

ROLE OF STATE IN THE WAKE OF COMMUNAL RIOTS

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Introduction

India is a land of myriad ethnic, religious, caste and linguistic minorities affiliated to distinct belief systems, sub-cultures and regions. The republic of India is the largest democracy in the world which shares its boundaries with Tibet, Nepal, china, Bhutan, Burma, Bangladesh, Pakistan, Sri Lanka and so on after getting the independences from Englishmen. Integration of these diverse communities – some large enough to aspire to a regional homeland and others content to remain as part of the Indian state – has been a central preoccupation of Indian governments since 1947. India has adopted a democratic model which aimed at the concepts of socialist, secular, sovereign, and democratic republic in which the subject of ‘secular’ added after sometime, and this had happened via various influencing factors and forces which includes politicians, legal elite, western philosophers etc. This study explores India’s policies and practice towards minorities and the role of the state and police administration in regulating the issues related to the minority group and the communal violence.

Concept of Minority

India is a shelter to all the religions known to mankind in present scenario and pluralism is the stamp of Indian society. This multi religious and communal concept is not new, as it can be traced back to leaders associated with the national movements, literature works and the drafting of the Constitution etc. but with the changing time and limited resources for the upliftment, the struggle to have that resources made the people against each other. The stronger ones went ahead and the weaker

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ones were crushed in a chariot of standard, majority and religions etc. the concept of Minority is defined as:

“A minority is a population group with ethnic, religious and linguistic characteristics differing from the rest of the population, which is non-dominant, numerically smaller than the rest of the population and has the wish to hold on to its separate identity.”¹

India Recognizes Three Types of Minorities

Religious, caste-based and linguistic:

1. Religion based: According to the National Minorities Commission, the designated minorities are the Muslims, Sikhs, Christians, Buddhists and Zoroastrians. All religious minority groups are granted the right to personal laws. Of these, the Muslim civil code has proved the most controversial.
2. Caste based: Part XVI of the Constitution designates Scheduled Castes (SC) and Scheduled Tribes (ST) for protection. The Other Backward Castes (BCs) and Classes were added later by various acts of Parliament. These minorities have been targets of historical discrimination derived from the traditional caste hierarchy.
3. Language based: There are two ways in which linguistic minorities are granted political space for participation and representation: through federal autonomy and by drawing up a schedule of languages and identifying minority languages for protection.

Laws for the Minorities

The scheme of safeguards provided by the Constitution of India, which the nation gave unto itself on January 26, 1950, was more elaborate and comprehensive. The basic concepts are enshrined in the Preamble to the Constitution and the chapter on the Fundamental Rights. Our Constitution lays great emphasis on the fundamental unity and equality of the people of India. The Union of India (of which the States form an integral

¹ Henrard (2000).

part) recognizes only one common citizenship for the entire population, and guarantees equality of rights and opportunities to all its citizens. The Constitution makes adequate provision for stimulating the personality of the individual and ensures equal treatment and full opportunities to linguistic minorities. These rights are accompanied by specific safeguards in respect of language, culture, freedom of speech, freedom of worship, and equality of opportunities in securing employment, and in trade and commerce.

Few articles those basically deal with the rights of minorities:

Art. 25-Right to Freedom of Religion, Subject to public order, morality and health and to the other provisions of this Part, all persons are equally entitled to freedom of conscience and the right freely to profess, practice and propagate religion.

- Articles 14-18 Right to Equality
- Articles 29-30, Cultural and Educational Rights, to accommodate the diverse groups existing in the country.

Why to Care for Minorities

It is important to understand the conditions and problems of minorities in India. First, despite a relatively impressive array of constitutional and legislative guarantees, and the establishment of a broad range of institutions, autonomous bodies and commissions to monitor and protect the rights of minorities, India's disadvantaged and marginalized segments find their access to power and judicial redress blocked by a coalition of powerful forces. Minorities face discrimination, violence and atrocities. Constitutional and legislative protections have not prevented periodic pogroms against religious minorities, as in Gujarat in 2002, when more than 2,000 Muslims were killed, or in the riots following Indira Gandhi's assassination that led to the Murder of 3,000 Sikhs in Delhi alone. The government response to such riots has been ineffective.

Second, the wide gap between existing laws and the reality of minority conditions deserves attention. As a

member state of the United Nations (UN), India is bound by the Universal Declaration of Human Rights (UDHR) and the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (UNDM). Of particular relevance to this study is Article 3 of the UNDM.

Of all the religious and ethnic issues in contemporary India, history has cast its deepest shadow on Hindu-Muslim relations. The most critical contemporary phase of this history was the partition of 1947. A Muslim sovereign state of Pakistan was born amidst ghastly communal violence but almost as many Muslims as there were in the new constituted Pakistan, for various reasons, stayed in India. The partition did not solve the Hindu-Muslim problems; it caused the situation of the Muslims in India more pathetic despite of several laws by the Indian constitution, the state has failed to regulate them, which further resulted abysmal and cruel misshape on the name of religion, caste and race.

There are many riots and other related activities which has left a pathetic stain on functioning of India's government and its policy making system.

What is the Role of a State?

Protection of minority rights is the obligation of the State where the minority resides, so governance plays a vital role in involving minorities in societies and protecting their rights and interests. Through recognition, dialogue, and participation, all the citizens of a diverse society can form a greater understanding of one another's concerns. The media and education have important roles to play in this regard, as do political representatives and community leaders. Although no country has a perfect record on minority rights, though an attempt should be done to make a nation as a happy ground for all its citizens.

In order to prevent conflict, protect minorities, integrate ethnic diversity and foster friendly relations between States, we must not erode the principles, standards and mechanisms that have been carefully developed in the past half-century. Indeed, States should not only ensure

that policy and practice guarantee the minimum of minority rights, but they should promote full and effective equality between persons belonging to national minorities and those belonging to the majority."² So make a state better for its citizen, Indian government should improve on:

- Judicial system
- Education system
- Education standards of politician
- Safety of every individual.
- Equal aid to every community and culture and especially to the neediest ones.
- Effective Laws for the upliftment for the minority group.

Case Study: Muzaffarnagar Riots

In the recent decades, with a sharp rise in the communal incidents and religion based tensions, the growth of communal riots and force has acquired a dangerous position in India. Communal violence has been prevailing in India since a long time. For example, the 1984 anti-Sikh riots.

27th August 2013, a terrifying yet sad day in India which gave birth to a new group of communal riots namely 'Muzaffarnagar Riots'. Severe clashes between the two communities, the 'Muslims' and 'Jats' in Muzaffarnagar and Shamli, India broke out in the parts of rural areas and communally sensitive district of Muzaffarnagar in Uttar Pradesh which claimed more than 43 lives leaving 93 plus injured. These riots in Muzaffarnagar have not only raised questions about the social stability in India but also about the ability of the civil administration in order to remove disorder and enforce tough rules and laws against targeted communal violence.

From inception, the situations and factors which led to the emergence of such serious riots and violence was, on this one day when a Hindu girl was walking past a

² H:\cscsccccccs\Sovereignty, responsibility, and national minorities statement by OSCE minorities commissioner-High Commissioner on National Minorities.htm.

Muslim community on her way to school; she was being harassed by a man who passed lewd, insulting comments on her. The girl then further complained to her brothers about the incident. Without giving it a thought, the brothers took the matter in their own hands and decided to teach that guy a lesson by inserting a knife into the guy's stomach, which ultimately resulted in his death. The guy who had harassed the girl belonged to the Muslim community. The friends, family and neighbors of that Muslim boy caught hold of the girl's brothers and lynched them mercilessly in front of many witnesses. This was not the end but a beginning which opened doors to the Muzaffarnagar communal riots. The girl's father, when tried filing a FIR against the family of the boy who had harassed the girl, the police refused to register the FIR. On the other hand, when the Muslim family went to file a FIR for the murder of their son who harassed the girl, the police readily registered the case and arrested the Father of the girl with his other close relatives.

Here, the problem actually started, as by thinking that clear discrimination was done by the administration, the Jat community requested the *panchayat* of their community to force the police in order to drop the charges against girl's father. Nonetheless, the Administration did not take any final decision. The Jat community again approached the Panchayat under the '*Bahu Beti Bachao Sammelan*' and distributed a few inflammatory videos and pictures via CD/MMS. With no action brought in by the main people of the district, people of the Muslim community took advantage of the situation and on a certain day attacked the people of the Hindu community. After this incident, the riots spread like fire which became uncontrollable.

1. Impact of the Media

The vernacular media and a few major national news channels (electronic) have seemed to have played a vital role in provoking and instigating serious violence and aggression against the Muslim community. Through unfound and false stories, a mischievous and deliberate attempt in spreading hatred between the communities was a part of the role which the media played. Nonetheless, with the support of the representatives of political parties like BJP, they used social media like

Facebook, MMS and CD's as a tool arouse hatred before as well as during the riots. Moreover, the people of Muzaffarnagar gave a communal color to the violence by exaggerating the incidents. Many Hindi news channels and newspapers misreported the happenings on daily basis by setting up a picture in the minds of the public that it was the Muslims who were slaughtering the Hindus and initiating distorted violence. As a result, there was a severe rise in the rumors and passion to fight and revolt back in the riots.

2. Role of Police and Administration

The role of the police administration is majorly important during a communal violence in order to maintain peace and decorum in the society. In the Muzaffarnagar riots, the police was reluctant in serving the sufferers, as in spite of repeated calls made by the people for help, the police refused to intrude. The women were refused to be protected by the police, which as a result persuaded them to take shelters into homes by the mobs. On the contrary, the police patrols denied to help the injured men and also taunted the Muslims by abusing them continuously. The FIRs and complaints were not addressed and registered by the police even when the names of the attackers were mentioned as evidence. The administration was unsupportive throughout the riots as it failed to provide proper security to its citizens and at present is unable to provide curable and required relief in the different camps to the displaced survivors. Lack of allowance paid to inmates, shortage of food and water, lack of special supplies like milk for the children; no provision for the pregnant mothers and their babies, no doctors/infirmaries for treating the injured and survivors etc.

3. Economic Loss

The result of these riots and communal violence were tremendous as they had a dreadful impact on the economy. Many survivors, mostly the daily wage laborers like small traders, vendors, farm labors etc. having their small homes in Muzaffarnagar were forced to leave their homes. In order to protect and save their lives from the Jat mobs (armed), they had to flee from their houses which as a result displaced many people eventually. Their houses were looted and burnt, along with which all their

cattle and animals were slaughtered with the men. The women had no hopes of returning back or getting rehabilitated soon as they were unaware of the 'compensation' as a right which they could demand from the state. They were clueless about which occupation would they engage themselves now, as they had lost each and everything which they possessed like livestock, home etc.

4. The Condition of Women and Children

The condition of women and children has been critical always in the human tragedy. They are perpetually the worst sufferers in all scenarios. Women faced many hardships while living in the relief camps like a refugee as they were constantly subjected to a pitiable plight on their condition. Their children at the camps were constantly traumatized. The women survivors elaborated on mass assaults which took place during the riots. Women and their daughters were raped in public and then burnt alive. For the same, the FIR's were filed but no action took place by the police. The education of many children was affected. Many were brutally and mercilessly killed. A large number of school-going young girls were married off quickly by their parents in fear for their security and safety. The conditions at the relief camps were also poor with improper sanitation, dirty surrounding, insufficient food for children etc.

Drawbacks of State while Handling Sensitive Issues like Minorities

Even after celebrating the 66th Independence Day, the condition of Indian politics has got worse. In today's arena of politics, the people of this nation majorly got carried away and cast their vote in name of caste, religion, community etc. which ultimately bring forth the non-organized and a kind of tyranny government which sometimes deals its citizens like Jews used to deal in concentration camps. Such type of election and formation of government in India raises a huge question on the validity and reality of its so called 'democratic and secular' approach. Some most common issues related to political instability and poor governance are:

- Caste, religion, community based voting and politics.
- Misuse of authority by ministers and Gov. Officers to satisfy their vote banks, like Godhara Kand, Babri Masjid issues etc.
- Low standard of educational eligibility criteria for MPs and MLAs for the election.
- Misuse of Media which includes print media, electronic media.
- Internet (Facebook, twitter etc.) is most burning and dangerous medium. It had done a lot in emblazing problems in Mujaffar Nagar riots.
- Politics for only reservations to attract the voters of a particular group or religion should be stopped.
- No effective legislation for the violence with respect to the minority group.

Suggestions

- To end the minority conflicts a political solution that guarantees minority rights is essential; ceasefires and peace agreements should be negotiated with full, free and effective participation of minority groups.
- The central state government must fulfill its constitutional obligations and promote genuine autonomy at the state level, permitting minorities space for self-rule
- To uphold this commitment there should be explicit constitutional provision for separation of powers and non-interference of the central government in autonomous regions' governance.
- The Government of India should also repeal anti-terrorism legislation such as the Armed Forces Special Powers Act, which has the effect of negating autonomous states' control over their own affairs.
- All communities, including the smallest and most marginalized minorities, have a right to participate in public and political affairs (UNDM Articles 2.2, 2.3); electoral systems and methods of governance should provide for political representation of all (including minority women and men) at state and central state level, and

should provide incentives for political parties and democratic institutions that appeal to all communities across ethnic, religious and linguistic lines.

- In keeping with India's duty under Article 2.5 of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, the government should place no restrictions on the rights of minorities to maintain kinship links across borders. Such links may also be promoted by setting up cross-border bodies to address issues of common interest, which have an important role in facilitating openness and supporting identities. Status of India with regard to international minority rights standards.
- Civil society should play a role in promoting inter community cooperation and supporting positive relations across ethnic, religious and linguistic lines, and should work to increase the capacity of marginalized minorities to advocate for their rights.
- The Government of India should implement its obligations to promote minorities' rights to practice their culture, religion and language (ICCPR Article 27).
- There should be effective anti-discrimination legislation and mechanisms to challenge discrimination at all levels to uphold Constitutional provisions. This should be accompanied by special measures where minorities have been excluded, as the means to overcome inequalities.

Role of the Police in India

The police are one of the omnipresent organizations in our society. In case of need, crisis, difficulty and danger when the citizen is clueless about what to do and whom shall he/she approach; the police patrol or the police station are then the most approachable and appropriate unit for the citizens. The police are the only most visible working representative of the government. They are the most dynamic, interactive and accessible organization of the society. Their functions, duties and roles in the

society are complex and dubious with the main aim to maintain law and order in the society. The functions and the role of the police include enforcing and upholding of the law to protect life, property, liberty, dignity of the members of the society and human rights. It preserves and promotes public order to protect and prevent internal security, terrorist activities, breach of militant activities and communal harmony. It is appointed to safeguard the public properties like roads, bridges, railways etc. against any kind of attack or violence. It protects the citizens of its nation from crime; by their own preventive measures and actions they reduce the probability of the commission of a crime. Fairly registering all complaints which are brought to them and investigating all kinds of cognizable offences, acknowledging the receipt of the first information report to the complainant, maintaining security in the community by preventing conflicts and promoting amity, aiding the individual and providing active assistance in case of necessary help are a few essential duties of a police. It facilitates an orderly movement among people and vehicles in order to regulate and control traffic. Social responsibility of the police include behaving with decorum and courtesy with the members of the society, particularly women, senior citizen, children and mentally or physically challenged individuals by guiding and assisting them requisitely. Insuring harmony and peace during conflict between communities, the conduct of the police always is governed to the principles of human rights norms and impartiality with special focus to protect the weaker sections of the society along with minorities. Preventing harassment of children and women in public areas like stalking, abusive gestures, remarks and signs of harassment which cause distortion and disturbance in the society. Maintenance of essential government services in order to obey and follow an order given by the government or any superior institution is the basic duty of the police officer. The role of the police in India is to protect, promote and preserve the human rights and interest of the backward classes, weak and poor strata's of the society.³

³ <http://police.pondicherry.gov.in/Model%20Police%20Manual%20by%20BPRD/Draft%20Police%20Manual%20BPRD%20Volume%202.pdf>.

Drawbacks of the Indian Police

The system of Indian police constitutes of various drawbacks, where the police suffers a variety of procedural, personnel, organizational and behavioral paradoxes and ailments.⁴

1. Corruption, a root cause which provokes the police to breach its duty by either getting bribed for money or due to the political interference in its duty. Under political pressure and high orders, the police often get deviated from its duties towards the society.
2. The lackadaisical attitude of the police officers in the Indian system portrays its work to be inefficient, casual and careless.
3. Low salaries which are paid to the police in today's cost of living, demotivates and pressurizes the police to persuade illegal ways in order to earn money as a part of corruption.
4. One of the main factors is job security, which is taken for granted by the police officers under the wake of which they prefer to get bribed and prevail on a wrong path in order to earn more money.
5. Inadequate and lack of professional training of a personnel, no modernization of the equipment and the system demoralizes the ability, strength and competence among the police.
6. The most important reason which makes the whole police system inefficient is that they are dummies in the hands of the political parties and politicians. They get bribed very easily to perform an act which is against their rules and duties, while supporting the political parties because of which corruption flourishes.
7. Illegal detention and arrest, ill-treatment and police torture, false register of complaints and lack of investigation of a crime which violates the human rights of the public and citizens in the

⁴ <http://www.indiaeyewitness.com/Channels/Issues.asp?category=Police%20System>.
<http://www.firstpost.com/blogs/how-to-improve-indias-police-a-roadmap-677462.html>.
http://www.loksatta.org/cms/documents/indianpolicesystem_summary.pdf.

society are a few obstacles in a police officer's accountability.

For example, as witnessed in the Muzaffarnagar riots, the police was reluctant in serving the sufferers, women and children during the communal violence. They even denied to register and address complaints and FIRs which were made by the people. They were unsupportive throughout the riots and failed to provide proper security to the people of Muzaffarnagar.

Suggestions

1. In order to substantially improve the functioning and efficiency of the Indian police force, a division of the unit into three fields i.e. mechanism, investigation and maintenance of law and order in the society should be done.
2. To enhance the public accountability and ensure the unnecessary interference of the political parties into the duty of the police, a collegium should be set up where a few key officers should be appointed to take control of the situations which give rise to corruption like bribing.
3. There should be an independent body which would have a jurisdiction over the complaints and FIRs filed by the public which are often unattended.⁴
4. The overall functioning and efficiency of the lower-level officers can be highly boosted by training them in a better and modernized atmosphere, paying them better allowances and creating a system which encourages them with a positive action, instead of a negative one.
5. Sustained social and political support for reform should be provided where it can ensure that the reform is maintained and properly initiated.
6. Leadership among police can also make the reform more effective as a good police leader should have professionalism, integrity, competence and ability to motivate its staff. Adequate resources and/or low-cost measures.
7. A good and proper system of evaluation should be done on a regular basis which is essential for identifying the widespread implementation of

successful reforms which can in turn improve the police performance and efficiency.

8. Salaries and promotions should be increased for hardworking and fair police officers as they not only encourage them to perform better but also help them to sustain a comfortable life.
9. With stringent laws under the legislation which primarily focus on the conduct of the police towards the society, i.e., to maintain peace and order, protect women and children, secure its citizens etc. helps to transform the work of the police into a more candid nature.
10. Employing women officers and just, truthful police officers whose soul duty is to protect the society from crime and violence instead of the aim to earn more money.

Conclusion

Hence, the state as well as the police together play a crucial role in preventing the breach of human rights of the minorities. During a communal violence, when the lives, property etc. of the people are under a threat, a need for a proper framework which clearly distributes and assigns the work of the state and police individually in required. This should further be synced between each other for a proper coordination during an emergency. Breach of duty and rights by the police and the state disorientates and distorts the entire system which in turn impacts and effects the minorities of the society severely as they might get displaced, tortured, killed etc. Minorities form an essential part of this society and thus, their rights should be secured and protected by the police as well as the state for a proper functioning of the nation.