

COMMUNALISM IN INDIA

Written by *Parth Sharma** & *Nishtha Mittal***

**4th Year B.Com LL.B.(H)*

*** 4th Year B.Com LL.B.(H)*

ABSTRACT

Since the mob lynching attacks and ugly communal politics are increasing day by day in our country, a discussion of the whole concept of communalism seems essential which has been the purpose of this paper. This paper attempts to discuss at length, the meaning and elucidation of communalism in the Indian context. The origin and evolution of communalism in the Indian society, the movements which contributed to communalism decades ago and how communalism has been emanated through communal politics by our politicians have also been mentioned.

An analysis of the various laws which are infringed when political parties gather votes by using religion, the aftermath of all the communalism that caused horrifying riots, mob lynching attacks and the statistical data of the same has also been made. The paper further enumerates on the various steps taken by the state, formation of committees and commissions, draft of anti-communal bills and their status has. Other than that, the criminal laws applicable to communalists, cases in this regard have also been given a scrutiny in depth.

The paper also mentions at the end what remedial steps could be taken by the Indian Government to choose nation over religion and how we, as independent individuals can contribute to making a change.

Keywords: Communalism, politics, violence, religion, riot, State

INTRODUCTION

Even after 71 years of independence, India is still burning in the fire of communalism. After all, "our belief is only true and rest is untrue or incomplete". Due to this mentality the followers of any religion, section or sub-section cosset and indulge in any religious activity, their interest certainly come in conflict with others and which is not hidden. The reason being no tolerance, which is paramount in a country like India -a land of different religious communities.

The Webster's dictionary defines communalism as loyalty to a socio-political grouping based on religious or ethnic affiliation¹. The idea of communalism strongly propagates sharing of common beliefs by the people of one religion and portraying hostility or disdain towards the followers of other religions. Since India is a country known for its *unity in diversity*, the wide spreading roots of communalism as a contemporary concept poses a severe threat to its diversity and culture. Communalism in a deeper sense, spreads due to people and not religion since religion does not promote any activities and ideologies which can have a harmful effect.

Since India got its independence, India has been working towards nation-building on the foundation of secularism. India is still struggling with "communalism". There are a various amount of direct causes and indirect cause that a caused a butterfly effect and gave fuel to the growth of communalism in India, the major reasons which play a vital role due to which the continuation of communalism is still there are namely religious, political, socio-economic and international.

But what does communalism means in the Indian sub-continent context, communalism has come to be associated with tensions and clashes between different religious communities in various regions. A multi-religious society like India, these common interests of one religion are dissimilar and divergent from the interests of the follower of another religion². It was the spread of nationalism which gave rise to communalism in India, eventually. Communalism can be seen as having certain prominent stages. The foremost stage is the setting up of an ideology and seeing the people of one religion as a group and identifying with themselves.

¹ Communalism, <https://www.merriam-webster.com/dictionary/communalismn>

² Communalism- Meaning and Issue, 08. November.2014

<http://www.insightsonindia.com/2014/11/07/communalism-meaning-and-issues/>

The second stage is believing that the social, cultural, political and economic interests of one religion are dissimilar and divergent from others and that there is no commonality. The third stage is the idea that interests of all religions are mutually incompatible and cannot exist partially. One stage leads to another and hence the spread of communal ideas must be stop at the very inception itself. Once, the people start believing and accepting that other religions are antagonistic to each other, a feeling of hostility and intolerance towards others religions thus leading to communal movements can be seen.

ORIGIN AND EVOLUTION OF COMMUNALISM IN THE INDIAN SOCIETY

In ancient India there was no such communal feeling present, Ancient India was well united people then lived together peacefully, and there was an acceptance for every other community Culture and traditions and lived peacefully.

In the medieval times the rulers like Akbar who was epitome of secular practises and believed in propagating such values by abolishing Jajhiya tax and starting of Din-I- ilahi and Ibadat Khana. Acceptance for different cultures and tradition was practised in various kingdoms throughout India, because of which there was peace and harmony in their kingdoms, barring few sectarian rulers like Aurangzeb. There were rulers like Aurangzeb who destructed temples, forced conversion but majority of Indians were ruler and were distant from these kind of acts and therefore lived peacefully and there was harmony between people of different religious belief, differences and community.

Communalism is the main product of modern politics in India which started as a result of British Empire, the British statesmen grew apprehensive about the safety and stability of their empire in India. Hindus and Muslims fought side by side united in their purpose of defeating a common enemy during the revolt of 1857. To deter the feeling of nationalism the British statesmen adopted the policy of divide and rule. For this purpose, they chose the side of Muslims to win. It was the backwardness of Muslims, which led them to remain underdeveloped. The Britishers instead of working on uplifting their conditions, caused violence in the name of religion, and they also fomented other division in the Indian society

to make it weak from inside. Britishers had poisoned the minds of Muslims and given a communal outlook to the Indian history thus giving a blow to our national unity. All of these things were done by the British government to feed their own political needs, and this feeling of unrest and communalism has grown since then. Communal consciousness arose because of the transformation of Indian society under the impact of colonialism.³ All these factors together contributed to the origin of such political trade of religion which is today, known as communalism. Till date, communalism is prevalent in the society.

When the Britishers opened up administration of the country most of the places were taken by Hindus since the education culture wasn't spread till Muslim community and other communities making them feel left out and demanded a special reservation and some other movements contributed towards communalism which are:

1) Partition of Bengal:

The partition of Bengal was done on 16 October 1905 by Lord Curzon (viceroy of India) and it was promoted on the basis that Bengal is a very big state and this is causing for it's under governance of the state. Whereas the main motive behind this partition was, so that the position of Bengali Hindus weakens and. All together this partition was a mere bit of the strategy opted by the British statesman of 'Divide and Rule'. While the Hindus were in opposition of that and Muslim community were in favour of it which internally created clashes between both the communities and deepened communalism in India.

2) Formation of Muslim League:

Due to the growth of the communalism in India it led to formation of a Muslim political party known as Muslim League in 1906 its members were only limited to the educated Muslim class. Around the same time period the Indian National Congress began garnering mass support from its members and also consisted of young Muslims.

Mohammed Ali Jinnah one of the major person behind the partition of India and Pakistan, creation of Pakistan and was a member of the Indian National Congress.⁴

³ Communalism- Meaning and Issue, 08. November. 2014, <http://www.insightsonindia.com/2014/11/07/communalism-meaning-and-issues/>

⁴ Communalism in India History Essay, 05. December. 2016, <http://www.ukessays.com>

3) **Khilafat Movement:**

Khilafat movement (1919-1924) was the most significant movement during the British rule in India. The name of the movement came in from the name of the sultan of Turkey also known as the caliph i.e. khalifa or successor of Prophet Muhammad was the religious leader of the Muslims. It was the first political movement involving a particular community (Muslim community). The main motives of the Khilafat movements were:

- i. Not letting the Muslim holy places in the hands of non-Muslims
- ii. Boycotting British garments and commodities
- iii. Non-cooperative movement with Mahatma Gandhi
- iv. Secure the Ottoman Caliphate
- v. Turkey's territory should be protected

4) **Hindu Mahasabha:**

Rich Hindus like Hindu zamindars, money lenders and others started an organisation whose sole purpose was to remove Muslims from the country. For these people were first Hindus then Indians. This thought formed the organisation known as

Rashtriya Swayamsevak Sangha (RSS) founded by K.W Hedewar and Hindu Mhasabha by V.D Savarkar. These organisation created an image that they wanted a country without Muslims because according to them Hindus and Muslims are separate nations⁵.

Communalization by Politics

“India is a sovereign, socialist, secular, democratic republic as system of government. Indian constitution stressed “We, the people of India, having solemnly resolved to constitute India into a Sovereign, Socialist, Secular, Democratic Republic and to secure to all its citizens; Justice-social, economic and political; Liberty of thought, expression, belief, faith and

⁵Kunal Chattopadhyay, Communalism and Indian history, 15. November. 2009, 18:13 PM, <http://www.radicalsocialist.in/articles/national-situation/106-communalism-and-indian-history>

*worship; Equality of status and of opportunity; and to promote among them all; Fraternity assuring the dignity of the individual and unit and integrity of the Nation”*⁶

Dr B.R Ambedkar who was the chairperson of the drafting committee in 1951 speaking on the Hindu Code explained that that secular democracy doesn't always mean that we should take in view the religious sentiment of all the citizens, the term secular state means that the state shall not exert any religion on the citizens. The Indian constitution says that every citizen of India has the right to profess and practise and propagate any religion and there should be strict impartiality on the part of the state toward all the religions.

The challenges like communalism are threat to the concept of the secular state, communalism is a very prevalent force in our country, the principle of secularism is under great threat due to communalism, it has become a very powerful weapon that used by the Politian's to gain power or position in the government. Politian's have played a big role in creating serious communal related problem in India. We can find heavy involvement directly or indirectly of the political parties in communal violence just for the sake of the vote banks, selection of their candidates from a particular section, community or a sub section of a society or caste to cater votes of that particular community, section or sub section of the society or caste, giving hatred speech's and derogatory statements due to this blazing the religious sentiments of the citizens and which led to rise of the communalism. It has remained the go to tool for the Politian's for catering votes. Each and every political party is playing the communal card and situations become so desperate, joining hands with communal parties so that they can come in power. This is not ones academic perception but there are events which shows that it is much more than that, between 1987 and 1992 the Bharatiya Janata Party joined Rashtriya Swayam Sevak Sangh, and other parts of the Sangh's network of organizations like the Viswa Hindu Parishad and the Bajrang Dal, campaigned for the destruction of a four century old mosque on the claim that it had been built by destroying a temple on the exact spot where Rama (Hindu god) was born⁷.

Political parties also indulge themselves in caste politics so that they are able to please particular classes and able to increase their vote bank. The Indian society is divided into 4

⁶The Constitution of India. Preamble (1950).

⁶ Representation of the People Act § 125(3A) (1951)

⁷ Kunal Chattopadhyay, Communalism and Indian history, 15. November. 2009, 18:13 PM, <http://www.radicalsocialist.in/articles/national-situation/106-communalism-and-indian-history>

namely higher class, lower class (Other Backward Castes or OBCs, the socially and educationally backward sections of Indian society), Scheduled Castes (Dalit) and Scheduled Tribes (also known as Adivasi). India is still not able to deal with caste politics till date numerous events take place or has taken place which shows that there was and is the presence of caste or identity politics in India. Recent attacks on the lower caste members of the southern west part of Gujarat. The Bharatiya Janta Party (BJP), took dramatic steps for these lower caste which included reviewing social justice schemes, revisiting job reservations, and the sub-categorisation of lower castes⁸, these measure will eventually end up deepening the caste system in India. These measure were taken to please that minority community and win their votes. Similar was done by Congress in 1980 and 1990 when the Rajiv Gandhi government was in power they passed an act in response to the judgment of the *Shah Bano case*⁹ diluting the secular judgment of the Supreme Court in that case related to the payment of maintenance which was opposed by most of the Muslim community, to please the Muslim community and get their votes the Rajiv Gandhi government introduced Muslim Women (Protection of Rights on Divorce) Act, 1986 which diluted the judgement of the Supreme Court.

Basically, what this means the political parties are gathering votes by playing the religion, caste, community, sub-section card, which is not only contributing to the communal problems but also violating or infringing various laws of the country:

1. **Section 125(3A) of The Representation of the People Act, 1951:** The section 125(3A) states that the promotion or attempt to promote, feelings of hatred between different classes of the citizens of India on the basis of religion, race, caste, community, or language, by a candidate or his agent or any other person with the consent of a candidate or his election agent for the carrying on of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate. In the case of *ABHIRAM SINGH V. C.D. COMMACHEN (DEAD) BY LRS. & ORS*¹⁰. The judgment of the Supreme Court broadened the understanding of 'corrupt practice' under **section 123 (3A), Representation of the**

⁸ Afroz Alam, The caste politics curse that India just can't shake, <http://theconversation.com/the-caste-politics-curse-that-india-just-cant-shake-off-84216>

⁹ *Mohd. Ahmed Khan v. Shah Bano Begum*, SCR (3) 844, (1985)

¹⁰ *ABHIRAM SINGH V. C.D. COMMACHEN (DEAD) BY LRS. & ORS*, (2)SCC 629, (2017)

People Act, 1951 Court has read this provision to disallow any use of religion, race, caste, community or language, of the candidate, or of his rivals, or of the voters for gathering votes.

2. **Section 259A IPC:** “*Deliberate and malicious acts, intended to outrage religious feelings of any class by insulting its religion or religious beliefs.—Whoever, with deliberate and malicious intention of outraging the religious feelings of any class of*²⁷³ *[citizens of India],*²⁷⁴ *[by words, either spoken or written, or by signs or by visible representations or otherwise], insults or attempts to insult the religion or the religious beliefs of that class, shall be punished with imprisonment of either description for a term which may extend to 4[three years], or with fine, or with both*”¹¹. The Politian’s degrade the particular community or religion or cast or give hate speech to gather votes from a particular community, so they can get votes from that community by creating feeling of hatred between one community or religion or caste or section or sub section of the society towards the other. Various major Politian’s like Asaduddin Owaisi, MP from Hyderabad and Akbar Uddin Owaisi - MLA are known for routine inflammatory speeches in and outside their constituencies and many more in the case ***Pravasi Bhalai Sangathan vs. Union of India & Ors.***¹²A writ petition was filed for issue of writ, order or decree directing a suo moto action towards filling a F.I.R towards authors of hate speeches /derogatory statements made towards a religion, caste, section or sub section of the society by the union and the state government and initiation of criminal proceeding against them

3. **Section 153A IPC:** “*Promoting enmity between different groups on grounds of religion, race, place of birth, residence, language, etc., and doing acts prejudicial to maintenance of harmony*”¹³. In the case ***Swaraj Thackeray vs State Of Jharkhand And Ors***, the petitioner prayer was to quash the criminal proceeding against him and also the order dated 11-04-2007 taking cognizance of the offences

¹¹ Indian Penal Code § 295A (1860)

¹²Pravasi Bhalai Sangathan vs. Union of India & Ors, (8)SCC 723, (2009)

¹³ Indian Penal Code § 153A (1860)

under Sections 153a, 153b and 504 of the Indian Penal Code in Complaint Case no. C/1 -382/2007, complaint was filed by spokesman of a political party namely R. J. D namely Sudhir Kumar pending before the Court of Sri B. C. Awasthi, Judicial Magistrate, 1st class, Jamshedpur¹⁴. The complaint stated that on 9 March around 10:30 p.m., the complainant found that the petitioner (Swaraj Thackeray a founder of Maharashtra Navnirman Sena) has made certain defamatory, unconstitutional and illegal statements at a public meeting in Mumbai which is being telecasted by T.V channels the defamatory statement included comments upon the people of Bihari community who came to Mumbai to earn their bread and butter¹⁵.

THE RELIGIOUS INSTITUTION (PREVENTION AND MISUSE) ACT 1988

- i. **Section 3(a):** Section 3(a) of the act says that there should be no misuse of a religious institution or spiritual leader or to allow any property under the religious institution for the promotion and the propagation of any political party¹⁶
- ii. **Section 5:** Section 5 of the act says that no religious institution or spiritual leader should allow or contribute any fund or any other property which the under the religious institution for the benefit of any political party for any political purpose or any act which is punishable¹⁷
- iii. **Section 6:** Section 6 of the act says that there is a prohibition of us of religious fora for propagating political ideologies.

¹⁵ Swaraj Thackeray Alias Raj Thackeray v/s State Of Jharkhand, <http://www.lawyerservices.in/Swaraj-Thackeray-Alias-Raj-Thackeray-Versus-State-Of-Jharkhand-2008-05-15>

¹⁶ The Religious Institution (prevention and misuse) Act § 3(a) (1988).

¹⁷ The Religious Institution (prevention and misuse) Act § 5 (1988).

DEADLY EFFECTS OF COMMUNALISM

By virtue of being a secular nation, people with different ethnicities live with dignity and respect in India. Our country has produced some great men who always preached the ideas of peace and harmony like Mahatma Gandhi, Gautama Buddha, Jawaharlal Nehru, etc. However, we have also witnessed the birth of certain barbarous men who did not think twice before slaughtering hundreds of irreproachable lives in the name of religion. In today's times, also communalism has its widespread grasp everywhere. The politicians have been strategically associating religion and politics since decades now. They demand votes in the name of religion and such communal ideas have led to some of the biggest riots in our country.

Using riots and lynching issue as a weapon to corner the opponents is what runs in the DNA of Indian politics:

1. **Communal Riots:** The most dangerous outcome of communalism is the communal riots, communal riots are nothing but clash between communities due to the clashes of communal interest. India has seen various communal riots over the years which have been fuelled by political parties or their follower. Some of the major ones are:
 - **Anti-Sikh riots, 1984:**
Violence against Sikhs was witnessed in various states of India mainly in Delhi. Sikhs were killed in a large numbers by anti-Sikhs mobs, due to the assassination of the former Prime Minister Indira Gandhi by of her Sikh body guard in response of the military operation authorisation given by Indira Gandhi. Official Indian government reports gave in the stats that about 2,800 Sikhs were killed, 2,100 were killed in Delhi¹⁸ but the independent reports stated that around 8,000 people were killed and 5,000 were killed in Delhi itself
 - **Ethnic cleansing of Kashmiri Hindu Pundit's, 1989:**
Due to the terrorism which got external support resulted in the mass killing of Kashmiri Pundits from the valley and other parts of the country from 1984 to starting of 1990, this mass killing of Kashmiri Pundits lead to reach it a refugee status in our country.

¹⁸ Rahul Bedi, Indira Gandhi's death remembered, 01. November. 2009 , 00:46 GMT, http://news.bbc.co.uk/2/hi/south_asia/8306420.stm

The valley is still in the grip of violence and communal unrest and this has become the main cause of development of people in that area.

➤ **Bhagalpur riots, 1989:**

This riot resulted in the death of almost 1,000 people mostly Muslim, riots were between Muslims and Hindus in 1989. This riot had started at a time when Ram Janmabhoomi Movement. The tensions rise during the time of Muharram and Bisheri Puja festivities

➤ **Babri masjid demolition in Ayodhya, 1992:**

According to Hindu mythology, Ayodhya is birth place of Lord Rama and it is sacred place for Hindus. But during the 16 century Mughal general Mir Baqi, built a mosque, named after Mughal ruler Babur. There are disputes since then and riots also took place. But in 1990, due to some political pampering and fuelling, there was a protest by Hindu religious groups and in large scale “kar sevak” visited Ayodhya from all parts of India, with a common point of view of demolishing Babri masjid and building Ram temple there. These movements caused huge amount of deaths which was estimated around 2,000 people

Violence did not stop here, the Godhra incident in 2002, when “kar sevak” returning from Ayodhya in a Sabarmati Express were killed by fire in the coaches of train. This act extended communal violence in Gujarat. That violence is like black spot in the history of the nation, as people were killed without any mercy. Hindu and Muslim community became hostile to each other¹⁹.

➤ **Assam Communal violence, 2012:**

In 2012, there were clashes between Bodos (Tribal, Christian & Hindu faith) and Muslims. Ethnic unrest between Bodos and Bengali-speaking Muslims escalated to a riot in Kokrajhar in July 2012, when unidentified people killed four Bodo youths at Joypur. North eastern states are known for tribal population & ethnic diversity and due to large scale Bangladeshi immigration there was change in the demography of North

¹⁹ Communal Riots in India: Key Incidents and Trends, 06.december.2017, https://www.gktoday.in/gk/communal-riots-in-india-key-incidents-and-trends/#Peculiar_Features_of_Communal_Riots_Taking_Place_in_India

eastern states. The riots resulted in the death of around 80 people and mass destruction of 500 villages.

➤ **Muzaffarnagar violence, 2013:**

The reason behind the riots are unknown but it is said to be started after some suspicious post on Social media platform Facebook. And according to some others it escalated after the eve teasing case in Shamli. The riots resulted in the death of 62 people and displaced more than 5000 people due to the riots.

2. **Mob lynching:** It is the common word used for defining informal mob execution by the general public to punish the alleged transgressor, or to intimidate a group. The chief minister of West Bengal Mamata Banerjee said that mob lynching is the result of 'hate politics'. The incidents of mob lynching are increasing due to the hate campaigns. Numerous recent events of mob lynching have occurred, some of the recent events related to mob lynching are :

➤ **Dadri Lynching, 2015**

A 52-year-old Muslim man -Mohammad Akhlaq and his son Danish, were attacked by a village mob with sticks and bricks in September 2015. They were accused of stealing and slaughtering a cow's calf and consuming its beef. Akhlaq was beaten unto death and Danish was severely injured in the attack. This incident in Uttar Pradesh's Bisara village, was the first case of a Muslim who got lynched by a Hindu mob in the name of cow and beef²⁰.

➤ **Alwar, Rajasthan Lynching ,2017**

A 55-year-old Muslim dairy farmer, Pehlu Khan and around 14 others were accused of smuggling cattle and were beaten black and blue on a national highway in Rajasthan's Alwar. Khan succumbed to his injuries in a couple of days. The Rajasthan Police filed

²⁰ Politics of lynching, the new normal in India, <https://www.indiatoday.in/fyi/story/lynching-hindu-muslim-mob-violence-kashmir-jharkhand-984791-2017-06-27>

a case against Khan and others, who actually had valid government receipts that allowed them to ferry the cows, on charges of "smuggling cattle".

➤ **Uttar Pradesh lynching, 2018**

A man was lynched in the Hapur district of Uttar Pradesh following rumours of a cow slaughter. The police initially denied the cow slaughter angle but later when certain videos surfaced purportedly showing a mob beating up a man and forcing him to confess to having slaughtered a cow, the police admitted that there were rumours that the incident was an outcome of cow slaughter. The lynching also went viral on social media.

Most of these lynchings happened due to social media which turned anti-social at the hands of rumour mongers, leading to lynching

STATISTICS OF THE CONSEQUENCES OF COMMUNALISM IN INDIAN POLITICS

Over the years, communalism has deep-rooted itself into the Indian society. Communal violence has been on the rise and a step increase has been seen in the communal violence and the crimes and deaths related to it.

- About 58 major communal riots in 47 places since 1967.
- Ten in South India, 12 riots in East, 16 riots in West, 20 riots in North India
- Ahmedabad has seen five major riots, Hyderabad, four riots, Calcutta none since 1964
- The 1990s saw the most riots in the last five decades: 23
- The 1970s saw seven riots, the 1980s, 14 riots, the 2000s have seen 13 riots
- Total toll: 12,828 riots (South 597 riots, West 3,426 riots, East 3,581 riots, North 5,224 riots).
- 28 out of 85 incidents, mobs or groups of people were spurred into violence on the mere suspicion of cow slaughter.

- Two databases stated that 45 persons were killed in 40 cases across nine states between 2014 and March 3, 2018 and at least 217 persons had been arrested, on mob violence due to bovine related hate violence. It further recorded 80 cases and 41 deaths during the same period.
- By July 2018 at least 16 cases of lynching had been reported from Tripura to Maharashtra since May 10, the latest being the lynching of five men in Dhule district.
- * In 1964, a wave of rioting in Calcutta, Jamshedpur and Rourkela killed 2,500.

Note: Only riots with a death count of five or more included; deaths due to bomb blasts not included²¹

MEASURES TAKEN BY THE STATE

Various steps have been taken by the State from time to time to combat the ever growing menace of communalism. Certain committees have been set up from time to time by different governments to advise on the matter and lay down measures for curbing the spread of communalism. One such body is the, **National human rights commission (NHRC)** in India which struggles for the rights of the victims, but its recommendations are advisory in nature, and therefore have no significant outcome.

Some of the prominent committees among the ones that worked on this issue, were Sachar committee, Manavati committee and Ranganath Mishra commission.

1. **Nanavati-Mehta commission:** It was set up by the Gujarat government in 2002 to enquire into the facts, circumstances and all the course of events of the incidents that led to the setting up on fire, some coaches of the Sabarmati Express Train on 27.02.2002

²¹ A fact sheet on communal riots, 2005, <http://www.pprc.in/upload/FactSheet%20of%20Communal%20riots%20in%20India.pdf>

near the Godhra Railway Station and the subsequent incidents of violence in the State in the aftermath of the Godhra incident that took place in the state of Gujarat.²²

2. **Sachar committee:** It was later appointed in 2005. This committee recommended to set up an Equal opportunity commission (EOC) in 2010. The EOC was supposed to set up a grievance redressal mechanism for all individual cases of discriminations- religion, caste, gender & physical ability among others.
3. **Ranganath Mishra Commission:** also known as the National Commission for Religious and Linguistic Minorities, was then set up on 29 October 2004. It was entrusted by the Government to suggest practical measures for the upliftment of the socially and economically underdeveloped and backward sections among religious and linguistic minorities. The commission was also asked to include the modalities for implementation of the same. The report of this Commission headed by former Chief Justice of India Ranganath Mishra, said that 10% should be reserved for Muslims and 5% for other minorities in central and state government jobs in all cadre and grades, and further recommended 8.4% out of existing OBC quota of 27% for minorities.

The main purpose of all the above-mentioned committees was to give recommendations to find out the causes of backwardness of minorities and the steps required to improve their conditions.²³

Though the grip of communal violence over Indian society is increasing day by day, but still until now, other than some provisions under Indian criminal laws, there are no other firm laws drafted to punish the originators of such violence, no clear policies for relief and rehabilitation of the communal violent attack survivors. **There have been two bills in this regard that were drafted but could not be framed as governing legislations, these are:**

1. **The Communal Violence (Prevention, Control and Rehabilitation of Victims)**

Bill, 2005: Was first laid down in the year 2005 by the Congress as per the promise

²² Text of the report submitted by the Nanavati commission,
<http://www.sacw.net/DC/CommunalismCollection/ArticlesArchive/NanavatiReport1.pdf>

²³ Mihir, Essay on Communalism | India | Political Science
<http://www.politicalsciencenotes.com/essay/communalism/essay-on-communalism-india-political-science/13806>

made by them while seeking electoral victory in the previous year. It defined “communal and targeted violence” means and includes any act or series of acts, whether spontaneous or planned, resulting in injury or harm to the person and or property, knowingly directed against any person by virtue of his or her membership of any group, which destroys the secular fabric of the nation This Bill allowed the state government to notify an area as a communally disturbed one and it further doubled the punishment for certain crimes in such areas. The state government had the power to declare an area as a ‘communally disturbed’ one, under certain conditions. The district magistrate or the competent authority appointed by the state government could also take measures such as regulating assembly, directing persons to deposit their arms, searching premises etc. to control communal violence. This bill mainly provided for (a) prevention and control of communal violence, (b) formation of special courts for the speedy investigation and trials, and (c) Formation of Communal Disturbance Relief and Rehabilitation Councils at the national, state and district levels for the rehabilitation of victims.²⁴ This bill was strongly opposed by the civil society since it provided for the act to be applicable only if an area was declared as ‘disturbed’, which left too much of discretion at the hands of politicians. Hence, the bill was abandoned.

- 2. Prevention of Communal and Targeted Violence (Access to Justice and Reparations) Bill’, 2011:** The present United Progressive alliance (UPA) Government set up the National advisory Council (NAC) which includes the members of civil society. The NAC then drafted the ‘Prevention of Communal and Targeted Violence (Access to Justice and Reparations) Bill’, in 2010. But the civil society again, had innumerable suggestions and consultations to it, and Sangh Parivar had even declared it anti-Hindu. In 2011, the NAC made 49 amendments to the earlier draft and resubmitted the bill for reconsideration.²⁵ However, it still lapsed in the parliament. The 2011 bill provided for a seven-member *National*

²⁴The communal violence (Prevention, Control and Rehabilitation of Victims) Bill, 2005, <http://www.prsindia.org/billtrack/the-communal-violence-prevention-control-and-rehabilitation-of-victims-bill-2005-165/>

²⁵Mihir Desai, Journal on The Communal and Targeted Violence Bill, 30.july.2011, <https://www.epw.in/journal/2011/31/commentary/communal-and-targeted-violence-bill.html>

authority for communal harmony, justice and reparations, contained provisions for ensuring accountability of the district administration and also attempted at safeguarding the minority sections. Some of these measures had already been recommended by the Sachar committee and Ranganath Mishra Commission. This bill consisted of 138 sections and the key features and highlights were same as that of the 2005 bill. None of these bills could be passed by the Indian Legislature and become laws.

Since we have no anti communal laws in existence in our country as yet, some provisions under the criminal laws can be considered while dealing with communalism. The Indian Penal Code does answer the issue of communal violence to a certain extent. However, with time it has been observed that these provisions are inadequate to encompass the various aspects of crimes which are usually witnessed during an incident of Communal Violence. To throw some light over these provisions, the relevant sections of IPC are listed below -

RELEVANT PROVISIONS OF IPC

Other than these anti communal violence bills, certain other laws in India talk about the prevention and illegality of communalism. The Indian Penal Code does answer the issue of communal violence to certain extent. However, with time it has been observed that these provisions are inadequate to encompass the various aspects of crimes which are usually witnessed during an incident of Communal Violence. To throw light over these provisions the following provisions under Chapter VIII 'Of Offences against the Public Tranquillity' of the Act can be referred to in this regard.

- Section 141: Unlawful assembly.
- Section 142: Being member of unlawful assembly
- Section 143: Punishment
- Section 144: Joining unlawful assembly armed with deadly weapon.
- Section 145: Joining or continuing in unlawful assembly, knowing it has been
Commanded to disperse .
- Section 146: Rioting.

- Section 147: Punishment for rioting
- Section 148: Rioting, armed with deadly weapon.
- Section 149: Every member of unlawful assembly guilty of offence committed in
Prosecution of common object
- Section 150: Hiring, or conniving at hiring, of persons to join unlawful assembly.
- Section 151: Knowingly joining or continuing in assembly of five or more persons after
it has been commanded to disperse.
- Section 152: Assaulting or obstructing public servant when suppressing riot, etc.
- Section 153: Wantonly giving provocation with intent to cause riot-if rioting be
committed-if not committed.
- Section 153A: Promoting enmity between different groups on grounds of religion, race,
place of birth, residence, language, etc., and doing acts prejudicial to
maintenance of harmony.
- Section 153B: Imputations, assertions prejudicial to national-integration.
- Section 154: Owner or occupier of land on which an unlawful assembly is held.
- Section 155: Liability of person for whose benefit riot is committed.
- Section 156: Liability of agent of owner or occupier for whose benefit riot is committed.
- Section 157: Harbouring persons hired for an unlawful assembly.
- Section 158: Being hired to take part in an unlawful assembly or riot
- Section 159: Affray.
- Section 160: Punishment for committing affray.²⁶

The concepts particularly relevant in this context section 153 and particularly section 153 A of the Indian Penal Code. Section 153 of the Indian Penal Code deals with the provision of Wantonly giving provocation with intent to cause riot. Though whether the element of communal violence is present or not, is not comprehensive enough and eventually these laws are incapable of dealing with the communal violence. Section 153 A of the Indian Penal Code has been enacted specifically to deal with the offences related to communities or religion. It talks about punishment for promoting enmity between different groups on ground of religion,

²⁶ The Indian Penal Code § 141-160 (1860).

race, place of birth, residence, language, etc., and doing acts prejudicial to maintenance of harmony.

CONCLUSION

Communalism, today is spreading in the Indian society like a highly infectious fungal disease, which is eating up democratic and secular politics by its very roots. It is the weed that was cultivated by the Britishers in the beginning of the 20th century which even after so many decades can be seen to be prevailing enormously. Communalism today, is as strong as ever. It does not allow a peaceful co-existence of the human beings in a society. It hampers the very idea of secularism and respect for every individual irrespective of his religion. There should not exist a place for such a concept in a country like ours which is the home to people of various diverse cultures.

The process of eliminating communalism is something every Indian must contribute to. Today a lot of mob lynching attacks on individual beings in the name of incident are being done. Such practices have to stop. Manner in which communalism can be curbed must be adopted. The first step that has to be taken is derecognition of political parties which by their actions or policies encourage or promote conclusion. It needs to be understood that it is not the religion that is causing communalism but its people. People must stop identifying themselves with religion and start identifying themselves with their nation and start addressing that the social, economic, political and cultural interests of the entire country are similar. Communalization of the state and of the political elite in power has to be checked because it leads to political and ideological support to communalism by the state apparatuses, including the media under state control. The government in power must not be the one that gains votes by playing on communal lines, a-and it has to treat the extremist communal outfits as its immediate targets and cripple their capacity to disrupt law and order. People with communal ideas and ideologies pressurize the government to act in a manner which is always against the principle of secularism, thereby keeping a check on communalization of civil society. Role of education in this regard should be emphasized and there should be a removal of communal orientation from textbooks meant for schools and universities and a value-oriented education should be promoted. Use of social

media and a coverage of news and views on the radio, television and media suggesting not to promote communal prejudice and hatred should be promoted. Another important step is to set up a Rapid Action Force specially trained to handle communal violence and certain peace committees should be set up in which individuals belonging to different religions can work together to spread goodwill and fellow-feelings and remove feelings of fear and hatred in the riot-affected areas. Provisions for providing a punishment to police personnel and concerned officers of a locality or district found guilty of dereliction of duty in controlling communal violence or threat of violence are the need of the hour.

Simple human logics, such as humanism should be used because at the end, most people do believe in a non-violent, peaceful conciliatory approach when it comes to conflicts. The history is way too complex to go into, and thus the “I was here before” type of logic should be countered because the claims of who was the “original inhabitant” of a place are baseless. Rationality and empathy need to be encouraged in the state and every time a person with a communal mindset is confronted, the idea should be to immediately sensitize the people about the condition faced by the group to which they are being hostile. The social complexity in its totality should be understood and a solidarity at various levels of society be built. When we foster a secular culture, fight prejudices on a daily basis, learn from the past, that each time a communal riot has happened, it led us nowhere, we will be able to envision a better society which is the ultimate goal-a better and a more secular society than ever.

Thus, we believe that a time when politicians stop promoting communalism and talking about religion for coming into power, is the time that we shall be able to get good governance. With the pace and manner that Indian politics is prevailing in the current modern era, secular politics and eventually an end to communalism is nowhere to be seen. Effective education needs to be emphasised in this regard at a very preliminary level so, that no child develops a communal mindset from the very inception. Instead of identifying himself as a Hindu or Muslim or Christian, every individual must identify himself as an Indian, always, and that this when, we believe a change shall happen and an end to the evil of communalism be put.