

INTERNATIONAL JOURNAL OF LAW
MANAGEMENT & HUMANITIES

[ISSN 2581-5369]

Volume 5 | Issue 3

2022

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Right to Freedom of Religion in Indian Democracy Issues and Challenges with Special Reference to Public Order

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ABSTRACT

India, being a secular state provides equal protection to all the religions. India is the most diverse country with respect to religion. Being a secular country it does not have its own religion and every citizen has the right to choose, practice, propagate and even change his or her religion. Clause (1) of the Article 25 of Indian constitution guarantees to all persons the right to freedom of conscience and right freely to profess, practice and propagate religion. However, these rights are not absolute but subject to certain restriction such as public order, morality, public health and to the other provisions of the constitution, can be imposed on religious practices. No person in the name of religion can do any act that is opposed to the public policy or creating any kind of disturbance or intolerance among the people of India. Apart from the chapter XV (section 295 to 298 and section 153-A, 153-B and section 505(2) of Indian penal code 1860, respectively provides the punishments for religious offences such as trespassing and defiling on worship places, disturbance of religious ceremony, spreading the enmity between different classes, affecting the unity and integrity of the country and statement creating or promoting enmity, hatred or ill-will between classes etc. The unity and integrity of the country cannot be ignored under the guise of religious freedom. In this research paper, the author has analyzed the constitutional mandate on religious freedom and tried to point out the political abuse of such freedom as well as some suggestions to paramount consideration of religious freedom.

I. INTRODUCTION

India is the largest democratic country of the world. People choose their representatives on the basis of fair and just electoral system. The people of different religious and sects are live here equally without any discrimination, which is a symbol of unity and integrity of India. The preamble of Indian Constitution has inspired to maintain brotherhood, mutual faith & harmony among Indian Citizen. The preamble of our constitution secures to all citizen of India, Equality of status and of opportunity and to promote among them all justice– social, economic and

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political, Liberty of thoughts, expression, belief, faith and worship, Fraternity – assuring the dignity of individual and the unity and integrity of the nation. According to the preamble of constitution “we the people of India” have adopted India as sovereign, socialist, secular, democratic and republic state. Part III of the constitution of India, titled as ‘Fundamental Rights’ secures to the people of India, certain basic, natural and inalienable rights. These rights have been declared essential rights in order that ‘human liberty may be preserved, human personality developed and an effective social and democratic life prompted.’ These fundamental rights represent the basic values cherished by the people of this country since the vedic times and they are calculated to protect the dignity of the individual and create conditions in which every human being can develop his personality to the fullest extent. They weave a pattern of guarantees on the basic structure of human rights and impose negative obligations on the state, not to encroach on individual liberty in its various dimensions.³

The aim behind having a declaration of fundamental rights is to make inviolable certain elementary rights appertaining to the individual and to keep them unaffected by the shifting majorities in the legislatures. It is to preserve certain basic human rights against interference by the state.⁴

The fundamental rights guaranteed by part III are more specific and detailed. They have to be exercised subject to the limitations embodied in that very part itself, so to say, the rights are not absolute or unrestricted. Therefore, the restrictions on fundamental rights may imposed on reasonable grounds such as security of state, public order, public health and safety, decency or morality, contempt of court, defamation, incitement to an offence, sovereignty and integrity of India, friendly relations with foreign states etc.⁵ The Unity and integrity of the nation is a paramount interest of the citizen, therefore, any activity can not be recognised in the name of fundamental rights which is derogatory to the national interest. It has been emphasised that fundamental rights are not to be read in isolation. They have to be read along with the chapter on directive principles of state policy and the fundamental duties enshrined in Article 51-A.⁶ Therefore, restrictions imposed on Fundamental Rights in the interest of achieving the lofty ideals contained therein would be permissible as imposed in the national interest or for the purpose of purity life or for providing social and economic justice to the people of India. Article 25 guaranteed to every person the right to freedom of conscience and the right freely to profess, practice and propagate religion, this right will be subject to public order, morality and health

³ See also *Maneka Gandhi V. Union of India* AIR 1978 SC 597, *M. Nagaraj V. Union of India* AIR 2007, SC 71

⁴ *A. K. Gopalan V. State of Madras* AIR 1950, SC 27

⁵ See also article 19(2) and 19 (3) of Indian Constitution.

⁶ See *Javed V. State of Haryana* AIR 2003 SC 3057

and to the other provisions of this part i.e. reasonable restrictions on Fundamental rights. To propagate religion indicate persuasion and exposition without any element of coercion, it does not include the right to insult the religion of others.

II. RIGHT TO FREEDOM OF RELIGION

Clause (1) of Article 25 provides subject to public order, morality and health and to the other provisions of this part all person are equally entitled to freedom of conscience and the right freely to profess, practice and propagate religion.

The expression ‘freedom of conscience’⁷ means the inner freedom of a person to mould his relations with his god in whatever manner he likes. It connotes a person’s right to entertain beliefs and doctrines, concerning matters, which are regarded by him to be conducive to his spiritual well being. It means to believe in one religion or another or none. Every person in India, therefore, has the freedom to have faith and belief in religious tenets of any sect or community.

‘Freedom of conscience’ means the freedom to hold or to entertain religious beliefs. Right to ‘profess’ means ‘to avow publicly, to make an open declaration of, to declare one’s belief in, as to profess christ, to accept into religious order’.⁸ Thus, to profess a particular religion means to declare freely and openly one’s faith or belief in. When the inner ‘freedom of conscience’ becomes articulate and expressed in an outward form, it amounts to profession of religion. It is to declare one’s belief in such a way that it would be known to those whom it may concern.⁹

To practice religion means to perform religious duties, rites or rituals. The protection is, thus not limited to matters of doctrine but extends to rituals and observances. The expression ‘practice of religion’ signifies acts done in pursuance of religious belief. The guarantee contained in Article 25(1) not only, protects the freedom of religious opinion, but in protects also acts done in pursuance of a religion. To enable a person to practice the belief and opinions which he holds, in a meaningful manner, it is essential for him to receive the relevant information, otherwise, he may be prevented from acting in consonance with his beliefs and opinions.

To ‘propagate religion’ means to spread and publicise one’s religious views. Holding public meetings by persons for propagating their religion is held to be guaranteed under Article 25(1). But to ‘propagate religion’ indicates persuasion and exposition without any element of

⁷ Narender Kumar – Constitutional Law of India, Ed. 2019 at page 453 & 454.

⁸ Websters’ New World Dictionary, quoted in Punjab Rao V. D.P. Meshram, AIR 65 SC 1179.

⁹ Ibid

coercion. It does not include the right to insult the religion of others.¹⁰ Azan given by the **Imam** or the person in charge of the mosques, though an essential and integral part of Islam, but, is not a form of propagation.¹¹

In **Rev. Stainslaus V. State of M.P.**¹² while upholding the Madhya Pradesh Dharma Swatantratya Adhiniyam 1968 and the Orissa Freedom of Religion Act 1967, Which prohibited the forcible conversion of any person to one's own religion, the supreme court said that the right to propagate religion did not grant the right to convert another person to one's own religion. It merely meant the right to transmit or spread one's religion by an expression of its tenets.

It may be noted that the right to freedom of conscience and to profess, practice and propagate religion, is not restricted or qualified with reference to the number of persons living in a particular locality.¹³ Therefore refusal of permission for construction of church in locality, on ground that only few christians live therein is illegal and unconstitutional.¹⁴ In **M. H. Quareshi V. State of Bihar**¹⁵ a constitutional Bench of the supreme court rejected the contention and held that there was no material on record before the court which would enable them to say that the sacrifice of cow on Bakri Idd day was an obligatory overt act for a musalman to exhibit his religious belief and idea.

The Muslim law permits marrying four women. However, the Apex Court in **Javed V. State of Haryana**,¹⁶ held that 'no where the law mandates or dictates it as a duty to perform four marriages or that marrying less than four women or abstaining from procreating a child from each and every wife, in case of permitted bigamy or polygamy, would be irreligious or offensive to the dictates of the religion.

It was stated that, what was protected under Article 25 was the religious faith and not a practice which might run counter to public order, health or morality. The court held that polygamy was not integral part of religion and monogamy was a reform within the power of the state under Article 25.

III. RESTRICTIONS ON THE FREEDOM OF RELIGION

The 'Freedom of Conscience' and the right to 'profess practices and propagate religion'

¹⁰ Ramji Lal V. State of UP. AIR 1957 SC 620.

¹¹ Moulana Mufti Syed Md. Noorur Barkati V. State of W. B. Air 1999 Cal. 15.

¹² AIR 1977 SC 908 See also S.R. Majhi V. State of Orissa, JT 2003 (8) SC 286.

¹³ Albert Raj V. D. M. Kanya Kumari AIR 2005, Mad 444

¹⁴ Mohd. Gani V. Supt. of Police, AIR 2005 Mad 359

¹⁵ AIR 1958 SC 731

¹⁶ AIR 2003 SC 3057

guaranteed by Article 25(1) is subjected to-

- (a) Public order, morality, health and other provisions of part III¹⁷
- (b) any law regulating or restricting any economic, financial, political or other secular activity associated with religious practices¹⁸
- (c) any law providing for social welfare and reforms or the throwing open to all persons the religious institutions, belonging to their religion, of a public character.

In Article 25(2) has clearly mentioned that ‘nothing in this article shall affect the operation of any existing law or prevent the state from making any law-

- (a) regulating or restricting any economic, financial, political or other secular activity which may be associated with religious practice.
- (b) providing for social welfare and reform or the throwing open of Hindu Religious institutions of a public character to all classes and sections of Hindus.

Article 25, thus obligates the state to ensure that communal atmosphere be kept clean and unpolluted. For instance,¹⁹ in the case of P. B. Thogadia, who is a religious leader, was restrained from entering Dakshina Karnataka for 15 days, upholding the restrictions, the supreme court said that if a person by his caustic and inflammatory speech was likely to endanger communal harmony, preventive action would become essential for preservation of ‘public order’ and rule of law. Therefore, when a person’s speeches or actions are likely to trigger communal antagonism and hatred, resulting in fissiparous tendencies gaining foot-hold undermining and affecting communal harmony prohibitory orders need necessarily to be passed, to effectively avert such untoward happenings. It thus follows that the over-riding and governing principles of public orders, morality and health, condition the right to freedom of conscience, and right to freely profess, practice and propagates religion. Practice however ancient, cannot, be allowed to violate the right to life of an individual.²⁰ Any custom, like Devadasi or usoge irrespective of even any proof of their existence in pre-constitutional days, can’t be countenanced as a source of law, to claim any rights when it is found to be violative of human rights, dignity, social, equality and the specific mandate of the constitution and law made by parliament.²¹

Thus we can say that the right to freedom of religion is not an absolute right, on which reasonable restrictions can be imposed in public interest. To maintain religious harmony among

¹⁷ Opening words of Clause (1) of Article 25

¹⁸ Clause (2) (a) of Article 25

¹⁹ State of Karnataka V. P.B. Thogadia AIR 2004 SC 2081

²⁰ See Nikhil Soni V. State of Rajasthan ‘Times of India’ Aug. 11, 2015

²¹ N. Adithyan V. T.D. Board AIR 2002 SC 3538

the people and stopping religious insanity is not only the fundamental duty of state but of all citizen. India is a secular state, that regulate the manner of separation between religion and the state in the Indian Polity. These provisions do not intend to create a state that marginalized religion from society, or to follow a policy of strict neutrality, towards religion, secular state means that in political activities neither the state will have any particular religion of its own and will not follow any particular religion, but will respect all religions equally.

Offences Relating to Religion – Chapter 15 of the Indian Penal Code 1860 deals with religious offences under 295-998. The chapter is based on the principle that every person should be suffered to profess his own religion and that no man should be suffered to insult the religion of another.²² The offences relating to religion are as follows :-

Sec. 295 Injuring or defiling place of worship with intent to insult the religion of any class.

Whoever destroys, damages or defiles any place of worship, or any object held sacred by any class of persons with the intention of hereby insulting the religion of any class of persons or with the knowledge that any class of persons is likely to consider such destruction, damage or defilement as an insult to their religion, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine or with both.

Sec. 295- A Deliberate and Malicious acts intended to outrage religious feeling of any class of insulting its religion or religious belief:-

whoever with deliberate and malicious intention of outraging the religious feelings of any class of citizens of India by words either spoken or written or by signs or by visible representations or otherwise, insult or attempts to insult the religion or the religious beliefs of that class, shall be punished with imprisonment either description for a term which may extent to three years or with fine or with both. Voluntarily causes disturbance to any assembly lawfully engaged in the performance of religious worship or religious ceremonies, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine or with both.

Sec. 297 Trespassing on Burial Places, etc. Whoever with the intention of wounding the feelings of any person or of insulting the religion of any person or of insulting the religion of any person are likely to be wounded or that the religion of any person is likely to be insulted thereby, commits any trespass in any place of worship or on any place of sculpture or any place set apart for the performance of funeral rites or as depositing for the remains of the dead, or depository for the remains of the dead or offers any indignity to any human corpse, or causes disturbance to any person assembled for the performance of funeral ceremonies, shall be

²² Justice Rajesh Tondon : Indian Penal Code ed. (2006) at p. 328

punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Sec. 298 Uttering words, etc. with deliberate intent to wound religious feelings – Whoever, with the deliberate intention of wounding the religious feelings of any person, utters any word or make any sound in the hearing of that person or makes any gesture in the sight of that person or places any object in the sight of that person shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Sec. 153-A promoting enmity between classes – Whoever by words either spoken or written or signs or visible representations or otherwise promotes or attempts to promote an enmity between different groups of grounds of religion, race, Place of birth, residence, language etc. and doing acts prejudicial to maintenance of harmony, between different religious, racial, language or regional groups or castes or communities and disturbs or is likely to disturb the public tranquility, shall be punished with imprisonment which may extend to three years, or with fine or with both.

Organizes any exercise, movement, drill or the other similar activity intending that the particulars in such activity shall use or be trained to use criminal force or violence or knowing it to be likely that the participants in such activity will use or be trained to use criminal force or violence or particulars in such activity intending to use criminal force or violence against any religions, racial, language or regional group or caste or community and such activity for any person whatsoever causes or is likely to cause fear or alarm or a feeling of insecurity amongst members of such religious, racial, language or regional group or caste or community, shall be punished with imprisonment which may extend to three years or with, fine or with both.

2. Offences Committed in place of worship – Whoever commits an offence specified in sub-section (1) in any place of workshop or in any assembly engaged in the performance of religious workshop or religious ceremonies, shall be punished with imprisonment which may extend to five years and shall also be liable to fine.

Sec. 153 B : Imputations, Assertions prejudicial to National Integration –

(1) Whoever, by words either spoken or written or by signs or by visible representation or otherwise

(a) makes or publishes any imputation that any class of persons cannot by reason of their being members of any religious, racial, language or regional group cast or community, bear true faith and allegiance to the constitution of India as by law established or uphold the sovereignty and

integrity of India.

(b) asserts, counsels, advices, propagates or publishes that any class of persons shall by reason of their bring members of any religions, racial language or regional group or community be denied or deprived of their rights as citizens of India or,

(c) make or publishes any assertion, counsel, plea or appeal concerning the obligation of any class of persons by reason by their being members of any religions, racial or regional group or caste or community and such assertion, counsel, plea or appeal causes or is likely to cause disharmony or feelings of enmity or hatred or ill-will between such members and other persons, shall be punished with imprisonment which may extend to three years or with fine or with both.

(2) Whoever commits an offence specified in subsection (i) in any place of worship or in any assembly engaged in performance of religious worship or religious ceremonies, shall be punished with imprisonment which may extend to five years and shall be liable to fine.

Sec. 505(2) statement creating or promoting enmity, hatred or ill-will between classes –

Whoever makes, publishes, or circulates any statement or report containing rumour or alarming news with intent to create or promote or which is likely to create or promote, on grounds of religion race place of birth, residence language caste or community or any other ground whatsoever, feelings of enmity, hatred or ill-will between different religious racial language or regional groups or castes or communities, shall be punished with imprisonment which may be extend to three years, or with fine, or with both.

(3) Offence under sub-section (2) committed in place of workshop, etc. whoever commits an offence specified in sub-section (2) in any place of workshop or any assembly engaged in the performance of religious worship or religious ceremonies, shall be punished with imprisonment which may extend to five years and shall also be liable to fine.

Exception – It does not amount to an offence within the meaning of the section, when the person making, publishing or circulating any such-statement rumour or report is true and makes, publishes or circulates it (in good faith) and without any such intent as aforesaid.

In Babu Ram Patel V. State²³ - The appellant was an editor, publisher and printer of a monthly magazine called Mother India. He was prosecuted under Section 153-A, for two articles ‘A tale of two communalism’ and ‘lingering disgrace of history’ respectively, published in this magazine. In appeal the supreme court held that sub-section (1)(a) of section 153-A not only makes the promiton of enmity, hatred or disaffection between different religious groups and

²³ (1980) 2 SC 402

communities on grounds of religion, punishable on grounds of race, place of birth, place of residence, language, caste or community. If a monthly magazine publishes a political dissertation or articles in the fabric of historical truth, which purports to oppress the members of a minority community for being intolerant, blood thirsty and persecutes being a community with traditions of rape, robbery, violence and murder, so it will be considered that such article is promoting a feeling of enmity, hatred and animosity among the communities on basis of community and such author publisher and printer will also be liable to conviction under section 153-A.

In Ramji Lal Modi V. State of U.P.²⁴ – The petitioners challenged the validity of section 295-A, of IPC which penalized the act or attempt of insult of religion or religious beliefs of a class of citizens. The Supreme Court upheld its validity on the ground that “restriction imposed on freedom of expression by the section was reasonable and was covered under the head of ‘public order’. The reasoning of the court was that the section did not penalize any and every act of insult to religion or the religious belief of a class of citizen but was directed to acts perpetrated with the deliberate and malicious intention of outraging the religious feeling of a class or citizens.”

In Mahendra Singh Dhoni V. Yerraguntla Shyamsundar²⁵ an FIR was lodged against Mahendra Singh Dhoni, the image of Dhoni was portrayed as ‘Lord Vishnu in the magazine with a headings ‘God of Big Deals’ which had led to the insult of the religious sentiment of people belonging to the hindu community. The court held that only malicious or deliberate acts, or attempts, under taken with the intention of outraging the religious beliefs of a class of citizens would be penalized under section 295-A of the Indian Penal Code. The allegations mentioned in the report²⁶ did not meet the ingredients of the offense and so the supreme court had passed an order to quash the FIR against him.

In Ramesh V. Union of India²⁷ The petitioner challenge the serial ‘Tamas’. The facts of this case were, that the serial ‘Tamas’ was based upon a book that already screened four episodes that portray the communal violence between Hindu-Muslim and Sikh-Muslim and the tension, killing and looting that took place. A writ petition was field under Article 32 of the constitution for the issuance of the writ of prohibition or other appropriate writ or order restraining the further screening of the serial ‘Tamas’ and enforcing the fundamental rights of the petitioner

²⁴ 1957 SCR 860

²⁵ Supreme court of India, on 20 April 2017

²⁶ <https://blog.ipleader.in>

²⁷ (1988) 1 SCC 668.

under Article 21 and Article 25 and to declare the screening of Tamas as violative of section 5B of the cinematography Act 1952.

The court while dismissing petition held that there is no violation of article 21 and 25 and the respondent has not acted improperly. The author tries to bring attention to the past history of our country and to emphasize the wish of the people to live in harmony and rise above religious barriers. It further held that when the serial is viewed in its entirety it creates an impression of peace and co-existence and that the people are not likely to be carried away by the violence shown in it.

India is secular state provides equal protection to all the religions. Equal protection does not mean that it always aids and promotes its citizens to follow a religion and its practice, but at times it means to interfere and bring positive reforms for the betterment of the society.

IV. FREEDOM OF RELIGION PRESENT SCENARIO

India is a secular country and every Indian has a 'Right to Religion' given in our Indian Constitution, Chapter XV, from (Section 295 to 298) of Indian Penal Code deals with offences and punishment of offences relating to religion, no one can insult anyone's religious belief and any holy object of any religion. If anyone does so, punishment is mentioned in the Indian Penal Code. Offences relating to religion are broadly classified into three main categories, defilement of places and holy objects of any religion, insulting any religious feelings and disturbing to religious assemblies and religious ceremonies. In this way, the protection of religious rights is arranged in Indian laws. secularism is an integral part of Indian constitution. Religion is a matter of individual faith and cannot be mixed with secular activities. Secularism is the segment of government foundations. The 42nd Constitutional Amendment Act 1976, introduced the word 'secular' in the preamble. India is a secular nation that indicates equality, tolerance and brotherhood towards all religions. Being a secular country it does not have its own religion but respect to all religion of Indian citizens, and every citizen has the right to choose, practice, propagate and even change his or her religion. However, these rights are not absolute but subject to certain restrictions provided by the constitution. No person in the name of religion can do any act that is opposed to the public policy or creating any kind of disturbance, insult, intolerance and outrage among the people of India.

But the constitutional guarantee of religious freedom is becoming a great concern and challenge day by day for the present social security, unity and integrity of the country. Violence in the name of religion is becoming part of daily activity, suppressing the minorities and hate crimes in India is also increasing. In the 21st century technology and its development amusing us, still

now are doing hate cyber crime in social media is based on girls, politics and religion. Elevating to own religion and criticizing other religions has become a habit or fashion among all religions now a days, vote bank politics is actively involved to play a great contribution for religious appeasement, consequently, the unity and integrity of the country is getting disturbed and being rupture in day by day. Recently in Haridwar of Uttarakhand. **A Dharma Sansad** was organized by a few saffron sages, this ‘Dharma Sansad, which held from 17 to 19 December 2021, was organized by Hindu Raksha Sena’s president Pravodha Nand. In which, BJP leaders along with many saints, Even Yogi Aditya Nath CM UP, Amit Shah Minister Home Affairs, Pushkar Singh Dhami CM Uttarkhand, Dhan Singh Rawat, Higher Education Minister Uttarakhand and many others were present.

Here are some footnotes of this ‘Dharma Sansad’ presented by Ravish Kumar who is senior editor from NDTV News Channel as follows²⁸-

Yati Narshingha Nand : Mahant of Juna Akhara and Dasana Mandir, U.P. says that : ‘Shastramev Jayate instead of satya meve jayate’ further he saying that ‘either be ready to die or to kill, spewing venom towards a particular section of minorities, saying that swords only adorn the stage, now the time has changes, so weapons will have to be taken up to eliminate of them.

Sadhvi Annapurna: General secretary of Hindu Sabha & Mandleshwar Niranjani Aakhara – appears to say that ‘Maharaj ji, I promise that even my life be last, but I will never allow to muslim, become the prime minister. You promise me to increase your population so much, that they should be eliminated. For this we are even ready to go to jail, if we killed their 20 lac people. Give up the books and copy, and pick up the weapon in your hands for getting the success of this. It is the same Pooja Sakuna Pandey who fires fake bullets at Mahatma Gandhi’s effigy in Aligarh on 30th January 2019, balloon bursts, blood oozes out and she then laughs loudly. When asked to her that why you give such provocative speeches, she says that when the constitution itself talks about partition, then whatever I said is not wrong. Do first change the constitution, we should worship Nathu Ram Godse who was a true patriot.

Pravodha Nand – ‘Niranjani Aakhara’ says ‘sanatan vedic nation.....’, where there will be no mosque, no madarsa, where there will be no jihadi of Islam. It is the responsibility of our saints to fulfill it, even if we have to shed our blood for this we should be ready. The purpose of this ‘sansad’ is to destroy the muslim anarchic elements completely. We take a pledge to make a

²⁸ See also, social media, R Bharat, Zee News, One India Hindi, Aaj Tak, Bewak, Capital TV, Satya Hindi, Reach India TV, BBC News, HW News, Network, NDTV India, ETV, Jai Hind News, ANI News, UP TAK, DS4 News, AVP News live.

Hindu Rashtra.

“Why is the law silent on the contractors of religion who are challenging for genocide”. A video, released by NDTV on January 2022, the summary of speeches which can destroyed the unity and integrity of the country is as follows : “Rajeshwar Singh who is the minister in Yogi govt. in UP, as well as in charge of Hindu Yuva Vahini Mandal Gorakhpur. While wishing prime minister Narendra Modi on his birthday, he says that God give you the strength to make a Hindu Nation.

Suresh K. Chauhan, Chief Editor of Sudharshan T.V., 19 December 2020 a meeting held at Banarsidas Chandiwala hall of South Delhi. In this meeting Chauhan uses hateful words towards a particular community. Taking an oath to make a Hindu nation, says that Hindu lions and lionesses will fighting to keep the country a hindu nation till there last moments of life.

Ashwini Upadhyay – Shows a copy of the constituion in Hindu Sabha on 4th February 2020, whose cover is saffron. He says that I have to say with regret that till today our constitution could not be of saffron colour, so I had to do this work. Ashwini Upadhyay is the spokesperson of BJP and related to the RSS. His twitter page followed by Nitin Gadkari, Dr. Harshvardhan, Swatantra Dev Singh, Shahnawaz Hussain and Giriraj Singh. On August 9, 2021, A ‘Bharat Jodo’ rally was held at Jantar-Mantar, in which Ashwani Kumar was arrested, for raising slogans to kill muslims, after 3 days he was released on bail. A few days later, in pataudi of Haryana a Mahapanchayat was held, to kill muslims. Gopal, who opened fire on the agitators at shaheen bagh in 2020, also gave provocative speeches, who as later granted bail. On August 18, 2021, the Hindu Samachar’s news in Haryana banned the word ‘gross racket’ but prime minister Narendra Modi was seen repeatedly addressing this word in his meeting.

Regarding Dharam Sansad of Hardwar, when Saurabh Shukla of NDTV asked to S.P. City Hardwar Mr. Swantra Kumar Singh, about his incident, the officer said that the police in keeping an eye on the incident but no complaint has come so far. The superintendent of police probably refrains that the police can take action on ‘suo moto’ basis to maintain law and order, but it will be called ironic that where in the name of action in this meeting, a police thana in-charge smiling and is seen pleading with them, so how can we expect that action will be taken on January 12, 2022, the supreme court on ‘suo moto’ has issued notice to the government of Uttarakhand for this matter and Delhi govt. for hate speech matter.²⁹ In January 2022, a T.V. debate was organized by Sanket Upadhyay of NDTV, in this program the Vikram Singh former DGP Uttar Pradesh, Acharya Rajiv Narayan Dharma Shastri, Pandit Ajya Gauttam (we hindu

²⁹ See also ABP News Channel on 12 January 2022

organization) were invited. Former DGP Vikram expressing doubts on the functioning of Haridwar police, says that the law empowers the police to take action on 'suo moto' to maintain law and order which was not done. This clearly shows that the police is under pressure of the govt. Ajay Kumar writes on Koo App that 'what can be done if the person spreading hatred has political protection. Prabhav Yadav (a viewer) says that there should be absolutely jail, but keep in mind that spreading hatred should not be a BJP worker because spreading hatred by staying in BJP is propaganda of love. Ajay Gauttam says that the work of spreading religious hatred is also done from the other side. Has any person ever been punished under section 153-A and 295-A of the Indian Penal code for doing so? Further he says that AIMK's senior leader owaisi had said in U.P. that our 2 people were killed, Allah will destroy their breed in the coming time. In protest against CAA, they had slogans that Modi, we will keep your grave on the land of AMU, Hindu teri kabra khudegi, Yogi teri kabra khudegi AMU ki Dharti per. Ajay Gauttam says that if the police had taken action against those who spread hatred on December 21, 2012, May 15, 2014 and 2019, so today it would have become an example of precedent. No action has been taken against the Imam of a mosque of Delhi, in 60 non-bailable cases still now.

A case was registered against a Saint Kali Charan Maharaj under section 294 and 505(2) of Indian Penal Code. Who respect to Nathu Ram Goudse while making indecent remark on Mahatma Gandhi, he says that Gandhi ji was always in favour of Muslim.³⁰ 3 years ago, Amitabh Agnihotri, Executive Editor of News 18 (UP-Uttarakhand) had organised a T.V. debate, in which Sanjay Rai from BJP, Umashankat of Congress, Rajpal Kashyap of Samajwadi Party and Anil Dube from RLD were present. The Theme of this debate was on '*after all, why don't politician stope abusing and hateful language*'. Amitabh Agnihotri mentions the MLA of Balia, Mr. Surendra Singh, who has said that if muslim would be in majority, then democracy will not exist. Throw them out and there will be no secularism. India is not an orphanage. India should have become a Hindu Rashtra in 1947 itself. Congress leader Imran Masood had said during the election, if any BJP leader gives ticket to Narendra Modi, we will chop them into pieces. Amitabh reminds to Sanjay Rai (BJP) and says that people who use indecent language are getting more preference than people of decent language. BJP leader Smriti Irani calls Durga Mata a sex worker. Sakshi Maharaj, a senior MP calls a particular caste a haramzade. Shri Giriraj Bapu says to Muslim in an election meeting that if you want three hands space for grave then vande matram will be sung in this country, otherwise the country

³⁰ New 18 India TV, January 2022

will never forgive you. *Is U.P. elections being played on the pitch of religion*³¹ in this debate, reciprocally Hindu-Muslim religion was ridiculed for political power. Rajpal Kashyap SP leader says that, according to the report of Amnesty International, Uttar Pradesh is in 1st rank for spreading hatred. Raja Singh, BJP candidate for Telangana assembly elections, gave a provocative speech of Hindu-Muslim in an election meeting.³² Hindu follows the path of Truth. Hindutva is a loots (robs) under the guise of religion.³³ In the progress of the daughters of the country, there is a severe hindrance of the muslim 'Katthamula', when aksed on the Hijab episode, Yogi ji says that this is the thinking of Talibanikaran 'Talibanizationa' of muslim.³⁴ Recently, in Ambala City of Haryana, a matter of breaking the statue of Jesus in Church came in limelight of Media.³⁵ There have been attacks on various churches in Karnataka, Tamil Nadu, Delhi and even Uttarakhand in the month of September 2021 against forcefully converting the religion.³⁶ A case of vandalism, looting and assault came into light in protest against of force conversion on a church located in Roorkee Uttarakhand. A case was registered against more than 250 people belonging to various Hindu organisations. Victims said that attackers entered the church chanting Jai Shri Ram and looted, attacked and molested the women.³⁷

The United States Commission on 'International Religious Freedom' USCIRF³⁸ 'The annual report of United States Commission on International Religious Freedom' says that – In 2019, religious freedom conditions in India experienced a drastic turn downward with religious minorities under increasing assault. Following the Bhartiya Janta Party's (BJP) re-election in may the national government used its strengthened parliamentary majority to institute national level policies violating religious freedom across India especially muslims. The National Govt. allowed violence against minorities and their houses of worship to continue with impurity and also engaged in and tolerated hate speech and incitement to violence.

The Citizenship Amendment Act (CAA) passage in December sparked national wide protests that police and government aligned groups met with violence, in Uttar Pradesh (UP), the BJP Chief Minister Yogi Adityanath pledged 'revenge' against anti CAA protestors and stated they

³¹ NDTV Debate 4 Jan. 2022

³² UP Tak News Channel 10, Dec. 2019

³³ Rahul Gandhi Congress leader

³⁴ CM Yogi Aaditya Nath : (UP Tak 18 Feb. 2022) T.V. Channel

³⁵ Pushpa Pande : UP Tak News Channel 18 Feb. 2022

³⁶ NDTB : Sept. 2021

³⁷ The Quint News : 3 October 2021, See also BBC News, 10 July 2019, Jai Shri Ram, The Hindu Chant that become a murder cry, in June 2019, in Jharkhand a mob attacked a muslim. Tabrez Ansari as they beat him to death.

³⁸ The USCIRF Annual Report 2020

should be fed ‘bullets not biryani’. In December, close to 25 people died in attack against protestors and universities in UP alone. According to reports,³⁹ police action specifically targeted muslims. Violence against christians also increased, with at least 328 violent incidents, often under accusations of forced conversions. In 2018, the supreme court urged the central and state govt. to combat lynchings with stricter laws.⁴⁰ When, by July 2019, the central government and 10 states had failed to take appropriate action, the supreme court again directed them to do so.⁴¹ Rather than comply, home ministers, Shah called existing laws sufficient and denied, lynching’s had increased, while the home ministry instructed the National Crime Records Bureau to omit lynching’s from the 2019 crime data report.⁴²

During 2019 discrimination policies inflammatory rhetoric and tolerance for violence against minorities at the national, state and local level increased the climate of fear among non Hindu communities. After the reporting period, India continued on this negative trajectory. In February 2020, three days of violence erupted in Delhi with mobs attacking muslim neighborhoods. There were reports of Delhi police, operating under the home ministry’s authority, failing to halt attacks and even directly participating in the violence. Atleast 50 people were killed⁴³, in Palghar Maharashtra (Mumbai) three Sadhus killed in mob lynching with different Angel. The vigilante group of villagers had mistaken the three passengers as thieves and killed them on 16 April 2020.⁴⁴ In Kanpur (UP) mob lynching, the mob kept on pleading the girl, but the muslim reckshaw driver was beaten up fiercely, forcibly called Jai Shri Ram.⁴⁵ Bajrang Dal worker was stabbed to death in Shimoga Karnataka, on the other hand AIMK Chief Asaduddin Owaisi said that I will keep a bread, will also wear a cap and my daughter will wear a Hijab. Zahira Wasim says that Hijab is not an option but a responsibility.⁴⁶ In Karnataka, the girl students were denied entry into their respective educational institutions for wearing Hijab.⁴⁷ The implementation of dress code by institutes, banning the hijab, was criticised inside India and abroad by officials in the United States and Pakistan by Human Rights watch, and by figures like Malala Yousafzai. The ban was defended by politicians such

³⁹ The guardian : Friday 3 Jan 2020, An Article written by Hunnah Ellis – Peterson in Muzaffarnagar on ‘we are not safe : India’s Muslims tell of wave of police brutality.

⁴⁰ The Washington Post : India’s supreme court warns of ‘Mobocracy’ urges govt. to pass anti-lyching law after deadly attacks.

⁴¹ The WIRE : 27 July Mob Lynchings : supreme court issues notice over implementation of its previous Directions.

⁴² The Hindu : thehindu.com/news/national on 23 Oct. 2019

⁴³ The New York Times:- How Delhi’s police turned against Muslims, 5 Feb. 2020

⁴⁴ <http://en.m.wikipedia.org>

⁴⁵ Presswire18.com, 13 August 2021

⁴⁶ Aaj Tak News Channel 21, Feb. 2022

⁴⁷ The Indian Express 20, Feb. 2022

as Arif Mohammad Khan, Aaditya Thackeray and Vishva Hindu Parishad and Women's Rights activists Taslima Nasrin and Masih Alinejad etc.⁴⁸ The Hijab row has reached various places of the country, from Karnataka, consequently, communal riots erupted in different parts of the country in support and opposition to it, hateful incidents like mob lynching are happening in several places of the country. In 2020, religious freedom conditions in India continued their negative trajectory. The govt. led by the Bharatiya Janta party (BJP) promoted Hindu Nationalist policies resulting in systematic, ongoing and egregious violations of religious freedom early 2020, led to nationwide protests against the CAA (Citizenship Amendment Act) and spurred state and non-state violence, largely targeting muslims.⁴⁹ In February, the worst Hindu-Muslim mob violence in more than three decades erupted in Delhi. More than 54 people died and 200 others were injured, mostly muslim. Mobs sympathetic to Hindu nationalism operated with impurity, using 'brutal force' to single out muslims, attack mosques and destroy homes and business in majority. Muslims neighbourhoods. The Delhi minorities commission investigated and found that the violence and allegations of police brutality and complicity were 'seemingly planned and directed to teach a lesson to a certain community which dared to protest against a discriminatory law.

In September 2020, the Indian parliament amended the Foreign Contribution Regulation Act (FCRA) to increase restrictions on non-governmental organisations (NGOs) further stifling civil society and forcing religious organisations and human rights organizations, including those advocating for religious freedom to shut down.

At the beginning of Covid-19 pandemic, disinformation and hateful rhetoric-including from government official-often targeted religious minorities, continuing familiar patterns. Disinformation and intolerant content have emboldened intimidation, harassment and mob violence in recent years, including numerous instances of violence mainly against Dalits, Muslims, Christians, Adivasis and other religious communities.

The United States Commission on 'International Religious Freedom'⁵⁰ has condemn ongoing religious freedom violations and support religious organizations and human rights groups being targeted for their advocacy of religious freedom.

Recently on the occasion of Hanuman Jayanti on 16th April 2022, a fierce violence was occurred between two religions in Jahangirpuri of Delhi. People from both sides accuse each other of violence, arsons, stone pelting and use of swords and weapons, in which a police

⁴⁸ en.m.wikipedia.org

⁴⁹ The USCIRF Annual Report 2021

⁵⁰ The USCIRF Annual Report 2021 at page 22

constable was injured by shot. The muslim community says that Hindus were not allowed to procession from the administration and they have tried to desecrate our mosque and they put up a saffron flag in our mosque, not only this, they forcefully asked us to say 'Jai Shri Ram', failing to do so they had abused and brutally beat us up, while Hindus say that the procession was going on peacefully and muslims had already stored stones and during this time they threw stones at us. Whatever be the case, it will be considered a failure of Delhi Government as well as the central govt. because to maintain the law and order is an important and essential responsibility of the governments, which was completely destroyed, and such incidents bring shame to the functioning of the government. Right now the religious frenzy of Azaan Vs. Hanuman chalisa through loudspeaker in 6 states was a pre planned for politicians to crush the unity and integrity of the country.⁵¹

Under the guise of religious freedom the spirit of the country's unity, integrity and brotherhood is getting tarnished in day by day. Religious frenzy and communal riots are the product of the hindutva politics of the country as well as the perverted mentality of hindu-muslim religious Gurus. Akbaruddin Owaisi once said that just remove the soldier for 15 minutes, we will make Hindus realize our power, while Pushpendra Kulshreshta expresses indirect anger against muslims in the social media in the days to come. The recently release film 'The Kashmir Files' which portray the massacre of Kashmiri Pandits by muslims are again a well-planned attempt to break Hindu-Muslim unity. The Hindu-Muslims riots in Delhi against the CAA are said, that it was a well planned riots. It is a matter of great sadness that the vote bank politics instigate, innocent people to erupt communal riots for their own benefits and even they become successful in their motive. The public considers only and only religion as paramount, rather than the development or basic amenities of human being. This is the perception of religious freedom which never be a good sign for Indian democracy.

V. CONCLUSION

India is a secular country, secularism is an integral part of our constitution, it is the basic structure of our constitution. Religion is the most important aspect of all most every Indian not only but most of the world's population consider religion as there important aspect. Right to freedom of religion is a fundamental human right subject to the reasonable restrictions. India is the most diverse country with respect to religion. Being as secular country it does not have its own religion and every citizen has the right to choose, practice, propagate and even change his or her religion. However, these rights are not absolute but subject to certain restriction

⁵¹ See also NDTV News Channels, and many others on Youtbe, 20 April 2022

provided by the constitution. No person in the name of religion can do any act that is opposed to the public policy or creating any kind of disturbances or intolerance among the people of India.

The present form of religious freedom in India is deteriorating day by day. The truth to be told in India there are certain religious crimes are taken easily and accepting those crimes is very casual nowadays. Violence in the name of religious is becoming part of daily activity. Suppressing, the minorities and hate crimes in India is also increasing. In the present technological development amusing us, still now are doing hate cybercrimes. The majority of hate crimes in social media is based on girls, politics and religion. Besides this the political parties incites the innocent people to provoke communal riots under the guise of religion for their vote bank. However, there is a provision of punishment in jurisprudence for offenses related to religion. But unless or until, we are determined unity and integrity as well as fraternity for the country the law alone cannot do anything. Therefore, it is the need of the hour that we should give up our personal interests, renounce mutual anger, discrimination and hatred towards other communities. We should work only and only for the unity and integrity of the nation, so that the country could move towards all round development.
