SECULARISM TO PROTECTIONIST REGIME: A CRITICAL ANALYSIS

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While writing a critical commentary on the constitution of India, Seervai confessed that no chapter has given him more anxious thought than Chapter 7 on the Right to Freedom of Religion. The learned author says that the founding fathers rightly made freedom of conscience and freedom of religion a fundamental right.[1] India is a pluralistic society and a country of religions. It is inhabited by people of many religions. The framers of the Constitution thus desired to introduce the concept of secularism, meaning state neutrality in matters of religion. They also wanted to confer religious freedom on various religious groups. Religion has been a very volatile subject in India both before and after Independence. The Constitution therefore seeks to ensure state neutrality in this area.[2]

Religious tolerance and equal treatment of all religious groups are essential part of secularism. Secularism in India does not mean irreligion. It means respect for all faiths and religions. The State does not identify itself with any particular religion.[3] The Supreme Court of India explained the significance of the secular character of the Indian polity thus:

> "There is no mysticism in the secular character of the State. Secularism is neither anti-God nor pro-God; it treats alike the devout, the agnostic and the atheist. It eliminates God from the matters of State and ensures that no one shall be discriminated against on the ground of religion. The Constitution at the same time expressly guarantees freedom of

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[1]   Seervai, Constitutional Law of India, (1993) 4th ed. Vol. 2 1271.
[2]   M.P. Jain, Indian Constitutional law, (2005) 5th edition Reprint.
[3]   Dr.Radhakrishnan, Secularism in India (ed. V.K.Sinha) 127 (1968); P.B.Gajendragadkar, Indian Parliament and Fundamental Rights (TLL); N.A. Subramaniam, Freedom of Religion, 3 JILI 323 (1961).

conscience and the right freely to profess, practice and propagate religion. The Constitution makers were conscious of the deep attachment the vast masses of our country had towards religion, the sway it had on their minds and significant role it played in their lives. To allay all apprehensions of interference by the legislature and the executive in matters of religion, the rights mentioned in Articles 25 to 30 were made a part of the fundamental rights and religious freedoms contained in those articles were guaranteed by the Constitution."[4]

In *Bommai*[5], a nine judge bench of the Supreme Court referred to the concept of secularism in the India context.

According to Justice Sawant, J.:
"…. Religious tolerance and equal treatment of all religious groups and protection of their life and property and of the places of their worship are an essential part of secularism enshrined in our Constitution…."

B.P. Jeevan Reddy, J. observed:
"…. While the citizens of this country are free to profess practice and propagate such religion faith or belief as they choose, so far as the State is concerned, i.e., from the point of view of the State, the religion, faith or belief of a person is immaterial. To it, all are equal and all are entitled to be treated equally."

The concept of secularism is not merely a passive attitude of religious tolerance. It is also a positive concept of equal treatment of all religions. The concept of secularism was not expressly incorporated in the Constitution at the stage of its making. However, its operation was visible in the Fundamental Rights and Directive Principles. The concept of secularism, though not expressly stated in the Constitution, was, nevertheless, deeply embedded in the constitutional philosophy.

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[4] The Ahmedabad St. Xavier's College Society v. State of Gujarat, AIR 1974 SC 1389.
[5] S.R. Bommai v. Union of India AIR 1994 S.C. 1918; (1994) 3 SCC 1.

In 1976, through 42nd Amendment of the Constitution, the concept of secularism was made explicit by amending the preamble. By this Amendment, the word "secular" was introduced in the Preamble to the Constitution and, thus, what was hitherto implicit was made explicit. The Constitution does not define the term secular as it is a very elastic term and not capable of any precise definition and so it is best left undefined. A Secular state does not extend patronage to any particular religion.[6]

Verma, J.*,* delivering the majority opinion in *M. Ismail Faruqui v. Union of India,*[7] observed in relation to the concept of secularism:

> "It is clear from the Constitutional scheme that it guarantees equality in the matter of religion to all individuals and groups irrespective of their faith emphasizing that there is no religion of the state itself. The Preamble of the Constitution read in particular with Articles 25 to 28 emphasises this aspect and indicates that it is in the manner the concept of secularism embodied in the Constitutional scheme as acreed adopted by the Indian people has to be understood while examining the constitutional validity of any legislation on the touchstone of the Constitution. The concept of secularism is one faced of the right to equality woven as the central golden thread in the fabric depicting the pattern of the scheme in our Constitution."

The right of worship was granted by court for man to worship as he pleased. There can be no compulsion in law of any creed or practice of any form or worship.[7] Man is not answerable to the State for the variety of his religious views.[8]

In *S.R. Bommai v. Union of India*[9], the Supreme Court has held that "Secularism is a basic feature of the Constitution". The state treats equally all religions and religious dominations.

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6   M.P. Jain, Indian Constitutional Law, (2005) 5th ed. Reprint.
7   Cantwall v. Connecticut, (1931) 310 U.S. 29.
8   United States v. Ballard, (1944) 322 U.S. 78.
9   *See supra* note 7.

The word "religion" has not been defined in the Constitution and has been held to be hardly susceptible of any rigid definition. Religion is certainly a matter of faith and is not necessarily theistic. There are well known religions in India like Buddhism and Jainism which do not believe in God or in any intelligent First Cause. A religion has undoubtedly its basis in a system of beliefs and doctrines which are regarded by those who profess that religion as conducive to the spiritual well-being, but it would not be correct to say that religion is nothing else but a doctrine or belief. A religion may not only lay down a code of ethical rules for its followers to accept it: it might prescribe rituals and observances, ceremonies and modes of worship which are regarded as integral parts of religion and these forms an observances might extend to matters of food and dress. Religion in its broadest sense includes all forms of faith and worship, all the varieties of man`s belief in a Superior Being or a Moral Law.[10]

A religion is not merely an opinion, doctrine or belief. It has its outward expression in acts as well. If, therefore, the tenets of Jainism or Parsi religion lay down that certain rights or ceremonies are to be performed at certain times and in a particular manner, it cannot be said that these are secular activities partaking of commercial or economic character, simply because they involve expenditure of money or employment of priest or use of marketable commodities. No outside authority has any right to say that these are not essential parts of religion and it is not open to secular authority or prohibit them in any manner they like under the guise of administering the trust estate.[11]

According to Dr. Radhakrishnan: "Religion is the code of ethical rules and also means rituals, observances, ceremonies and modes of worship which are its outer manifestations. It can be identified with feelings, emotions, sentiments, instincts, cult, perception, conscience and belief or faith".[12] J. Clayton Feaver says,

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[10] P.M. Bramadathan Nambooripad v. Cochin Devaswom Board, AIR 1956 Travancore 19 (FB) para 12.

[11] Ratilal Panchand Gandhi v. The State of Bombay, AIR 1954 S.C. 388 para 12.

[12] S. Radhakrishnan, An Ideal View of Life, Ch. III, p.84.

"Religion aims at unification, and being all inclusive and co-extensive with the whole of life…. It does not simply to be one phase of experience among many existing side by side with others and on equal terms. It means to intensify, vitalize, and enhance every human function and activity".[13]

The courts too, have always admitted difficulty of defining the term 'Religion'. And in Adelaide Company's case, the court observed that "it would be difficult if not possible to devise a definition of religion which would satisfy the adherents of all the many and various religions which exist or have existed, in the world."[14]

Field J. of Supreme Court of U.S.A in *Davis v. Beason*[15] observed that , the term "religion" has reference to one`s views of his relations to his Creator, and to the obligations they impose of reverence for his been and character and of obedience to his will.

In *Sardar Syedna Tahir* case[16] McChogla while dealing with the constitutionality of the Bombay Prevention of Excommunication Act 1949 defined religion as a matter of man`s faith and belief. It is a matter concerning a man`s contact with his creator. It has nothing to do with the manner in which the practice is accepted or adopted as forming part of a particular faith or religion. Thus, Chagla J. followed what has been devised by Field's in *Davis v. Beason*. Supreme Court while dealing with the case of *L.T. Swamiar*[17], said: "Religion is certainly a matter of faith with individuals or communities and it is not necessarily theistic". Though the Supreme Court related the term religion with a "belief in God or Creator" in 1889, yet more or less a liberal approach was made and some constitutional protection was given to the religions which do not believe in God as they have done to Christianity.

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[13] J.C. Feaver, Religion in philosophical and cultural perspective, p.11.
[14] Adelaide Company of Jehovah`s Witness, Inc. v. The Commonwealth, 67 CLR 116 (1943).
[15] Davis v. Beason, 133 US 333 at 342 (1889).
[16] Sardar Syedna Tahir v. Moasaji, AIR 1953 Bombay, p. 188.
[17] The Common Hindu Religions Endowments v. L.T. Swamiar (1954) S.C.R. 1023.

The definition of Religion has been widened by the Supreme Court of USA so as to include religions like Buddhism as it stated in *Fowler v. Rohde Islands* case[18] that Methodist Presbyterian or Episcopal Ministers, Catholic Priests, Muslim Mullas, Buddhist Monks could preach to their congregation in Pawtucket`s Part with impunity. Thus, Judiciary in India has adopted a comprehensive and liberal derived definition of the term religion so as to suit heterogeneous, multi-religious community in India and to give enough latitude to various faiths and denominations reasonable opportunity to exercise basic freedom granted under Articles 25 and 26 of the Constitution of India. But it has its own limitations and this has limited considerably the autonomy of religious life.

In *Ghulam Abbas v. State of Uttar Pradesh*[19], in a writ petition under Article 32 the Supreme Court enforced the customary religious rights of the *Shia* community on a piece of land. The Court said that the State could not interfere with the established customary rights to perform their religious ceremonies and functions. In a landmark judgment in *Santosh Kumar v. Secy. Ministry of Human Resources Development*[20], the Supreme Court has held that introduction of Sanskrit language as a subject in Central Board of Secondary Education (CBSE) is not against secularism as it is the "mother of all Aryan languages". This is when the deviation of judiciary in interpreting the essence of religious freedom began.

Therefore the norm that only such practices as are essential an integral part of a religion needs to be protected. It therefore falls upon the courts to decide, on the basis of evidence adduced before them concerning the conscience of the community and the tenets of the religion concerned, whether a practice for which protectionist claimed is "religious" in character, and, if so, whether it is an essential and integral part of the said religion or is merely "secular or superstitious in nature".[21]

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[18] 345 US at 69, L.Ed. 828 (1943).
[19] AIR 1981 SC 2168: (1984) 1 S.C.C. 81.
[20] AIR 1995 S.C. 293.
[21] Commisioner Hindu Religious Endowments v. Lakshmindra Swamiar, AIR 1954 S.C. 282: 1954 S.C.R. 1005.

As the Supreme Court has observed in the case noted below: [22]

> "What constitutes an essential part of religion or religious practice has to be decided by the courts with reference to the doctrine of a particular religion and include practices which are regarded by the community as a part of its religion."

The judicial role in this area has been described by the Supreme Court as follows:

> "The Court, therefore, while interpreting Articles 25 and 26 strikes a careful balance between the freedom of the individual or the group and regard to religion, matters of religion, religious belief, faith or worship, religious practice or custom which are essential and integral part and those which are not essential and integral and the need for the state to regulate or control in the interest of the community". [23]

James Mill, *History of British India* in which he laid the foundation for a communal interpretation of Indian history provided the justification for 'Two Nation theory'. He was the first historian to develop the thesis of dividing Indian history into three periods, which he called Hindu Civilisation, Muslim Civilisation and British Civilisation. Mill`s nomenclature was based on religious aspect. Mill was severely critical of Hindu culture and described it as being backward in progress and anti-rational. This led to Indian historian having defined Hindu Civilisation even if it meant over glorifying the ancient past. Communal interpretation of Indian history is of poor quality. If the assumption is weak in evidence and support, they must be disregarded. The study of History should be the social change, set-up, administration etc., not on the basis of ruler to which he belongs.

The modern secular historian understood the terminology used by the contemporary historian to apply to the whole society. Conflict to the ruling class is understood to conflict at a social level. Sultan Allauddin

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[22] H.H. Srimadh Pararulala Ethiraja Ramanuja Jeeyar Swami v. State of Tamil Nadu, AIR 1972 S.C. 1586, at 1593.

[23] A.S. Narayana v. State of Andhra Pradesh, AIR 1996 S.C. 1765, 1792: (1996) 9 S.C.C. 548.

Khilji took strong measures to suppress rebellious Hindu *Zamindars* (along with no less strong measures to suppress the Muslim *Iqtadars*, including very pious people who had nothing to with the rebellions).

The Nationalist Historians[24] tried to meet the challenge of communalist with all sincerity but unfortunately they chose to fight the adversary on his ground. Communal Historians praise Akbar`s liberal policy to isolate other medieval rulers. When we the study the history of society rather history of individual our whole communal approach will change. Tension within ruling class for obvious political and economic reasons is often given a religious or ideological colour.

It is a great question why communalism arose and grew in modern India from last hundred years. We note that both nationalism and communalism are the products of a similar modern process the growing economic, political and administrative unity of the country.

According to Dr. Romila Thapar and Sri Harbans Mukhiya communalism was not in existence in the ancient and medieval period. It means that it is a product of modern Indian nationalism is an ideology that develops in identity of common interest of Indian people, in particular gains the common enemy, foreign imperialism. On the other hand communalism is developed in section and certain area.

Communalism is generated by the lack of deeper penetration of nationalist outlook and ideology. New national identity is needed. Identity around religion was of course cannot only be one available. Caste, language, tribe, region can serve the purpose.[25] Historian uses the term Hindu leaders and Muslim leaders.

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[24] Bipin Chandra, "COMMUNALISM AND WRITING OF INDIAN HISTORY".

[25] The One Man Commission of Inquiry by a sitting Judge of the Bombay High Court, Mr Justice B.N. Srikrishna, was appointed on January 25,1993 to enquire into Bombay riots and subsequent serial bomb blast. It started functioning in April 27; 1993.It was dissolved by Shiv Sena-BJP Government on January 23, 1996 when it came to power. On May 27, 1996 it was revised on the suggestion of Atal Bihari Vajpayee during his short spell of Premiership. The Commission ended recording of evidence of July 3, 1997. A total of

> "It is also due to the lack of secular approach and deeper penetration of nationalism. Nationalism can't make appeal against communalism because religious elements are there. Our educational institutions, mass media, including newspapers and All India Radio and political parties have made no efforts to disseminate among people a modern scientific understanding and awareness of nationalism. They have failed to spread a nationalist outlook. Their appeal to nationalism against communalism leaves a large number of people cold."

Communal violence though not in India, has entered into a new phase. It has not only engulfed just the political terrain of parties and elections but has penetrated deeply into socio-cultural roots and religious mainstay of this ancient civilization. The cultural ethos stood for unity and integrity. To perpetuate this unity in diversity the modern India has wedded herself to secular democracy. These very ideals are being challenged and are sought to be replaced by communally charged ideology of Hindu Rashtra and Hindutva. Publication of the Justice B.N. Srikrishna Commission Report, 1998 testifies how ugly could be the face of communalism, what holocaust it can cause and what miseries it would inflict on the victims just to ensure some peoples ascendency to state power. Probably no other enquiry into communal violence ever since independence was so much thorough, discreet, fair and forth right than the Srikrishna Commission enquiry into the Bombay rights of December 1992, January and March 1993 in the wake of demolition of Babri Mosque on December, 6 1992 by votaries of *Hindutva*, the Sangh Parivar[26]. Violence is not a new social phenomenon of modern India. It has existed in some form or the other. According to Andre Bateille violence takes different forms in a democratic society.

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504 witnesses were examined by the Commission (Deccan herald, August 8, 1998. The report consist of two volumes and runs into 800 pages with 24 pages of "Memorandum of Action to be taken").

[26] "We will never be able to reckon the scope and extent of violence inflicted on the disadvantaged members of society and tolerated by them in their everyday life," Andre Bateille, "Modernity and Morality". Times of India, 29, October, 1998 (www.timesofindia.com/today/29edit9htm).

Recent Communal Activities

- **2,500 people killed in 8,473 riots in last decade: Government states**[27]

In an alarming trend, more than *2,500* people have been killed in incidents of communal violence in the country since 2002, out of which 107 lost their lives this year alone. A total of 2,502 people died in 8,473 incidents of communal disturbances across the country during the decade. 28,668 people were also injured in these riots, according to Union Ministry of Home Affairs statistics. 107 people have been killed in 479 riots, including the recent Muzaffarnagar violence, this year till September 15, 2013.Altogether 1,697 people were also injured in these riots which have taken place in different parts of the country.

- **107 killed in riots this year; 66 Muslims, 41 Hindus**[28]

Perhaps for the first time, the government has identified the religion of victims of communal violence across the country, saying of the 107 people killed so far this year, 66 were Muslims and 41 Hindus. The worst scenario has emerged from Uttar Pradesh, where twice as many Muslims lost their lives than others. According to a Union home ministry document, U.P. recorded 62 deaths (42 Muslims and 20 Hindus) in communal violence, the highest in the country. India's most populous state and politically crucial state had recorded the highest number of deaths (39) in communal unrest in 2012 as well. U.P. saw 93 riots in the first nine months of 2013 along with 108 incidents of tension. A total of 219 Muslims and 134 Hindus were injured. The statistics come at a time when western UP's Muzaffarnagar district is limping back to normalcy after bloody riots in which at least 48 people were killed and more than 50,000 displaced from their homes. The frequency of flare-ups in UP, which has 80

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[27] http://www.rediff.com/news/slide-show/slide-show-1-2500-people-killed-in-8473-riots-in-last-decade-govt-stats/20130922.htm (retrieved on 6.02. 2014 at 10:58 a.m.).

[28] http://www.hindustantimes.com/india-news/newdelhi/107-killed-in-riots-this-year-66-muslims-41-hindus/article1-1126579.aspx (retrieved on 6.2.2014 at 11.a.m.).

LokSabha seats, has triggered talk of conspiracies to polarise voters on communal lines in the run-up to the general elections due in 2014.The Home Ministry's statistics, circulated among members of the National Integration Council, indicate the administrative machinery often does not respond effectively when minorities are targeted. Overall, till September 15, the country saw 479 riots. Altogether 1,697 people including 794 Hindus, 703 Muslims and 200 police officials were injured. The home ministry compiles the data on the basis of reports from the state governments. Dr Syed Zafar Mahmood of Zakat Foundation said he had his doubts about the accuracy of the official statistics, suggesting they did not capture the complete picture. "It is much worse," he said.

 "There are camps after camps full of people who fled their homes during the Muzaffarnagar riots. Why are they only full of Muslims?"

  In Maharashtra, 10 people were killed and 271 injured in 56 incidents of communal violence. Seven of the 10 killed were from the minority community. Of the injured, 101 were Hindus, 106 Muslims and 64 police officials. Bihar saw 40 communal disturbances, 25 incidents of tension-like situation and recorded nine deaths - five Hindus and four Muslims. Among the injured, 123 were Hindus, 66 Muslims and 19 police officials. Gujarat saw 54 cases of communal violence, 21 of tension and recorded six deaths - three Hindus and three Muslims. The injured included 85 Hindus, 57 Muslims and five police personnel. In 2012, the country had seen 640 incidents of communal violence and 93 deaths - 48 Muslims, 44 Hindus and one police official. A total of 2,067 people were injured. The injured included 1,010 Hindus, 787 Muslims, 222 police officials and 48 others**.** Among the injured, 266 were Hindus, 197 Muslims and 25 police officials. Maharashtra had recorded 94 riots, 208 incidents of tension and 15 deaths - nine Muslims and six Hindus - in 2012.

  Among the injured, 110 were Muslims, 97 Hindus, 44 police officials and 29 others. Madhya Pradesh had recorded 89 incidents of communal disturbance, 92 of tension and deaths of five Muslims and four Hindus in

2012.Among the injured 146 were Hindus, 80 Muslims and 15 police officials. In West Bengal, eight Muslims and one Hindu were killed, while 38 Muslims and 19 Hindus suffered injuries in 23 cases of communal disturbance and 21 of tension in 2012.There were 20 riots and 30 incidents of tension in Bihar last year, leading to the death of three Hindus. A total of 87 Hindus and 52 Muslims were injured. Gujarat had seen 57 incidents of communal disturbance, 20 of tension and recorded the death of four Hindus and one Muslim in 2012.The injured included 91 Muslims, 82 Hindus and 28 police officials.

- **Chronology of communal violence in India[29]**

One of the first major communal riots took place in August 1893 in Mumbai in which about a hundred people were killed and 800 injured. The period between 1921 and 1940 marked a particularly difficult phase. The 1926 Muharram celebrations in Calcutta were for example marred by a clash that led to 28 deaths**.** India witnessed its worst communal riots in 1948 after the partition. Noakhali in Bengal and several villages of Bihar were the worst hit. The first major riots between Hindus and Muslims after the bloodshed of partition in 1947 occurred in Jabalpur in Madhya Pradesh in 1961. 1969 Ahmedabad riots: Communal riots between Hindus and Muslims erupted in Ahmedabad in 1969.

  At least 1000 people had died during this riot. At the time there was a dispute over the leadership of the Congress party between Indira Gandhi and Morarji Desai. Hindu-Muslim riots broke out in Jamshedpur and Aligarh in 1979 and in Moradabad in 1980.1984 Sikh riots: The assassination of Prime Minister Indira Gandhi on October 31, 1984 sparked riots that lasted 15 days. Several inquiry panels later, eight people were convicted. The politicians and police got away. The mayhem began at about 6 p.m. shortly after the death of Indira Gandhi was announced at the All India Institute of Medical Sciences, Delhi. The news set the tone for a communal

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[29] http://www.hindustantimes.com/news-feed/archives/chronology-of-communal-violence-in-india/article1-8038.aspx(retrieved on 6.02.2014 at 11:03 a.m).

massacre that India hadn't quite witnessed since Independence.

   Chaos reigned on the streets and locality after locality in the capital echoed with the shrieks of the dying and burning people. A fortnight of carnage saw over 2,700 dead and many thousands injured. "President Zail Singh wanted the army to act, but it didn't. The then prime minister and home minister did not take his calls," recalls Tarlatan Singh, who was Zail Singh's press secretary. The worst affected areas were the ones that had elected Congressmen HKL Bhagat and Sajjan Kumar to the LokSabha. Yet the police could do nothing to lay their hands on them.

1987 Merut riots: The riots began on May 21, 1987 and continued for two months. The state police conducted a probe but all cases were later withdrawn by the state. The armed personnel accused went scot free. As with most riots, there are conflicting versions on what set this one off: burning of mills or a reaction to the carnage by the Provincial Armed Constabulary (PAC) person.

   A majority claim it was the armed police. The PAC men wanted to arrest a man from the Hashimpura area but were stopped by a mob. When the uniformed men tried to force their way in, the crowd became violent. The PAC called in reinforcements and retaliated instantly. About 40 bodies were later found floating in the canal near Maliana village. This ignited communal passions and Meerut was soon on fire. Within hours, over 350 shops in the city and three petrol pumps had been burnt. In the following two months, 350 people were killed, among them prominent residents including a doctor from Hapur and an army captain.

   Rationality took the backseat as one set of residents instigated massacres against another. It took several weeks for a 13,000-strong army detachment to restore peace in Meerut. The Uttar Pradesh government, under pressure from the Rajiv Gandhi government, withdrew hundreds of cases from district courts in Meerut. As a result, there were no convictions. The PAC, having terrorised a large section of Meerut, was the biggest gainer-and justice the biggest loser.

1989 Bhagalpur riots: On October 23, 1989 began the month-long riots triggered by police atrocities. Of the 864 cases filed by the police, 535 were closed and most accused acquitted for lack of evidence. Following police atrocities in 1989, the silk city of Bhagalpur saw massacre and arson in which over 1,000 people died, nearly 50,000 were displaced and 11,500 houses torched.

In the carnage, an army major herded 100 men, women and children to a house at Chanderi village and posted the local police for their protection. The next morning, however, he found the house empty. Four days later**,** 61 mutilated bodies were found in a nearby pond, among them a live Malika Bano whose right leg had been chopped off. Bano narrated a story that continues to haunt Bhagalpur.

On the night of October 27, a frenzied mob took over the house from the police, slaughtered the people hiding inside and tossed their bodies in the pond. Of the 864 cases registered by the Bihar Police, chargesheets were filed in only 329 cases. In 100 of these, the accused were acquitted for want of evidence. Chanderi was no different. Of the 38 accused, only 16 were convicted and sentenced to rigorous life terms, while 22 were acquitted.

The Babri masjid demolition set off riots between December 1992 and January 1993. The Sri Krishna panel examined 502 witnesses, but no police officer has yet been punished.

1992 Mumbai riots*:* Hours after the demolition of the Babri masjid, Mumbai erupted. For five days in December 1992 and then again for a fortnight in January, the city witnessed unprecedented riots. As many as 1,788 people were killed and property worth crores of rupees destroyed.

On January 25, 1993, the Maharashtra government set up the Sri Krishna Commission of Inquiry, which recorded the evidence of 502 witnesses and examined 2,903 exhibits. But three years later, on January 23, 1996, the BJP- Shiv Sena government wound up the commission, only to reinstate it later under public

pressure. The commission finally submitted its report on February 16, 1998**.** Of the 17 police officers who were formally charged in mid-2001, not one has been arrested so far. Even departmental action has not been initiated against them. In April this year, former city police commissioner RD Tyagi and eight serving police officers accused of killing nine people, were discharged by a Mumbai sessions court.

2002 Gujarat riots: On February 27, 2002 suspected Muslim mob attacked a train carrying activists of the Vishwa Hindu Parishad (VHP) back from the disputed holy site of Ayodhya. The attack left 58 Hindu activists dead.

   The episode resulted in major riots, which left many Muslims dead in Gujarat.

- **Lucknow**: Alleging spurt in incidents of communal violence in SP regime, BSP members today said that at least 12 communal riots had taken place due to failure of the government in past one year.[30]

   "The SP government has failed to check communal violence in the state. In past one year at least 12 communal riots have taken place", leader of Opposition Swami Prasad Maurya said during question hour in the Assembly.

   Maurya said that in BSP's four term in Uttar Pradesh not a single incident of communal tension was reported but as soon as Samajwadi Party formed the government the situation has changed. Replying to him, Parliamentary Affairs minister Mohammad Azam Khan said that in Bahujan Samaj Party regime their men were involved in loot, rape and other such activities and now as they did not have any work they were vitiating communal atmosphere of the state. The discussion started on question of BSP member Dharmpal Singh, who sought to know from the government whether

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[30]   http://articles.economictimes.indiatimes.com/2013-03-12/news/37651104_1_communal-violence-prasad-maurya-bsp (retrieved on 06.02.2014 at 11:04 a.m.).

national integration department of the state have formed integration committees in district level.

In his reply, concerned minister Brahma Shankar Tripathi said that out of 75 districts he got information in this regard from 44 districts and response was awaited from the rest of the districts. The member alleged that government was not serious in forming these committees. Amidst noisy scenes, Speaker Mata Prasad Pandey asked opposition to raise the matter in the House during discussion on law and order later in the day.

There are several factors which are responsible for the disintegration of the country but here we shall be dealing with the most important factor, which is very frequently misused by political pandits, general public and even by administrative agencies just trivial and temporary gain. Today, main factor in communal tension is political vote banking. The leaders are playing a vote bank policy without bothering the consequences in future. There basic strategy is to calculate how much seats they shall gain with maximum disintegration and minimum efforts. They even go to the extent of dividing the common public in Hindu-Muslim, Upper Caste- Lower Caste, Northern-Southern, and Hindi-English etc. The basic need that is public interest is always veiled. In 1907, the Hindu Mahasabha was formed for the protection and promotion of the interest of the Hindus. Their outlook towards all problems was from a communal angle. Some other Religious-Political parties were formed during the process namely Bharatiya Jana Sangh, Bharatiya Janata Party, RSS, VHP, Bajrang Dal, Durga Vahini. They advocate a Hindu Rashtra which is absolutely communal in nature. As a result there election campaigning is totally an outburst of communal views proposing an agenda of Hindu favourism. Muslim League, the Jamat-e- Islami, The Muslim Majlis in contrary to prove their might propose the complete reversal of the above policy. In the name of Muslim empowerment they ought to propagate an extremist view of disunification of brotherhood.

These groups are a constant threat toward the basic nature of Constitution. There basic aim being (divide and rule policy). Where there is an extensive collision of Hindu- Muslim interest, other sects act as a catalyst in

raking up the issue. Among the Sikhs, the Akali Dal, stands for the promotion of the interest of the Sikhs in India, contributing both the attributed of regionalism and communalism. The Election Manifesto gives the importance to the issues like protection and preservation of Democracy, stability in the country, integrity of nation to fight against communalism and evils like corruption. Communal Parties in the total reversal of these policies stand for the cause of religious caste ism and regionalism. In the Authors opinion, such parties should be banned from contesting elections.

Communal political parties mobilise in the name of political opinion the fire of disintegration to gain benefits as in terms of seats from a particular constituency. The Representation of Peoples Act defines what constitutes corrupt practices and electoral offence. Politicians play a vital role in promoting the enmity widening the gap between different communities irrespective of the problem i.e., Shah Bano Controversy, Salman Rushdie, Babri Masjid-Ram JanmBhoomi, religious procession, rape of a girl of other community (*Mathura Ahir* Case) dispute of land between two communities, murder of criminals by other communities etc.

The impact of communalism has engulfed whole of the contemporary India. This issue today needs the instantaneous attention and in its reversal a consolidation of secular forces. In each of the recent cases of violent religious activism, the supporters who have encompassed these deep-seated anti-state religious ideologies have fondled personally upset with what they regard as the domination of the secular state. They experience this oppression as an assault on their pride and feel insulted and shamed as a result.

The failures of contemporary society—though economic, political, and cultural—are often experienced in personal ways as humiliation and alienation, as a loss of selfhood. Acts of violence against the secular state become emblematic expressions of empowerment. Endeavours to claim clout in a public pitch is supposed as hostile and marginalizing. Religious activists think that they are simply reclaiming the political power of the state in the name of religion. It might be a workable arrangement in a

pre-modern world where religious sensibilities aren't wined with an expansive sense of moral order, and a religion-based polity could embrace a varied and pluralistic society.

The mockery is that the modern idea of religion is much narrower than that, limited to particular sets of doctrines and to particular confessional communities. The use of communal ideology and religion in election process has been an unfortunate aspect of Indian democracy. Democracy is perceived not as an instrument for creation of a more responsible society but as a system of government that ensures power to the group in largest in number. To put an end to communalism it is necessary that Indian society embodies such values as values of tolerance and mutual respect.

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