

ETHNO RELIGIOUS VIOLENCE AND ANTI MINORITIES LEGISLATION IN INDIA, POST MODI REGIME (CASE STUDY OF MUSLIM COMMUNITY IN 2014-2019)

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Abstract

In India, the divergence between Hindus and Muslims remained an issue even before the partition of subcontinent. However, after partition i.e. in 1947, the same went worse because of the religious anxiety, as one of the underlying factors accompanied with community riots. This article attempts to bring in limelight by adopting radical theory, the increased ratio of violence, hate crime and ethnic cleansing mission of Muslim community since 2014 when the Prime Minister Narendra Modi, the leader of Bharatiya Janata Party (BJP) came into power on the basis of Hindu nationalist agenda with anti-Muslim features. The author has also referred towards various laws being promulgated affecting the said community.



INTRODUCTION

India is home to some two hundred million Muslims, forming 14.6 % of the total population. (Muslim Population by Country 2023, n.d.). Irrespective of the fact that being one of the biggest minority groups in India, Muslims have faced systematic discrimination and violence, which though accelerated more during the era of Narendra Modi. To him, it is only Hindu nationalism which can provide a suitable environment to Hindus in India. Hindutva, an official platform of BJP is actually a modern political ideology that promotes Hindu supremacy and is striving to transform India, which is constitutionally a secular state, into an ethno-religious nation known as the Hindu Rashtra (Hindu nation). (What Is Hindutva?, n.d.). However, there is nothing in Hindutva but only hate and humiliation for other

minorities in India. This radical philosophy is leading India to a fascist state, where only Hindu community is entitled to all rights. Around 180 million Muslim population if disgruntled through these ultraconservative policies, India may lead to chaos and battue and even may be divided further. (Yousafzai, 2021)

Narendra Damodardas Modi, a senior leader of the Bharatiya Janata Party (BJP) became 14th prime minister of India (Yousafzai, 2021) with the manifesto of good governance and a parallel kind of development that had transformed the state of Gujrat to a greater extent. (Narendra Modi | Biography & Facts | Britannica, 2023). Though the Constitution of India expressly guarantees democracy, civil liberties, and secularism still a fear of India to become a Hindu authoritarian state

arose after Modi came to power in New Delhi in 2014. (Swaminathan S. Anklesaria Aiyar, 2020). The incident of Gujarat riots in 2002, one of the worst outbreaks of religious violence, with more than 1,100 casualties, overwhelmingly Muslims was also perpetrated by BJP. The said communal violence erupted when Modi, the then Chief Minister of Gujarat, falsely accused Pakistani secret services of the deaths of 58 Hindu pilgrims aboard a train, that was set on fire in Godhra station on February 27, 2002, after returning from Ayodhya. (Aditya Chakraborty, 2014). It was the Muslim community who was allegedly held responsible for the said incident, leading to heightened retaliatory attacks thus the disaster. Raw and chilling footage of the various public documentaries revealed how the police, the law enforcing authority, didn't take an action the time Hindu mobs attacked Muslims (Astha Rajvanshi & Armani Syed, 2023) raped Muslim women, and destroyed Muslim businesses as well as places of worship (India's Muslims, n.d.). Even the horrifying incidents of slitting open the wombs of pregnant Muslim women to murder unborn occurred at massive level. (Khan, 2019). Modi and his cabinet were though held accused for the said crime, as a government which failed to take any preventive measures rather he described it as a Newtonian phenomenon that with every action triggering an equal and opposite reaction. However, this rioting did last for some four months with massive atrocities. (Shiv Visvanathan & Teesta Setelvad, 2017). The Special Investigation Team gave clean chit to Modi for no conspiracy on his part, which when was contested by murdered ex-MP's wife Ms Zakia Jaffri that too was too rejected in 2022 with a verdict that "(Charge) of such kind of larger criminal conspiracy at the highest level stands collapsed like a house of cards". (The Wire staff, 2023). However, Following the 2002 Gujarat riots, the British government opted for a diplomatic boycott on Modi for his failure to put an end to the bloodshed. It though ended in October 2012. (The Wire staff, 2023). Irrespective of a massive disaster, Modi focused on the state of Gujarat, thereby made it a model state for the rest. This resulted for him not only to win reelection in the same state in 2007 but again in 2012. This

progressive attitude paved way for him to become the BJP's national leader for the 2014 general election. (Nawaz, 2015).

Modi during his reign claimed for neoliberal and pro-big capital system but the idea couldn't work to boost up the economy because of his politics of hatred. Realizing the fact, Modi government focused more on the management of perception rather than on actual developing and implementation of economic policies. (Jayati Ghosh, 2020). In order to distract public from government's mismanagement and also for his regime stability by holding vote bank simultaneously, Modi's party i.e. BJP used a religion card to play upon. Therefore, it highlighted its goals which included extinction of the special status of Kashmir i.e. a disputed Muslim-majority region; construction of a Hindu temple in the northern city of Ayodhya; and promulgation of a uniform civil code so all citizens would have the same personal laws irrespective of their personal laws.

This BJP, actually traces its origins to the political wing of the Rashtriya Swayamsevak Sangh (RSS), which in itself is a Hindu nationalist paramilitary volunteer group in India, working for the promotion of Hindutva. Hindutva basically connotes "hegemonic Hinduism. (Qureshi, 2019). Rashtriya Swayamsevak Sangh (RSS) is a group which has a reputation of being instrumental in a brutal campaign against minorities especially Muslims.

1. BJP and violence against Muslims:

This trajectory of being attacked, humiliated and disgraced, has been observed since the early days of the BJP government. The United States Commission on International Religious Freedom (USCIRF) in its report on India had narrated that the whole year of 2015 under BJP rule was nothing less than disaster for the minority communities where they had to experience uncountable incidents of intimidation, violence and harassment, largely at the hands of Hindu nationalist groups". These moves were "tacitly supported" by the members of BJP who also used religiously-divisive language to further ignite tensions. thereby creating an environment of insecurity for the muslim community. (USCIRF_Tier2_India.Pdf, n.d.) According to a Human Rights Watch report, around 36 Muslims

across 12 Indian states have been killed in vigilante attacks on bovine issues between May 2015 and December 2018.(Finnigan, 2019).

The most recent 2018 report of the Human Rights Watch, in fact, assessing the situation of 2017, noted that scourge violence aimed at religious minorities, demean communities and critics of the government, often have been carried out by groups claiming to support the ruling BJP has become an increasing threat in India in 2017. The government failed to promptly investigate the attacks, while most of the senior BJP leaders publicly promoted Hindu supremacy fanatical patriotism, which encouraged further barbarity.”(Human Rights Watch, 2018).

2. First term of Modi Regime and Anti Muslim legislation:

The Modi regime have been tagged as an era of regressive legislation especially in the context of promulgation of anti-muslim laws across a range of subjects. Irrespective of constitutional guarantees being given to religious minorities’ (Kidwai, 2020) the series of actions have been taken by the government which has legally moved India away from the secular standing of its constitution.(Patel, 2021). In Modi’s first term i.e. from 2014-2019, BJP brought many anti-minorities laws which intended on erasing muslim minority identity.

The following laws have been passed at either central or provincial level, affecting muslim community in specific:

2.1 Beef related laws:

The first set of laws promulgated in BJP states, after Modi’s attack on the ‘Pink Revolution’ aimed at cow protection (gao mata). (Butt, 2014). The possession of beef has been made an offence, knowing the fact that to slaughter cow is one of the rituals of Islam.

Most of the states of India has legislated upon the issue of cow protection by making slaughtering a cow an offence. As per these laws, anyone if found in possession of beef would be imprisoned for up to five or seven years respectively. This law also banned the slaughter of bulls, bullocks and calves in addition to the existing ban on cow slaughter.(Garg, 2021a). Though two years later, the state of Gujarat increased the punishment for

cattle slaughter to life. (Safi, 2017). Another dilemma of these laws is that in these cases, accused has to prove, meaning thereby that a person is guilty unless he can prove himself innocent.

3.1.1. Consequent violence:

The initiation of legislation in these lines have been taken as one of the gifts of Modi regime. Thus began the sequence of beef lynching, a category of violence Indians were unfamiliar with, thereby prosecuting Muslim cattle traders. BJP-affiliated groups have made various attacks on Muslims and Dalits on bare rumors that they either have killed or traded cows for beef. Since May 2015, approximately 50 people have been killed, majority Muslims, and hundreds injured in various attacks by these so-called cow protection groups that claimed affiliation to the BJP. Police have often stalled prosecutions of the attackers, while several BJP politicians have publicly justified the attacks. (“Human Rights Watch Submission to the Universal Periodic Review of India,” 2022)

3.2. Law relating to interfaith marriages:

Another set of laws promulgated in the year 2018, affecting minority class including Muslim community relates to interfaith marriages. Under these laws, interfaith marriage as Muslim-Hindu marriages, even of couples bearing children, are forcibly undone by the Indian State.

The law of “Uttarakhand Freedom of Religion Act, 2018” got introduced by BJP state and many other states in India after the wide circulation of conspiracy theory of ‘love jihad’. (Ellis-Petersen & Khan, 2022). The concept of love jihad widely means love is purposefully used as a tool by male Muslims to trick unaware Hindu girls into marriage, marry them, convert them to Islam. (Malji & Raza, 2021). The law consists a clause which reads that ‘any marriage which was done for the only purpose of conversion by the man of one religion with the woman of another religion either by converting himself before or after marriage or by converting the woman before or after marriage may be declared null and void’. It further says that ‘if any person comes back to his ancestral religion’ then this shall not be deemed conversion, without prescribing any definition for the term ‘ancestral

religion'. These laws have also been used to harass and arrest Muslim men in relationships with Hindu women (Pandey, 2022). Since the law became effective, the Uttar Pradesh authorities have filed various cases against 86 people, 79 of whom are Muslims reportedly, accusing them of "enticing a woman" thereby forcing her to convert to Islam. ("India," 2021)

3.3 Law prohibiting transfer of immovable property:

Another law which targeted the minorities including Muslim community is Gujarat Prohibition of Transfer of Immovable Property and Provision for Protection of Tenants from Eviction from Premises in Disturbed Areas Act, 2019 amendment. (Editor, 2020). The main purpose of this law is to keep Muslims permanently segregated. This requires people to reveal their religion on affidavit at the time of selling and purchasing property. In areas that were declared 'disturbed' by the State, permission of the state has been mandatory for whosoever is selling the property to another. This has effectively ghettoised Muslims. The amendment 2019 further authorized the Collector to determine if the sale of any property would lead to "polarisation" or "improper clustering" of people from a particular religion. It also have empowered the government to review the decision of the Collector, even without any appeal on the part of buyer and seller. (Dabhi, 2020).

As per the said amendment, now even foreigners could rent and buy property in those parts of Gujarat's cities where Indian Muslims could not. A series of stories in the local media (ignored in the national media) shows that using this law Hindus constantly raised objections on Muslims buying property near their homes as they do not want to see them around. (Tejani, 2022).

3. Modi Second tenure and Anti-Muslim policies:

BJP leader Narendra Modi got reelected as a Prime Minister for yet another term in the year 2019. The depiction of Muslims as 'others' and as a threat to the interests of Hindus has escalated in Modi's second tenure. Modi's government has taken a legal avenue to justify the political construct of Muslims as

'others' through various legislations. Multiple steps have been taken one after another, which clearly shows resentment of the current government towards Muslims. As Indian cities, bearing Islamic names, like Allahabad have been renamed to Prayagraj. (Frayer, 2019). Trials have been made to rewrite history by removing the whole chapter of Mughal empire from school texts as well. (Chowdhury, 2022).

Nevertheless Muslims have been tagged not only as corona terrorists but also human bombs in the guise of corona. (Ellis-Petersen & Rahman, 2020). There were also numerous physical attacks on Muslims amid falsehoods accusing them of deliberately spreading the virus. (Human Rights Watch, 2020). It has been reported that many of the Muslims have also been turned away from testing centers and health clinics due to such fears. (Ramasubramanyam, 2020). This all is being done on the pretext of Modi who is of the opinion that if Muslims are given enough religious liberty, they may end up in creating a state like Pakistan within India. In several other cases, Human Rights Watch has found that the police has deliberately overlooked to follow procedures established under the criminal code i.e. production of an arrest warrant, informing the person's family of the arrest, and providing them a copy of the First Information Report, the official police case, or ensuring that those arrested have access to legal counsel, including during interrogation, again it has been the Muslim community who had to suffer at the hand of police. ("India," 2020) Furthermore, certain laws have either been passed or amendments have been made in already existing laws which again ended up in targeting minorities i.e. Muslim community more specifically.

4.1 Promulgation of Anti-Muslim laws since 2019:

Modi government passed following various laws further in order to expand the level of polarization in Indian politics leading to communal violence at a large scale.

4.1.1 Muslim Women (Protection) of Rights on Marriage Act, 2019.

Another law that has been passed in 2019, criminalized the practice of triple talaq among

muslims. Although in one of the Supreme Court of India's judgement such kind of divorce was declared invalid meaning thereby continuation of marriage with no effects of such utterance. However,(Deb, 2021b) this law has made this act a crime with a punishment of three years imprisonment. (et. al., 2021)The enactment of this law shows how muslims were being targeted for no wrong on their part. As Muslim men, one of the sections of India for whom divorce, a private wrong for all other communities, has a crime against the State.

4.1.2 The Personal Laws (amendment) Act 2019':

This legislation cancelled Muslim personal law and seized the right of Indian Muslims to settle their personal matters i.e. of inheritance, marriages and divorce as per their religion in the courts. Modi's government has replaced the personal laws of minority communities with uniform personal law for all Indians which in fact is against the secular spirit of Indian polity. (Deb, 2021b).

4.1.3 Amendment in Unlawful Activities (Prevention) Act:

In August, 2019, an amendment was introduced to the said law by permitting the state to designate anyone as a "terrorist" without trial. Though before this amendment, the law had been invoked by security agencies against prominent advocates of civil liberties. But with this move it has been freely used against others such as the Assam peasant leader and CAA critics i.e. the muslim community. It has been assumed that Modi government is no more ready to tolerate dissent.it would not be wrong to state that this amendment have given teeth to agencies to designate any individual as a terrorist and therefore impound his properties. (Kashyap, 2021).

4.1.4 Article 370 and special status of Kashmir:

Quite recently, Modi has reflected his ulterior motive by depriving the state of Jammu and Kashmir of its special status, the only muslim majority state. Article 370 of the Indian Constitution got abolished in August 2019 which fulfilled the long-awaited Hindutva dream. And was characterized as a correction of the historical blunder. (Gosh, 2019).

With this, the revocation of Article 35(A) has deprived the people of Kashmir not only of their right to permanent residence in the Valley but also right of employment, and property. (Jha & Jha, 2019). the abolition of these articles has been by months of curfew and detention of Kashmiri political leaders under the Public Safety Act of 1978. (Kumar, 2020).

4.1.5. National Registration of Citizens:

The NRC was created in the 1950s to deal with the case of the state of Assam to determine if the people living there were Indian citizens or migrants from Bangladesh i.e. to target non documented Indians.(Yousafzai, 2021). The NRC aims to identify and expatriate millions of undocumented Muslim migrants who have been living in India for decades and generations. The government of Assam updated its register in 2019, that excluded nearly two million people because majority of them lacked necessary documents. (Maizland, 2022). The changes made in citizenship laws fear minorities along with Muslims that they would soon be stripped of their citizenship rights and be declared stateless and may have to face detention in camps.(Yousafzai, 2021).

In pursuance thereof, the government has established various foreigner tribunals and has constructed a network of internment facilities in Assam, where millions of Muslim migrants live, most in poverty stricken conditions, and to accommodate for the mass interment of undocumented Muslim families. (Pradhan, 2020).

4.1.6. Citizenship Amendment Act 2019:

In December 2019, the Citizenship Amendment Act was passed, which allows for the fast-tracking of citizenship for migrants either Hindu, Sikh, Buddhist, Jain, Parsi or Christian from Afghanistan, Bangladesh, and Pakistan, with no reference of muslims in it which in itself makes the very law discriminatory. The government has applied a religious criteria for the first time to the question of citizenship with an argument that that the law has been designed to provide protection to those endangered religious minorities who are facing victimization in these three Muslim-majority countries. ("Citizenship Amendment Bill,"

2019a). However, BBC news has termed this law as “India’s new ‘anti-Muslim’ legislation” in its report that got published on 11 December 2019. (Khokhar, 2019)

It has been argued that this law has some connection with NRC, which is a list of people who can prove they have already been in the state of India by 24 March 1971, i.e. before Bangladesh became an independent country. The two seems closely linked, because the Citizenship Amendment Act will help protect non-Muslims who have been excluded from the register and thereafter have to face the threat of internment. This means thousands of Bengali Hindu migrants who were not included in the NRC could still get citizenship otherwise, to stay on in Assam state. (“Citizenship Amendment Bill,” 2019b). Again with no protection to Muslim community hence segregated. Therefore, this religion-based discrimination cannot be said to fall into the circle of humanitarianism but bigotry is.

Delhi riots 2020:

One of the worse communal violence occurred in New Delhi where Muslims and others protested the Citizenship Amendment Act. Approximately fifty people were killed, majority Muslim. They were being supported by BJP leaders and police stayed aside without intervening to play its role. Neither police was investigated nor any other concerned authority but protestors were the only party who were being charged in the whole conflict. (“Delhi 2020 Religious Riots,” 2020).

The latent rationale of all these legislations on the part of Modi regime, have been to secure the interests of Hindus at the cost of Muslims in order to show allegiance to the Hindutva project. Though these legislations were being condemned by the opposition parties in the Parliament and the muslim community both on the ground of a sheer violation of Indian constitution but still the governemnt’s decision prevailed for being in majority, with ant muslim sentiments as Mr. Shah routinely refers to Muslim migrants as ‘infiltrators’ and ‘termites,’ and has promised to pick them up ‘one by one and throw them into the Bay of Bengal’. (Ghoshal, 2019).

4. Conclusion:

The state of India since independence, have remained an unsafe place for minorities, more specifically for muslims where they used to get tortured and had to bear the brutality at the hands of hindu community. However, this all happened under the cover, most of the times except rare cases. However, since the time Modi formed his government in 2014, there have been reports of open and deadliest riots supported by BJP leaders, against muslim community all over the India. Being in power, he has been able to legalize his party’s ideological faction i.e. to promote Hindutva ideology by promulgating either laws or amending the existing laws thereby affecting muslim community. This anti muslim agenda has helped the said government to divert the attention of the public towards deterioration of Muslim strata, indeed through bloody violent acts. These ethno religious riots are intended to segregates and marginalize muslim community and to bring hegemony, in the so called secular Indian state. It has internationally been now taken as case of genocide and islamophobia. Therefore, it is high time for the international community to raise its voice against blatant violation of human rights and strongly prohibit any form of advocacy of religious hatred that instigates violence and bloodshed.

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