrants of any religion, whether Hindu or Muslim. However, since the CAA will provide citizenship to non-Muslim illegal immigrants from three countries, only Muslim immigrants will be left out when the NRC is rolled out.⁹

Cases of disturbances and violence were reported from different parts of the country where students and common man showed their protest against the CAA and NRC by stone-pelting and thrashing of policeman. A police post was damaged and three vehicles were torched by an unruly mob, following which the police used tear gas to control the situation. Police lobbed teargas shells to disperse the mob of around 2,000 persons and protesters shouted slogans and held placards saying "No CAB No NRC". When the police tried to disperse them, the protesters started throwing stones, bricks and bottles at the policemen.¹⁰ In Lucknow, internet services remained suspended for at least a couple of days. In Ghaziabad, too, mobile internet services had been suspended till 10 pm tonight. Internet services were shut down in Sambhal, Aligarh, Meerut, Ghaziabad, Lucknow, Deoband, Mau, Bareilly, Azamgarh, Agra, Saharanpur, Pilibhit, Mathura and Kanpur. At least 3,000 people across Uttar Pradesh, including 350 in Lucknow, were arrested in connection with the protests against the amended citizenship law.¹¹ Violations of the rights of the police on duty, the people who have a right to speak and protest in a way are violated. The co-existence of both the sections police and public is in danger, one being an enforcement agency and the other whose rights are being infringed.

Conclusion

The protesters choose targets and actions to maximise the psychological effect on a society or government. Their goal is to create a situation in which a government will

⁹ Kaushik Deka, Everything you wanted to know about, India Today Insight(23 December 2019) (<https://www.indiatoday.in>)(Last viewed 11 January 2020)

¹⁰ Gujarat CAA protesters corner policemen, rain stones as locals rescue struggling cops (20 December 2019) (<https://www.indiatoday.in>)(Last viewed 13 January 2020)

¹¹ Stone pelting, arson and lathicharge in several districts: UP protests turn violent(20 December 2019)(<https://www.indiatoday.in>) (Last viewed 13 January 2020)

change its policies to avoid further disturbances. There are protests against almost all the actions and policies of the government which were not touched by the previous governments. The fundamentalists got a chance to stand against and under the shelter of the students and unemployed youth of India. There is agitation against the CAA as people think it allegedly violates the secular identity of the country and there are some who think it will endanger their linguistic and cultural identity. It has been said that the present amendment in the act will exclude the Muslim population of the country though from time to time the people residing in India have been granted citizenship. The law anywhere in the world prosecutes the illegal immigrant who cross the border without any paperwork and are neither eligible for citizenship. The changes brought in the country in name of Article 370 and CAA & NRC are to save the human rights of those who have suffered from the atrocities done to them either by the followers of separatist or fundamentalist ideology. India being a secular state has provided the Fundamental rights in the Constitution to every religion to follow and profess their religion. We have a mixed party system which plays a major role in religious and regional politics resulting in the infringement of basic human right which is to live peacefully with all the religions under one umbrella of secularism.