

“Saffronization in India – A Critical Analysis”

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ABSTRACT

The Preamble to the constitution ensures that India is a secular nation. In practice, unlike Western notions of secularism, India’s secularism does not separate religion and state. The Indian Constitution has allowed extensive interference of the state in religious affairs. Secularism as practiced in India, with its marked differences with Western practice of secularism, is a controversial topic in India. Also our constitution ensures equality before law and equal protection of the laws. Secularism is a concept which is followed in only democratic country. Right to religion is a basic fundamental right ,here we are going to ensure what are the rights which are affected by saffronization. Everyone has the right to freedom of thought conscience and religion , this right includes freedom to change his religion or belief and freedom , either alone or in community with others and in public pr private, to manifest his religion or belief , in worship , teaching practice and observance. Freedom to manifest ones religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interest of public order, health or morals, or for the protection of the rights and freedom of others. The Constitution, which was the outcome of the freedom movement, laid the foundation of the Indian republic. This document is a protector of democratic values, and Articles 25 to 28 list provisions that ensure freedom of religion. India accords everybody the right to practice, propagate and preach their religion. Freedom of religion is basic to these articles of the Constitution, but in the last few decades in general and recent years in particular, the degree of religious freedom in India has declined.

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CURRENT STATUS OF CONSTITUTION

The 7th schedule of Indian constitution places religious institutions, charities and trusts into Concurrent List, which means that both the central government of India, and various state government in India, can make their own laws about religious institutions, charities and trusts. If there is a conflict between central government enacted law and state government law, then the central government law prevails. This principle of overlap, rather than separation of religion and state in India was further recognised in a series of constitutional amendments starting with Article 290 in 1956, to the addition of word ‘secular to the Preamble of Indian Constitution in 1975.

In matter of personal law, such as acceptable age of marriage for girls, female circumcision, polygamy, divorce and inheritance, India law permits each religious group to implement their religious law if the religion so dictates, otherwise the state laws apply. In terms of religions of India with significant populations, only Islam has laws in form of sharia which India allows as Muslim Personal Law.

Secularism in India, thus, does not mean the separation of religion from state. Instead, secularism in India means a state that supports or participants in a neutral manner in the affairs of all religious groups. Religious laws in personal domain, particularly for Muslim Indians, supersede parliamentary laws in India, and currently in some certain situations for example religious indoctrination schools the state partially finances certain religious schools. At the same time, the Indian government is also financially administering Islamic central wakf council, historic Hindu temples, Buddhist monasteries, and certain Christian religious institutions. So, after all the good deeds to all the religious endowments, is there a fear of saffronization fear in India. Lets discuss it with the brief cases.

THE COMMUNAL DEATH

What has entered the public domain in recent times is the American State Department’s report on human rights in India. To be clear, many United States-based organisations also release such reports, but they are not binding on the policies of the state. Some American presidents have talked about promoting human rights globally—but ineffectively so. By and

large, American foreign policy is not guided by considerations of human rights. In some very glaring cases they do take action, such as deny a visa, but these are exceptions. Besides, the United States itself indulges in various rights violations, the Abu Ghraib prison tortures and the Guantanamo Bay abuses being the most glaring evidences. The office of International Religious Freedom, United States Department of State, in its 2019 report released on 10 June, highlights the violation of freedom of religion. It is filled with comprehensive and systematic reporting on Indian minorities and has an in-depth analysis of the challenges faced by minorities, especially Muslims, Christians and Dalits, in India. The highlight is the attention it has paid to religiously-motivated killings, assaults, discrimination and vandalism. It also refers to Indian Ministry of Home Affairs data, which records 7,484 incidents of communal violence during 2008-17, in which more than 1,100 people were killed.

The report cites instances of the horrific lynching of Muslims, Christians and Dalits. “While the lynchings are atrocious in and of themselves, what should alarm and galvanize the international community to action is the continuing incendiary rhetoric that is now part of mainstream discourse,”

As a result, there are very big differences of opinion on how to assess these reports and the role of monitoring groups. What these reports achieve is that they hold a mirror to the countries they are concerned with. Their reports help and guide the human rights defenders and give direction to their work.

A United States State Department team had wanted to visit India for understanding the issue in depth, but it was denied a visa on the grounds that India is not guided by external observations. This is a tough call to make in a globalising world, a transition to which successive Indian governments have firmly embraced, as a state policy, despite opposition to it. The question is, can we hide our dirty linen under the carpet and for how long?

After all, it is not as if no Indian institution is aware of the reality. In fact, the Indian Supreme Court has condemned mob violence in an order in July 2018 and asked for states to frame laws to punish and prevent the menace, which a few states have complied with. The point is that if we have nothing to hide, we should welcome all the efforts of any organisation and learn from their experiences and suggestions.

Finally, the violation of freedom of religion is against the Constitution, which makes it the duty of the state to protect this freedom. The problem is that with communalism on the rise, those out to torment religious minorities and violate the freedom of religion of others enjoy great deal of impunity. India needs a humane society which does not just tolerate but celebrates diversity, which was the core strength of our freedom movement.

THE AYODHYA VERDICT

We all know about the judgment that the ‘Hindus’ ended up with the ‘site’ and the ‘Muslims with five acre plot not by being nether majority nor minority of faith, but because the apex court unambiguously believes in the evidence of ‘actual worship down the centuries’. Let’s go with the virtue of law, what is the adverse position according to transfer of property act, it

says adverse possession, is the possession of property by a person which is adverse to every other person having, or claiming to have a right of possession by virtue of a different title. Once adverse possession is proved by the person despite by wrong means, the true owner loses his right over the land/property. So, the Babur's Mosque which is built before 500 years and which is famous for its cultural heritage is demolished over a night by some anti-Muslims. Later, it is perceived by the court that there was some archaeological evidences which show that proves there is existence of some culture and that is neither Islamic nor Hindu's culture. This issue has been destroying the peace of every community more than two decades. And finally the judgement came concluding 'faith and belief of Hindus since prior to construction of Mosque and subsequent thereto has always been that Janmaasthan of Lord Ram is the place where Babri Mosque has been constructed which faith and belief is proved by documentary and oral evidence. The apex court in the name of 'equity' awarded the Sunni Central Waqf Board five acres of the acquired land near the site or in a 'suitable place in Ayodhya'. Here, I'm going to critically analyze the legal virtue of the land according to the adverse position if the land is owned by some other person other than the owner then the law itself gives the legal status to him to be the owner. Then why the legal status of ownership is rejected to Babri Masjid. They say that the judgement is given based on equity, if it is a neutral judgement then the land must be given to neither of them. Separate lands should be given to each parties and the disputed land must be taken by the government, the government can either use it for any other purpose. The whole nation would have shouted out that India is a Secular country. Hence, the principle of saffronization is proved from the Ayodhya Verdict.

CATTLE SLAUGHTER IN INDIA

Practicing various faiths

There are many contradictions between the views of Non-Indians and Indians on Vegetarianism. The protection of animal life was championed by Jainism, on the grounds that violence against life forms is a source of suffering in the universe and a human being creates bad karma by violence against any living being. The Chandogya Upanishad mentions the ethical value of Ahimsa, or non-violence towards all beings. With the arrival of Islamic rule as the Delhi Sultanate in the 12th century, Islamic dietary practices entered India. According to the verses of the Quran God created cattle to benefit man and recommends Muslims to eat cattle meat, but forbids pork. Cattle slaughter had been and continued to be a religiously approved practice among the Muslim rulers and the followers of Islam, particularly on festive occasions such as Bakrid. India is a secular country which follows different religions and different faiths. This gives the identity of India. Let's take Christianity; it is one of India's largest religions after Hinduism and Islam, with approximately 28 million followers. In Christianity, beef is allowed to be eaten and has been eaten across Christian followers in different parts of India for centuries. So, India is a country with its own creed and heritage and privilege to follow any religion.

NON-UNIFORMITY

No state law explicitly bans the consumption of beef. There is a lack of uniformity among State laws governing cattle slaughter. The strictest laws are in Delhi, Haryana, Himachal Pradesh, Jammu and Kashmir, Punjab, Rajasthan, and Uttar Pradesh and Uttar hand, where the slaughter of cow and its progeny, including bulls and bullocks of all ages, is completely banned. Most states prohibit the slaughter of cows of all ages. According to the national commission on Cattle, the definition of a calf being followed in Maharashtra, by some executive instructions, was “below the age of 1 year”. As we discussed earlier it may be against some religious belief but that does not give immunity to stop other community practices.

PARLIAMENTARY MOVES ON COW- SLAUGHTER IN INDIA

In 1981, the question of amending the constitution by introducing a Bill was again examined by the Government, but, in view of the sensitive nature of the issue and owing to political compulsions a “wait and watch” policy was adopted. A number of complaints were received from time to time that despite the ban on the slaughter of cow and its progeny, healthy bullocks were being slaughtered under one pretext or the other and calves were being maimed, so they they could be declared useless and ultimately slaughtered. Prime Minister India Gandhi, in her letter in which she desired that the ban be enforced in letter and spirit, that the ban on cow slaughter is not allowed to be circumvented by devious methods, and that committees to inspect cattle before they are admitted to slaughter houses be adopted. Recognizing that the problem basically arose on account of inaction or obstruction on the part of a few States and large scale smuggling of cows and calves from a prohibition State to a non-prohibition State like Kerala was taking place, a suggestion was made this problem be brought to the notice of the Sarkaria Commission, which was making recommendations regarding Centre-State relations, but this idea was dropped as the Commission was then in the final stages of- report writing. So, parliament also didn’t make any serious measures to stop this cow slaughter at the same time if the ban on cow slaughter is taken up seriously it will affect the lives of many traders who are carrying this as business. And also the parliament also does not have any right to stop consumption of food. So, the saffronization here is taken up in a way to abolish the consumption of meat by Muslims.

ARE MOST MUSLIMS IN INDIA ARE TERRORISTS?

The reason is that ‘terrorism’ is today accepted only that which is Islamist. And the reason for this is the narrative in the media, which has neatly conflated terrorism with Islam and Pakistan. Here I am not going to justify terrorism in one or the other way is allegation against the government but creating a shade like Muslims are the source of terrorism their purpose of residing in India is to kill innocent people. I’m saying such image was brought by the government through the media. Terrorism in India, according to the Home Ministry, poses a significant threat to the people of India. Compared to the other countries, India faces a wide range of terror groups. Terrorism found in India includes Islamic terrorism, Hindutva

terrorism, separatist terrorism, and left wing terrorism. A common definition of terrorism is the systematic use of threatened use of violence to intimidate a population or government for political, religious, or ideological goals. There has been several bomb attacks by several terror groups but once they hear about the terror attack the first instance which will be flashing in everyone's mind is that, the incident would be done by Islamic terror groups. This bogus was wholly created by the government. So, here I am concluding that Muslims are not the only people in India who is progressing terrorism. And the shade of terrorism over them is the shade given by the media through government.

CITIZENSHIP AMENDMENT ACT A CONSTITUTIONAL ANALYSIS

Under Article 6 the Constitution, a migrant from Pakistan or any other Muslim countries they will be granted citizenship if she entered India before July 19, 1948. In Assam, which has seen large- scale migration from East Pakistan (later Bangladesh), a migrant will get citizenship if she entered the state before the 1971 date mentioned in the Assam Accord. As far as illegal immigrants are concerned, India does not have a national policy on granting asylum or refugee's status. The Home Ministry, however, has a standard operating procedure for dealing with foreign nationals who claim to be refugees. The government gave visas based on case to case study to every migrant. It was not a tough job for the government to give visa based on the credibility. Then what is the purpose to amend the citizenship act. Here I am going discuss what will be the primary reason to amend the act. Why the minorities are discriminated in a democratic country.

WAYS OF OBTAINING CITIZENSHIP

- Citizenship by birth: in 1955, the law provided that anyone born in India on or after January 1, 1950 would be deemed a citizen by birth. This was later amended to limit citizenship by birth to those born between January 1, 1950 and January 1, 1987. It was amended again by the Citizenship Amendment Act, 2003; those born after December 3, 2004 will be deemed a citizen of India by birth if one parent is an Indian and the other is not an illegal immigrant. So, if one parent is an illegal immigrant, the child born after 2004 will have to acquire Indian citizenship through other means, not simply by birth. The law describes an illegal migrant as a foreigner who: 1) enters the country without valid travel documents, like a passport and visa, or 2) enters with valid documents, but stays beyond the permitted time period.
- Citizenship obtained by descent: A person born outside India and who has at least one Indian parent will be granted citizenship provided that the birth is registered within one year with the consulate in the jurisdiction.
- Citizenship by naturalisation: section 6 of the Citizenship Act states a certificate would be granted only in case if he is not an illegal migrant. Had already resided in India for 12 months before applying for citizenship. Additionally, in the 14 years before the 12 month period, the person must have lived in India for at least 11 years

- Waiver: if in the opinion of the central government, the applicant has rendered distinguished service to **the** cause of science, philosophy, art, literature, world peace or human progress generally, it may waive all or any of the conditions in the Act. Thus is how the Dalai Lama or Adman Sami, the Pakistani singer, were granted Indian citizenship.

HOW MANY PEOPLE COULD NOW BE GIVEN INDIAN CITIZENSHIP UNDER THE NEW LAW?

Home Minister Amit Shah referred to the amendment as bringing relief to “Lakhs and Crores of non- Muslim refugees from Pakistan, Bangladesh and Afghanistan”. As of December 31, 2014, the government had identified 2,89,3944 “stateless persons in India”; according to data presented in Parliament by the Home Ministry in 2016. The majority were from Bangladesh (1,03,817) and Sri Lanka (1,02,467), followed by Tibet 958,155), Myanmar (12,434), Pakistan (8,799) and Afghanistan (3,469). The figures are for stateless persons of all religions. For those who came after December 31, 2014, the regular route of seeking refuge in India will apply. If they are regarded as illegal immigrants, they cannot apply for citizenship through naturalisation, irrespective of religion.

WHETHER IT IS DISCRIMINATING ISLAMIC RELIGION?

It is true that the CAA per se does not impact Indian Muslims. When twinned with the **National Register of Citizens (NRC)**, however, it could adversely impact not only Indian Muslims, but also poor Indians of all faiths. Even if (**given the conflicting signals from the government**) the NRC is not implemented, and the differentiation is only in relation to illegal migrants in the CAA, the very introduction of the principle of **religious discrimination** is cause for concern. Once the principle is admitted, that discrimination on religious grounds is permissible in law, it may not be possible to limit or contain its application to other realms as well.

HOW HAS THE SWITCH TO JUS SANGUINIS BEEN SIGNIFICANT IN THE GREAT CITIZENSHIP DEBATES OF THE WORLD?

The direction of change varies accordingly. When Trump the President of the United States, he did indeed signal a questioning of the idea of birthright citizenship. On the other hand, Germany has moved in a more inclusive direction, combining elements of both jus soli as well as jus sanguine. So there are historical fluctuations and hybridisations. The Indian law of citizenship recognizes both — but through an amendment enacted when Atal Bihari Vajpayee was Prime Minister, jus soli was undermined in favour of jus sanguine, through the exclusion of people born in India, but with one parent who was an illegal migrant at the time of their birth. The new amendment consolidates this shift, introducing an explicitly religious criterion into a hitherto religion-neutral law.

DID THE COLLAPSE OF COUNTRIES SUCH AS THE USSR AND YUGOSLAVIA FEED THE IDEA OF ETHNICITY/RACE AND NUDGE INDIA TOWARDS AN EXCLUSIVE IDEA OF CITIZENSHIP?

The disintegration of the Soviet Union and the break-up of Yugoslavia were a long time ago. The hyper-nationalism and xenophobia in countries experiencing populist regimes have been attributed to the perceived excesses of globalisation. But the fact is that we have been in what is called a post-multicultural world since at least the mid-1990s.

The impetus for the decline of multiculturalism in Europe had different sources. From left to right, it ranged from the broadly left dissatisfaction with identity politics as a distraction from the project of equality to the concern that it had failed to improve the condition of minorities to the populist worry that being over-solicitous of minority cultures was threatening the majority's way of life.

The Indian case is, however, distinct from all of these. The great civilisation diversity of this country makes imperative an inclusive architecture of governance. This found powerful expression in the freedom movement, in the deliberations of the Constituent Assembly, and in our Constitution. Even if the word 'secular' was a later addition, India's Constitution is a document that builds the imperatives of diversity and pluralism into the architectural design of how we are governed, from reservations for historically disadvantaged groups to cultural rights for religious minorities and even the federal arrangement initially based on language. The questioning of this architecture has less to do with the outside world and more to do with our own polity.

WHAT OTHER EXAMPLES ARE THERE IN THE WORLD OF COUNTRIES ASKING ALL CITIZENS TO PROVE CITIZENSHIP AT GOVERNMENT WINDOWS, IN THE WAY THAT SOME FEAR THE NRC MIGHT DO? DOES THAT NOT MEAN ASSUMING EVERYONE IS ILLEGAL UNLESS PROVEN OTHERWISE?

I am not aware of any example in the world in which an entire population has been asked to prove its citizenship. Even national ID cards have been controversial. In 2006, the United Kingdom legislated National ID cards, to be linked to a National Identity Register, carrying 50 categories of information on every citizen. Among the significant objections were concerns about discrimination expressed by black and South Asian citizens. Significantly, the Commission for Racial Equality said that this could result in a two-tiered racial structure, in which British ethnic minorities may be obliged (by the state or by employers) to register while white British people may not. The Act was repealed in 2011, and the data on the National Identity Register was destroyed within a month.

MILLIONS TO LAND IN DETENTION CENTRES

For those who fail the NRC test, and declared as illegal migrants, detention centres are being readied for them. Several such "detention centres" are already being built across the country - 10 in Assam, one in Navi Mumbai and one in Bangalore rural (Nelamangala).

VIOLENCE AGAINST A PARTICULAR COMMUNITY

1964 Kolkata

Riots between Hindus and Muslims had left over a hundred people dead, 438 people were injured. Over 7000 people were arrested. 70,000 Muslims have fled their homes and 55,000 were provided protection by the Indian army.

1983 Nellie Massacre

In the state of Assam in 1983 the Nellie massacre occurred. Nearly 1,800 Muslims of Bengali origin were slaughtered by Lalung tribespeople (also known as Tiwa) at a village called Nellie.^{[48][49]} It has been described as one of the most severe massacres since World War II with the majority of victims being women and children, as a result of the actions of the Assam Movement.

One reason cited for this incident is that it resulted from a build-up of resentment over immigration. The Assam movement insisted on striking the names of illegal immigrants from the electoral register and their deportation from the state. There was widespread support for the movement, which tapered off between 1981 and 1982.

1969 to 1989

During the 1969 Gujarat riots, it is estimated that 630 people lost their lives. The 1970 Bhiwandi Riots was an instance of anti-Muslim violence which occurred between 7 and 8 May in the Indian towns of Bhiwandi, Jalgaon and Mahad. There were large amounts of arson and vandalism of Muslim-owned properties. In 1980 in Moradabad, an estimated 2,500 people were killed. The official estimate is 400 and other observers estimate between 1,500 and 2,000. Local police were directly implicated in planning the violence. In 1989 in Bhagalpur, it is estimated nearly 1,000 people lost their lives in violent attacks, believed to be a result of tensions raised over the Ayodhya dispute and the processions carried out by VHP activists, which were to be a show of strength and to serve as a warning to the minority communities.

1987 Hashimpura massacre

Hashimpura massacre happened on 22 May 1987, during the Hindu-Muslim riots in Meerut city in Uttar Pradesh state, India, when 19 personnel of the Provincial Armed Constabulary (PAC) allegedly rounded up 42 Muslim youth from the Hashimpura mohalla (locality) of the city, took them in truck to the outskirts, near Murad Nagar, in Ghaziabad district, where they were shot and their bodies were dumped in water canals. A few days later dead bodies were found floating in the canals. In May 2000, 16 of

the 19 accused surrendered, and were later released on bail, while 3 were already dead. The trial of the case was transferred by the Supreme Court of India in 2002 from Ghaziabad to a Sessions Court at the Tis Hazari complex in Delhi, where it is the oldest pending case.

1992 Bombay riots

The destruction of the Babri Mosque by Hindu nationalists led directly to the 1992 Bombay riots. According to an article published in The Hindu's Frontline magazine, titled Gory Winter, "officially, 900 people were killed in mob rioting and firing by the police, 2,036 injured and thousands internally displaced." BBC correspondent Toral Varia called the riots "a pre-planned pogrom," that had been in the making since 1990, and stated that the destruction of the mosque was "the final provocation".

2002 Gujarat violence

Since partition, Muslim community has been subject to and engaged in sectarian violence in Gujarat. In 2002, in an incident described as an act of "fascistic state terror," Hindu extremists carried out acts of violence against the Muslim minority population, in retaliation to on going sectarian violence and persecution by radicalised Islamists, often backed by the Pakistan Intelligence services, with increasing support amongst the local Muslim population.

The starting point for the incident was the Godhra train burning which was allegedly done by Muslims. During the incident, young girls were sexually assaulted, burned or hacked to death. These rapes were condoned by the ruling BJP, whose refusal to intervene led to the displacement of 200,000. Death toll figures range from the official estimate of 790 Muslims and 254 Hindus killed, to 2,000 Muslims killed. Then Chief Minister Narendra Modi has also been accused of initiating and condoning the violence, as have the police and government officials who took part, as they directed the rioters and gave lists of Muslim-owned properties to the extremists.

CONCLUSION

Human beings are embedded in their immediate social, economic, political, cultural contexts. Are they absolutely free to do as they choose or the freedom is to be exercised within the societal bounds, that is the question. Contemporary political philosophy has attempted to address this seemingly irreconcilable dilemma and this has resulted in the emergence of libertarian versus communitarian debate. It is essentially a debate between those who favour individual rights and autonomy on the one hand and those who emphasize the bonds of community in political life. From this article I am trying to visualize that the saffronization has got into their nerve and it is taking big other turns. In order curb that we the citizens of India must take efficient steps. We have the fundamental rights to fight for our lives. Indeed, like other countries we won't be given rights in our hand to cherish, rather we should undergo struggles to get it. This government has done many good things to us and also we should critically analyze the moves of the government that the reason why we are having the opponent property to every government. As a law student I am concluding it, a government

should not be discriminative in any nature. It should ensure the rights of every person. No one in this state shall not be deprived of his right. So, if the government is violating the rights of any particular community then it must be questioned. So, in this article analyzed we have clearly discussed about the various discrimination which is made by the current government and what we the citizens have all rights to stand against it and fight for it. To bring the deprived right.