
RELIGIONS IN INDIA: SECULARISM AND THE CHANGING HORIZONS

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Abstract

Religion is the most pristine social institution that has off late gained significance across all societies as a vital element of social recognition and integration. In the ancient era, religion played the additional universal role as a manifested device of social control. With the evolution of legal system, the familiarity of religion as a device of social control has been superseded by the rigid laws. However in countries like India, which house a wide diaspora, the laws are flexible to accommodate the needs of the diverse population. India upholds the concept of Secularism to treat all religions equally. India through the decades has witnessed many instances of religious intolerance and violence which have undermined the spirit of Secularism and raised doubts about the upright legal machinery. The utmost blind faith vested on the supernatural foundation has inevitably led to the rise of self-proclaimed gods; a new facet of corruption. Despite the shortcomings, the law enforcement bodies have recognised the need to implement changes and different laws have been enacted by the local and state authorities. The religious freedom and restrictions need to be attributed an equal footing to encourage coexistence and harmony.

Keywords: *Religious Freedom, Religious Persecution, Minorities, Communal Violence, Secularism.*

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Introduction

Religion is a universal institution of the human society. It has been ingrained since the evolution of man and has been known to exert a significant hold over the social, economic and political aspects of life. Religion is a dogma which runs beyond the scope of real knowledge and control. It reinforces the existence of the supernatural being and fortifies the virtual link between the living soul and the supernatural power. Religion is a particular line of thought and belief influenced by the incomprehensible elements of the illusionary life. Albeit the known diversity in religions by virtue of the distinct ideologies and genesis, the rudiments of every religion go back to the utmost, innocent and pious faith vested in the supernatural being- the temporal and transcendental foundation.

Many definitions have been put forth over the years but yet the concept of religion remains susceptible to uncertainty by reason of its very nature. However the only credible idea is provided through the etymological study of the word which is in fact an amalgamation of two Latin words; the former meaning 'together, count and observe' and the latter meaning 'to bind'. A common feature found in all religions is that they present the emotional feeling and attitude towards the complexities and perplexities of life.^[1] According to Radin, Religion can be classified into two constituents: psychological and physiological, while the former deals with the sensitivity and the significance attributed to the religious beliefs, the latter deals with the method of professing and practising a religion. While profession deals with open expression of one's beliefs and ideas, practice refers to the individual response and performance of the religious rites and duties.

On the face of it religion is the social fabric that was viewed as an integral ingredient for societal survival and integration. The similarity in religious beliefs and faith is the primordial ground for the formation of a cohesive unit on the basis of individualistic identity complementing the societal recognition. Moreover religion has been acknowledged as the sole ancient source of social controls that became the only regulatory measure in a society under the tag of morality, sacredness and conformity with the religious ideologies. The touchstones of religion further led to the establishment of certain customs in the societies which till date have an authoritative force in view of their practical significance and overwhelming acceptance.

India, the land of diversities presents a kaleidoscopic picture of harmonious coexistence in a secular society. The tenets of secularism have been woven into the supreme law of the land, marking its undeniable significance. Secularism as enforced in India is positive secularism which prescribes that the nation recognises no religion as its official religion. The state is only concerned with the relations between men and does not aim at regulating the relation between man and the God. From the time immemorial, this principle has led to accommodation of diverse populations in the territory of India. However this issue has also been drawn under scrutiny during the various communal riots that the country has witnessed on the face of powerful resistance and breeding of intolerance amidst the religious groups. The creation of the nation was marked by the unfortunate partition of the subcontinent into two nations based of religious lines. The scar of the bitter partition has remained in the hearts of the victims for years, which has inevitably made religion a very sensitive issue.

Methodology

This is an extensive study with reference to the growing religious significance in the different aspects of life. While the religious presence has multiplied over the decades, the abuses under the cloak of religion and secularism have also stimulated debates about the existing legal system and the dire need for implementing changes. The paper is based on the observations made by analysing the secondary information available in websites, articles, precedents, reports and journals. The study is limited to the crucial religious issues across India, with special focus on contemporary cases.

Religious Freedom and Abuse

Religious Freedom: The Vision of Secular India

The laws of the land and other policy enactments uphold the freedom of religion as envisaged in the Indian Constitution-

- *Article 25* of the Indian constitution bestows the citizens with the right to freedom of conscience, profession, practice and propagation of religion, faith, belief etc. It enshrines the concept of religious freedom and equal treatment meted out to all people irrespective of their religion.
- *Article 26* lists the right to freedom to run religious affairs, to manage institutions and acquire property; however only structured bodies of recognised religious denominations have the liberty to exercise this right.
- *Article 27* mentions that no person shall be compelled to pay any tax for promotion or maintenance of any religion.
- *Article 28* deals with the freedom as to attendance at any religious instruction or worship in certain educational institutions. According to this no religious instruction in any educational institution shall be wholly maintained out of state funds. Hence in other words this article prohibits promotion of any religious instruction in government-aided institutions.
- Additionally, *Article 29 and 30* of the Indian Constitution guarantee certain exclusive rights to religious minorities with a view to preserve their culture and safeguard their interests. Article 19 further prescribes the right to freedom of speech, expression and association.

However the laws also restrict some religious practises for the need of public order, morality and health. The line between the religious freedom and restrictions is thus quite significant and hence proper adjudication of matters is quintessential for the working of the secular republic. India is the birthplace of several religions, Hinduism, Buddhism, Jainism and Sikhism, and a home to several other communities, Zoroastrian, Christian, Jewish and Muslim. The vast majority of

people are aware of religious freedom and rights, However when the rights of one group conflict with the interests of another, the fire of communal disharmony runs wild through societies resulting in widespread intolerance and violence. *Article 51* imposes the fundamental duty to promote and the spirit of common brotherhood between diverse communities.

Every individual has a natural entitlement to the freedom of conscience and religion which has been acknowledged even under the international law. The United Nations adopted the *Universal Declaration of Human Rights* without a dissenting vote, which enshrined certain inalienable human rights like freedom, justice and peace. In order to give effect to this, two more conventions were adopted in 1966 the *International Covenant on Economic, Social and Cultural Rights* and the *International Covenant on Civil and Political Rights* respectively.^[2] India by declaration has accepted the above with certain reservations. Hence the freedom of religion as envisaged in the legal course of the country is a combination of the freedom bestowed both under the national and international laws.

Religious Persecution under the Veil of Secularism

Religious conflict in India is deeply rooted owing to the diverse ethnic and religious character of the nation. The division of society on the basis of caste has further sensitized the issue of religious freedom and discrimination in the country. Since its independence, India has successfully coveted the hidden apartheid, breeding from the caste system from any kind of international scrutiny.^[3] In a 2006 report, the Christian Solidarity Worldwide noted, the Dalits and tribal forms embrace other religions to escape the dehumanisation, discrimination and the ostracism by the caste system, which plagues the Hindu society. This invites significant resistance in the form of legislative enactments providing stringent procedures for validation of conversion and political animosity through hate speeches. Furthermore the social opposition and pressures often sow the seeds for communal upsurge and violence. The root of this violence goes back to the pristine concept of Hindutva which has gained political relevance through the preaching of political organisations like the Vishwa Hindu Parishad, RashtriyaSwayamsevakSangh etc.^[4] The instances of religious persecution have become ubiquitous across the country, and have acquired prominent media space in the recent past. This show of communal superiority has centred down on the clergies, converts, congregation members, missionaries etc. In May 2007, around 4000 Christian students were temporarily arrested in New Delhi when they manifested a protest against the federal government's silence over the persecution of Christians.^[5]

The 2014 elections witnessed inconceivable swell in the communal tensions and violence. One of the worst incidents in the recent past being the Muzaffarnagar incident in September 2013, where the inflammatory speeches by the right wing leaders and allied groups flared the fire of animosity between the Hindu and Muslim groups which conflagrated to the neighbouring areas resulting in three days of unceasing violence finally condensed only on the imposition of curfew and the Indian Army taking over the duty of restoring law and order. The incident claimed the 60 lives and several cases of gang rape and sexual violence were reported.^[6] The Muslim families across many villages were compelled to flee their homes and still some of them refuse to return to their habitations apprehending similar hostility. The aftermath portrayed inexcusable failure of the government to support the displaced families. The media and several other organisations showcased the deplorable conditions of such families who had been abandoned due to the

closing of some camps and the rest had shifted to tents. The government finally lent support post the Supreme Court's in March 2014, which criticised its gross negligence.^[7]

Communal violence increment when the local authorities turn a blind eye to the atrocities, abstaining from initiating action against the offenders. The past present three such sickening scenarios: first the 1984 attacks on Sikhs following Indira Gandhi's assassination by her Sikh bodyguards, during the uprising by separatist Sikh groups in Punjab; second, the 1992-93 communal violence following the demolition of the Babri Masjid in the holy land of Ayodha; third, the 2002 attack on Muslims in Gujarat after a mob attacked and killed 59 Hindu activists in a train. Accountability in such spates has proved elusive despite recurrent media coverage and independent implications by the investigating agencies. Enforcement never makes its way through the complex political system which avoids action fearing opposition from the majority groups and subsequent loss of power. The 2008 riots in the Kandhamal district of Orissa present a sad picture of how these tensions have continued to subsist and erupt into a catastrophe. The violence sparked after the death of a Hindu activist who was allegedly killed by the Maoists. Subsequently the members of Hindu communities incited violence against the Christian counterparts, resulting in the death, displacement and incidence of sexual violence. Although the perpetrators were later prosecuted but the prosecution by charging fines failed to meet the ends of justice.

The minorities in the country, especially the Muslims have been subjugated to arbitrary arrests during the period of incessant riots. The authorities have charged them under draconian laws like the Sedition Law and Unlawful Activities (prevention) Act. Major concerns have been voiced over such arrests and prolonged detention on the mere suspicion of terrorism. In 2013 the deliberation in the Parliament, the then Home Minister Sushil Kumar Shinde urged the state governments to ensure the Muslims were not unreasonably persecuted.^[8]

The Armed Special Powers Act which has attracted national and international condemnation by reason of the extensive immunity it provides to the military forces has been another weapon for religious persecution. The army personnel who are responsible for innumerable human rights violations in the Muslim-majority state of Jammu & Kashmir and the north-eastern states which house several ethnic minority groups have been effectively shielded from prosecution by virtue of the Act. Irom Sharmila Chanu has exhibited extra-ordinary courage by her incessant protests against the AFSPA since 2000 when she witnessed the ruthless killing of 10 civilians by the army firing at the bus top in Malom. She has been on a hunger strike since the past fifteen years, without a morsel down her throat except the liquid that is force fed by her doctors. However the AFSPA is far from being repealed despite the greatest show of protest.^[9]

Bloom of Self Proclaimed Gods and the New Face of Corruption

Spiritualism and religion has been interlaced with the Indian society since the dawn of consciousness and belief. Ironically, as Indians transcend into the reign of progress accompanied by reasoning, the contrary scenario paints a darker picture of superstitions, hegemony in irrelevant beliefs, flawed customs and rise of morphed identities. The proliferation of these self-

proclaimed 'God man' and 'God woman' who preach a suspicious link of theirs with the almighty and claim to relieve the multifarious predictable predicaments that the mankind has been cursed with has raised a grave concern amidst the strands of society. Under the veil of cultural heritage and history of saints and sages, the rural society has been under the venomous spell of superstitions and misguided faith in such self-styled *Babas* since antiquity. Simultaneously, in the wake up of tremendous modernization and urbanization, the urban society has witnessed sea of changes, development as well as issues like cut-throat competition, work-life imbalance, unemployment, work-stress, infidelity, lust, penury and crime. Such plethora of noxious phenomena in segments of the society has paved way for such disguised and dangerous personalities to steer the transitional minds of people. Usually people; rich or poor, educated or ignorant when struck by any misery or troubles of unanticipated magnitude are incapable of tracing solutions in the normal stream seek solace in the tricky and alluring maxims of such God man or God woman.

The various reasons and conditions that frame the premise for such proliferation and penetration of self-proclaimed preachers of divine will are intense blind faith posed in them, illiteracy and lack of rationality in the capable minds, fear of religion and presumption of supernatural powers in these people. People at times of distress look out for ways involving quick profit and minimum risk and with a fear of future accentuated with personal and financial failures they knock the doors of such mischievous personalities. The persuasive slogans and speeches of these self-styled 'God man' backed by misuse and misinterpretation of information in the religious scriptures juxtaposed with advent of personalised media or channels which broadcast their speeches make their propagation a cakewalk process. On the legal and political front, the reduction in respect for Rule of Law or lawfulness amongst the inhabitants of a cultured society fuel the courage of these personas to mislead minds of people and manifest their illicit relationships with top notch political figures for perpetuation of unlawful and fraudulent activities. Startlingly, the Indian Diaspora in the urban milieu also fall prey to such propaganda because the rapid pace of transformation in the life-style, greater complexities in the structural changes and inability to bridge the gap of expectations and performance surpasses the waves of logic, reasoning and skill.

Once people fall prey to their tactics these people chalk out a grave impact on the people and on the society at large. India, as a land of confluence aged-old traditions, customs and prospering mind set is susceptible to the matters concerning religious sentiments or divinity. Thus, these people strike a sensitive chord of the logical yet vulnerable Indian souls. These activities create havoc in the form of financial, social, political exploitation and in worst forms sexual abuse. The recent days have seen a negative upheaval in the cases of such 'Self-proclaimed God men or women.' There have been numerous instances that shocked the nation as such revelation broke the protective walls of faith and religious beliefs.

The most heated argument in favour of self-proclaimed god man engulfing the piousness of social fabric arises from the instance of *AsaramBapu*, who not just made gross gender-prejudiced statement regarding the Delhi gang rape case but also was booked under different Sections of Indian Penal Code for rape, illegal confinement, criminal conspiracy and unnatural sex.^[10] The belief of the scores of followers was subsequently thrashed when the death of the witnesses of Asarams' heinous crimes were either attacked or shot dead. The self-styled 'sinner' is not just

wrecking lives of few but also jeopardising survival of many who could be a hope to bring about reformation. Mournfully, the religious sentiments have been replaced with terror and fright. The saga of horror under the cloak of being prophets of God continues.

The spiritual guru from Bangalore, *Nithyananda*, founder of the NithyanandaDhyanapeetam who preached of yogic discourses and saintly thoughts had his million followers spread across fifty odd countries. He had acquired a noble grip over the conscience of many people through the words coated with unbelievable facts relating to his birth and reincarnation. In early 2010, a Tamil television channel Sun News broadcasted a video tape of the so-called pious soul involved in sexual acts with a Tamil actress. While both Nithyananda and the actress claimed the video to be inclusive of morphed identities, the police under Bidadi limits accused Nithyananda of being guilty under Section 376 (Rape), Section 377 (Unnatural sex), Section 120 B (Criminal conspiracy), Section 506 (Threat to life) and Section 420 (Cheating) of Indian Penal Code. Later on the claims of Nithyananda were proven true but such happenings undoubtedly raised suspicions. After few years, Arathi Rao, a former follower of Nithyananda gave a detailed account of her five-year long association with him and how he raped her and threatened her of dire consequence if she attempted to reveal about it. Such account exposed the unlawful activities of him that resulted in mass protests between people, followers and media and consequently led to sealing of the Ashram. After lot of hue and cry at the forum of apex Court, the potency tests of Nithyananda was allowed which proved to be positive contrary to his claims of undergoing mutation which rendered him incapable of sex.^[11] Although in aforementioned cases, the charges levied were dropped and some still continue to be pending before the Courts but the suspicion and condemnation which were raised post these revelations, is a sufficient insignia of the misuse of religious beliefs and blind faith that people pose in such people.

The psyche of the nation has a proclivity for religion rather than the requisite rationality which shoots up their delinquent intentions. The eastern part of the nation saw the hideous transformation of a common man into a man of opulence and his devotees increased in manifolds. The living God called himself '*Sarathi Baba*' and had a sprawling temple complex with devotees visiting him in gigantic figures. The state of Odisha is inherently filled with god-fearing masses and its capital bears the sobriquet of being the land of temples. Thus, the inhabitants are deeply engrossed in the divine affairs and this affinity was used as a weapon by Sarathi Baba to thrive on the proposition of creating miracles in lives of many, removing sins out of peoples' ways and fuelling superstitious beliefs. His manipulated speeches and boastful talks made people count on him and this helped him amass huge wealth in form of donations and charity. After few years, he commercialised his means by not just delivering sermons but also selling products, CDs, talisman, clothes and even village lands. In 2008, he was accused in some land disputes and land acquisition matters but that didn't hurdle his way of tricking and fooling people and his fake legacy continued until this year (2015) when he was traced from a hotel in Hyderabad where he checked-in with a medical student representing her to be his wife. There were pictures leaked which showed Babas' monumental change from saffron robe to t-shirt and jeans relaxing himself in the lounge of the hotel. This sparked huge and massive protest across the state especially in front of his Ashram in Barimula of Kendrapada district and he was booked under Section 341 (Punishment for wrongful restraint), Section 120B (Criminal conspiracy) and Section 420 (Cheating). The Crime Branch of Cuttack arrested him and interrogated him to which his

responses were defiant. Post his arrest many latent allegations and heinous charges were posed against him by men and women from places close to his Ashram.^[12] The gullibility of the spiritual and superstitious people for years was the prime reason behind continuance of such exploitative actions by this fake Baba. The money he looted from the innocent, the exploitative sexual abuse he did under the toxic veil of being a spiritual guide and the political nexus which he had manifested for satisfying his aim of garnering wealth and property exposes the fallacy propelling amidst the vulnerable people.

As rightly stated by an online source, "Being *RadheMaa* is about riding the flotsam that is organised religion in its gaudy, spurious, extremely money-hungry *avatar*. Being *RadheMaa* is a flagrant display of how rampant consumerism and frothy cesspool of religion can not only coexist- they actively promote each other."^[13] Devotees were stunned to see their long-revered *RadheMaawho* proclaimed herself as God woman and a reincarnation of Goddess Durga, attired in shameful clothes much contrary to even their most bewildered imaginations. The famous red-robe clad god-woman sparkling with gem stones and worshipped by thousands was not just exposed but also booked by the Mumbai police in cases involving sexual harassment, obscenity and criminal intimidation.^[14] Rightfully adding insult to the injury, she was also alleged to be involved in dowry harassment case. The daughter-in-law of *RadheMaa* alleged that she was 'mentally and physically tortured' by her husband's family at the instance of *RadheMaa*.^[15] The distressing effect is to visualise the economic drain of the hard-earned wealth, loss of productive time of the followers and erosion of rationality by the sinful hands of not just men but also women.

Need for a Change: Legal Perspective

Though there are sufficient laws in place to prevent conversion and propagation of hate speeches, however the laxity in enforcing these laws, fearing opposition from the majority has rendered the measures ineffective and infructuous. As per the reports, weak law enforcement, lack of trained police personnel and the overburdened court system have hindered swift redressal of communal tensions.^[16] Moreover the federal structure of the government vests the primary duty to enforce law and order with the state government which significantly restricts the jurisdiction of the national government to deal directly with such issues. However in certain cases where the state governments were reluctant or unwilling the national government has stepped in to address the issues.

The Ministry of Minority Affairs, National Human Rights Commission and the National Commission for Minorities are the statutory bodies that have been created to take up the issues relating to the minorities and address those at the earliest. Though the recommendations and reports of these bodies are not legally binding, but these have been implemented by various state and local authorities in the high-profile cases of communal riots, the 2002 Gujarat anti-Muslim riot and the 2008 attacks on Christians in Orissa being a few of them.

As per the 2007 reports the anti-conversion laws were in place in 5 Indian states namely Gujarat, Orissa, Madhya Pradesh, Himachal Pradesh and Chhattisgarh. Arunachal Pradesh was yet to

enforce and lay down an upright procedure; while Gujarat awaited the passage of the amendment and Rajasthan awaited the ratification by the governor. However, as per the records, there has been no conviction under such laws till date, which raises serious questions over the functioning of the state machinery and the enforcement of the laws. The word conversion not being attributed any rigid definition, vests discretionary power with the law-enforcing agencies who act according to their whims and caprices. The implementation has been restricted only to the arrests made. However, the Indian version of anti-conversion laws does not include re-conversion, otherwise known as *ghar-wapasi*, under their purview. This undoubtedly is coveted favouritism for the Hindu majority groups. While the anti-conversion laws, on the face of it purport to prevent feigned conversions, on the real front these are mere discriminatory laws. Government by virtue of the unfettered discretion have declared the "subtle forms of humanitarian aid and development carried out as a normal part of Church's mission" as a cause of improper and unethical conversions. Moreover, the findings of the US commission on International Religious freedom which referred to the NCM report of 2006, exposed the persecution by the Hindu Extremists groups who had invoked the laws to incite mobs against religious minorities frequently.^[17]

The broad ambit of secularism has accommodated religious-specific personal laws with respect to affairs of marriage, divorce inheritance, guardianship, adoption and maintenance. However, these laws present stark differences in themselves which are again discriminatory both based on gender and religion. The Muslim personal law has been subject to controversies as it not only legalises polygamy but also the provisions for unilateral divorce. In the case of *Lily Thomas v Union of India*^[18] and *Sarla Mudgal v Union of India*^[19], it was rightly decided that feigned conversions to Islam to derive benefit of the Islamic law shall be ruled out. While the judiciary continues to settle the questions on the point of law on the consideration of justice, equity and good conscience, the inherent flaws of the personal laws deny justice to people and the hands of judiciary are tied as its scope extends merely to the interpretation of the laws. While the need for a Uniform Civil Code has been felt and discussed for ages now, it has failed to see the light of the day amidst various apprehensions and the reluctance of the political powers fearing loss of public support. However, the state of Goa amidst all odds has become the first state to enact the Uniform Civil Code, and this bold step has been lauded worldwide.

Local authorities have also relied on the Indian Penal Code, S 153A which prohibits promoting enmity between different groups on grounds of religion, race, place of birth, language and doing any act prejudicial to the maintenance of harmony, and S 295A which prohibits deliberate and malicious acts, intended to outrage religious feelings of any class by insulting its religion or religious beliefs. India also has several laws which prohibit hate speeches which tend to excite religious intolerance or disharmony among the groups. These laws effective implementation has been witnessed during the 2015 elections where many political leaders were accused of political speeches. The Indian Penal Code, Criminal Procedure Code as well as the Representation of the People Act earmark sufficient restrictions and punitive measures for hate speeches. In a PIL filed by an NGO during the 2014 elections, in view of the bloom in the hate speeches during election manifestos, the Supreme Court bench declared that the "lack of prosecution for hate speeches was not because the existing laws did not possess sufficient provisions; instead it was due to lack of enforcement."^[20] Furthermore, the Supreme Court has directed the Law Commission to look

into the matter. Following the decision the Election Commission censured the many leaders for alleged hate speeches. Amit Shah the BJP forerunner was briefly banned for his campaign in the riot affected state of UP which was lifted subsequent to his apology. Azam Khan of Samajwadi Party was banned from public rallies after his speech relating to the 1999 Kargil war which was highly provocative and had the potential to aggravate existing difference of intolerance among communities. The country's politics has so intricately been mingled with the concept of communalism that rather than promoting secularism, the politicians have adopted these lines of communalism to secure their seats in elections. Such communal appeals have proved to be successful which is evident from the inconceivable rise in power of the regional parties as compared to the national parties. This has not only affected the governments at the state level but has also led to many coalition governments in the centre which subsequently undermines the integrity and the stability of the federal system.

The Hindu Society is divided into four major castes, namely the Brahmins, Kshyatrias, Vaishyas and Shudras. The lowest stratum consists of the Dalits, the outcastes or the untouchables who have been recognised under the constitution as the Scheduled Castes. The Constitution when drafted provided for certain reservation and special provisions to these castes with a view to ameliorate their deplorable state of life. However the dalit converts has been excluded from the purview of these reservation which simply multiplies their complexities. They become the sufferers at the hands of the both under the dehumanising caste system and are further subjugated to inhumane treatment on their conversion. An editorial in the Zee News once put their precarious condition in the proper perspective:

Since Dalit Muslims and Christians are not entitled to SC reservation, they are deprived of the opportunity to contest elections in over 1000 assembly and 79 Lok Sabha constituencies. When Dalit Sikhs have been given reservation by amending the Constitution in 1956 and Buddhists in 1990, why is the government delaying the matter when it comes to Muslim and Christians?^[21]

The question of extending the scope of reservations to Dalit Christians and Muslims is still pending with the Supreme Court. While the people of the county have set all the hopes and placed reliance on the top most court of the nation, the court has failed to make its way out of the ongoing dilemma. The government stands still on its opinion of not extending its reservation policy to the Dalit converts and the people suffer at the hands of the religious discrimination.^[22]

The past decade brought about a revolutionary change in the concept of religion. Where the world was busy exploring the physical world, India pioneered the exploration of the mystic world, which saw the emergence of many religious gurus and reformers who sought to enlighten people about the purpose of life and the vitality of religion is pursuance of such goals. However, while the reliance of the people on such path-finders increased, the world witnessed spine-chilling instances of human trafficking, drug dealing, rape, money laundering, sex trade, murder and political lobbying.^[23] While all the businesses were fighting the evil of deflation, the business of the self-proclaimed gods became the most profitable and secured platform in the competitive world. The rise in such anti-religion and anti-social activities is nothing but a by-product of our flawed system. Owing to the societal transition the increment in the level of stress, pressure and work have made the people look for avenues which has inevitably given an upper edge to the religious gurus to secure their place promising a cure which the medical sciences have failed to

guarantee. The political powers have attempted to turn the fan-following of these gurus to their advantage by manipulating them to procure the requisite votes for the leaders in elections. Such latent processes that stirred up the country in favour of these godmen, have evaded the clutches of law in the name of liberal religious practises. It's only when the blatant truths surfaced, witnesses and victims raised their voices who otherwise had been silenced in the name of mysticism, that the laws of the land begun to work their ways. While legal regulation and strict enforcement of punitive laws will act as deterrent, quick adjudication needs to be meted out to cull out the effect of the high-handedness such cases entail. The charges being proven against such self-proclaimed gods and the bitter experiences of the victims being unleashed has however made the people cautious about the ongoing corruption in the name of religion. What has become the face of Hinduism is nothing but the height of irreligious activities that have crept into the system due to the lack of proper regulation. A PIL seeking to regulate the rise of such dubious godmen and astrologers was filed before the Lucknow bench of the Allahabad High Court.^[24]

Article 51 A (h) prescribes the fundamental duty 'to develop the scientific temper, humanism and the spirit of inquiry and reform'. This right has been alleged to conflict with S 295A of the IPC and it has been contended to place this right on a more important footing. The Drug and Magic Remedies (Objectionable Advertisements) Act 1954 was enacted to prohibit advertisement of magical remedies like amulets or spells for certain diseases. With all the proficient laws taken together, the legal standpoint acquires an authoritative force to deter the rise of contemptible activities.

The religious activities that tend to eat away the social fabric of the nation must be tracked and monitored. The legal system should be armed and stimulated to reckon with the changed needs of the nation. The true spirit of the Constitution and the trust vested on the judiciary needs to be fortified by effective implications and stringent observance of the laws of arrest and castigation without any scope for discretion. The anti-conversion laws shall be amended to provide for a crystallised scope of the term and the ambiguities shall be removed. The discretion vested under the current laws need strict scrutiny. The differences under personal laws need to be regulated to the extent possible in order to prevent feigned conversions to reap the benefit of such laws, and such issues need immediate legislative notice. The flaws in the reservation policy need to be reviewed in order to prevent the latent discrimination that has survived behind the doors of apparent secularism. The Armed Forces Special Powers Act needs to be repealed and proper adjudication of the rising human rights violations is a pre-requisite. United States has shown a growing concern over the issue of minorities and has urged the Obama Government to press India to work out some changes in its existing legal system, which include the drafting of a Prevention of Communal Violence Bill, consideration of a Prevention of Torture bill which is pending with the Indian Parliament, prescription of strict procedures for prosecution of religious crimes and strengthening the existing statutory bodies with additional powers to take *suomotu* cognisance of issues across different states without prior permission from the state.^[25]

Following the growing awareness and the need for legislations, Maharashtra became the first state to pass the anti-superstition bill in 2013 amidst chaos. This bill primarily aims at combatting the practise of black-magic which is prevalent across the state. The bill was the brain-child of Dr Narendra Dabholkar, who met his unfortunate end amidst the tussle and opposition to his

revolutionary ideologies. Following the same path Karnataka government introduced the Prevention of Superstitious Act Bill in 2013 which had been drafted by the students of National Law School, Bangalore. These bills would restrict the contemptible practises of the Vishwa Hindu Parishad, Bajrang Dal and the familiarity the concept of Hindutva. The Assam Government has also being mulling over the need of such anti-superstition law.^[26] The awareness has worked its way across a few states, the enforcement will pool in much more support for such laws.

Observations

"I do not expect India of my dreams to develop one religion i.e. to be wholly Hindu or wholly Christian or wholly Mussalman, but I want it to be wholly tolerant, with its religions working side by side with another."- Mahatma Gandhi.^[27]

A chronological account of the religious history portrays the changing face of Secularism across India. Secularism as a concept is a utopian yet achievable approach to minimise the disparities created among the number of religions breathing in the society and accommodate each one of them with peace and integrity. With the 42nd Amendment of the Constitution of the India, the word 'Secularism' was incorporated into the Preamble of India with its full spirit and vigour and is the source of solace to the upheaval that surface in the name of religion.

Even before the Constitution stepped in for providing a concrete edifice to free India, clamour in the sake of religion had already begun. On December 22, 1949 about fifty odd people broke in to the Babri Masjid built by Mughal emperor Babur to install idols of Ram and Sita on the context that the mosque is built on the land which is the birthplace of Lord Ram. In 1984, VHP (Vishwa Hindu Parishad) launched a mass movement for opening the locks of the mosque and the orders for the same were passed by the Rajiv Gandhi Government were passed in 1985. In 1992, this incident took a monstrous picture when Hindu Karsevaks with the enormous support of VHP, Shiv Sena party and BJP demolished the mosque.^[28] The demolition saw huge communal riots leading to deaths of many and finally, a land title case was filed in the Allahabad High Court. The Allahabad High Court with an ideal secular perspective gave its judgment in 2010 affirming that the land of Ayodhya be divided into three parts among the Hindu Mahasabha, the Islamic Sunni Waqf Board and Nirmohi Akhara. Often the potion to the wounds of communal violence is rendered by equitable share as reflected in this judgment.

In the midway of the demolition and judgment, about sixty passengers were charred to death in Sabarmati Express which led to the redemptive carnage of Godhra riots in which about 1200 people were massacred. The startling fact is when the holocaust is spell over a communally sensitive region, both Hindus and Muslims; innocent and guilty bleed and thus, several convictions and acquittals followed post these riots. But to ensure protection in such violence susceptible regions, security was tightened and Special State Reserve Police Force personnel had been deployed.^[29]

The country prima facie having a Hindu majority often seems to push forward a favourable stand for the Hindus. This statement is completely supported by the current scenario that trends because of ban on beef. Consumption of beef is protested widely in India not because of dietary concerns but of the sensitive religious sentiments and strong majority feeling dominating the premise. If one were to go by the editorials, the temporary ban on beef during an important Hindu festival is an infringement of civil liberties and the violence in Dadri is the direct consequence of a rising tide of Hindutva politics led by Prime Minister Narendra Modi- never mind the centuries of cultural sensitivities or local traditions.^[30] The recent violence in the village of Dadri, Uttar Pradesh where bloodshed found a lamentable reason of ban on beef consumption fuelled few more communal upheaval and finally, paved way till the ban on beef consumption for four-days long during Jain festival in Maharashtra provoked controversies. There were nation-wide heated arguments relating to the beef ban and the response of Bombay High Court in this matter which acceded to the ban was also criticized. The response of the Centre to the nation came as a wave of relief as Union Minister M Venkaiah Naidu said that "The Central Government does not have any such plan. Local Government should take decision on a local basis and take care of sentiments of the people."^[31] As rightfully decided *State of Gujarat vs. Mirzapur Moti Qureshi KasabJamal&Ors*^[32], the concept of compassion for living creatures enshrined in Article 51-A (g) is based on the background of the rich cultural heritage of India, the Land of Mahatma Gandhi, Vinobha, Mahaveer, Buddha, Nanak and others. No religion or holy book in any part of the world teaches or encourages cruelty. Indian society is a pluralistic society. It has unity in diversity. The religions, cultures and people may be diverse, yet all speak in one voice that cruelty to any living creature must be curbed and ceased."

While the southern state of Karnataka marked their celebrations recently on the birth anniversary of Tipu Sultan, the Tiger of Mysore; the opposition party of VHP and BJP calling strikes in six districts of Karnataka claiming Tipu Sultan to be a tyrant who massacred thousands of innocents in Madikeri, Mangaluru and Malabar regions of Kerala and forcibly converted them, while he expanded his kingdom beyond Mysore. The strike and wide protests led to obvious violence and demise of three lives.^[33] The Karnataka Government led by Siddaramaiah declared Tipu Sultan to be revered as a secular freedom fighter. Noted Kannada author Girish Karnad also highlighted secular sentiments and regarded Tipu Sultan as an expansionist and a just king.^[34] Such should be the spirit in the wake up of violence and terror which shall soothe it and mend ways for betterment. The conversion of one faith into another, unless voluntary, is extremely disregarded intellectually and India being the melting pot of diverse ethnicities and multitudinous religions, conversion becomes an offence and transgressing the fundamental right of freedom to religion. During the last days of its winter session in last year 2014, Parliament was unable to deal with important legislative business because of repeated adjournments and uproar over attempts by Hindu groups to convert Christians and Muslims. The issue came to a head following a "homecoming" campaign by the RashtriyaSwayamsevakSangh and the Vishwa Hindu Parishad-groups dedicated to transforming India's secular democracy into a Hindu state- to 'reconvert' Christians and Muslims to Hindu. While a Church was burnt down in Delhi, the Christmas carolers were attacked on their way home in Hyderabad.^[35]

Years before, the eastern state of Odisha saw a massive communal mayhem when there was forced conversion into Christian faith of poor or unemployed Hindus on the alluring pre-

condition of wealth or employment. Scenes just got reversed but they produce the same outcome- communal turmoil.

After his successful visit to the Indian land, Barack Obama made remarks about the rising religious intolerance in India in Washington. He quoted, "Michelle and I returned from India- an incredible, beautiful country, full of magnificent diversity, but a place where, in past years, religious faiths of all types have, on occasion been targeted by other people of faith, simply due to their heritage and their beliefs. The 'acts of intolerance' would have shocked Gandhiji, the person who helped to liberate that nation." Such remarks were embraced by the internet and nation with censure but the crux lies in the potential to realize the visibility of the increasing flaws and gaps between expectation and reality.

The Prime Minister recently presented a response having a hefty cumulative effect to the forced conversion, belief of him being an extremist Hindu-wing and the remarks by the US President. Narendra Modi said, "My government will ensure that there is complete freedom of faith and that everyone has the undeniable right to retain or adopt the religion of his or her choice without coercion or undue influence. My government will not allow any religious group, belonging to the majority or the minority, to incite hatred against others, overtly or covertly."^[36] Such maxims restore the fading faith in governance and secularism. Hopefully, the present government reduces the level of religious intolerance in manifolds and celebrates humanity and true spirit of 'all faiths are equal and respected.'

Conclusion

"I came to the conclusion long ago that all religions were true and that also that all had some error in them, and while I hold by my own religion, I should hold other religions as dear as Hinduism. So we can only pray, if we were Hindus, not that a Christian should become a Hindu; but our innermost prayer should be that a Hindu should become a better Hindu, a Muslim and a Christian a better Christian." – Mahatma Gandhi

As envisioned in the lines of Mahatma Gandhi, the soil of India nurtures various diverse religions and thus, embraces a secular perspective. As rightfully depicted by the Ministry of Home Affairs, Government of India; Religion returns in Indian census provide a wonderful kaleidoscope of the country's rich social composition, as many religions have originated in the country and few religions of foreign origin have also flourished here. India has the distinction of being the land from where important religions namely Hinduism, Buddhism, Sikhism and Jainism have originated at the same time the country is home to several indigenous faiths tribal religions which have survived the influence of major religions for centuries and are holding the ground firmly. The regional co-existence of diverse religious groups in the country makes it really unique and the epithet 'unity in diversity' is brought out clearly in the Indian census.^[37]

Religions have been efficaciously rendered with privilege and respect in the developing India. The Constitution of India guarantees Freedom of Religion to each and every citizen and ensures the protection of every religious sentiments and propagation. The ideal scenario shall perpetuate

on the edifice of secularism which simply signifies absence of pre-dominance of any specific religion and equal reception to every religion.

But the nation with every morning wakes up to a scenario drifting from the very ideal conditions narrated above. The nation has witnessed violence in the name of religion varying from riots to massacre. Religion is often used as a smokescreen in the political and social avenues to get away with the sensitive issues concerning large squares of population. The reasonable restrictions imposed on the exercise of the fundamental rights of freedom of religion are at times the last resort to restore tranquillity amidst the chaos.

Religion has been successfully used a potential weapon by certain people who have been labeled as self-proclaimed God-man or God-woman. These people not just wield power and affluence but also cast a vicious spell on the society by committing heinous and grave crimes which degrades the moral and social integrity and denudes the belief in religion and purity of divine power.

There has been a series of happenings across the nation which taints the secular feature of the country. India has a glorious past filled with great leaders and kings who have advocated of equality of faiths. For instance, the great Mughal emperor Akbar believed in equality of all religion and initiated the Din-i-illahi which was a novice concept. But as we progress with science, rationality and conscience; the situation is turning to be ironical. Recent years have seen a huge upheaval for religion by the group which is least follower of any religion. Starting from ban on consumption of beef, critical remarks from international figures and killings on pretext of sorcery to riots, communal violence and massacres, the nation has seen it all.

But there is always light at the end of the tunnel, and thus, the nation shall recoup and rise again on the staunch premise of legal and constitutional safeguards. The multifarious acts, orders and provisions crafted for the citizens at the local, State and Centre shall endeavor to nurture the country on a secular note and it effectively does so to an extent.

Religion has percolated into India so strongly that development and religion shall go hand-in-hand and citizens of various faiths shall reside peacefully and harmoniously to preserve the secularism of the nation.

References

¹ Puja Mondal, *Essay on Religion: Meaning, Nature, Role and other details*, <http://www.yourarticlelibrary.com/religion/essay-on-religion-meaning-nature-role-and-other-details-5931-words/8586/> last visited on 14-11-2015.

² Deepak Miglani & Dinesh Miglani, Legal Service India, *Right to Freedom of Religion vs Religious Conversion*, http://www.legalserviceindia.com/articles/rel_rel.htm last visited on 17-11-2015.

³ Smita Narula, Human Rights Watch, *Address of Religious Persecution in China and India at Trinity College* (Sept. 26-27, 1999), in *Religious Persecution as a U.S. Policy Issue 19* (Rosalind I. J. Hackett et al. eds., 2000), available at <http://www.trincoll.edu/depts/csrpl/Religious%20Persecution/relperse.pdf>.

⁴ Christian Solidarity Worldwide, *Preliminary Report: Communal Violence in Kandhamal District, Orissa* (Jan. 2008), at 3, available at <http://dynamic.csw.org.uk/article.asp?t=report&id=72>

⁵ Press Release, Int'l Christian Concern, *4,000 Indian Christians Temporarily Arrested for Protesting Violence*

(May 30, 2007),

<http://www.persecution.org/suffering/pressdetail.php?presscode=181&PHPSESSID=1dc39cbba1373b048fa51e5de3dbe20c>

⁶ John Sifton, Human Rights Watch, *The Plight of Religious Minorities in India* (April 4, 2014),

<https://www.hrw.org/news/2014/04/04/plight-religious-minorities-india>

⁷ *Ibid.*

⁸ *Ibid.*

⁹ Gouri Chatterjee, *15 Years on, Irom Sharmila still Fasts, But Repealing AFSPA Remains a Distant Dream*, Nov. 3, 2015, <http://www.firstpost.com/india/15-years-on-irom-sharmila-still-fasts-but-repealing-afspa-remains-a-distant-dream-2492290.html>

¹⁰ *Sunday Story: Asaram Bapu Rape Case- In Godman they Fear*, The Indian Express, Jul. 19, 2015, available at <http://indianexpress.com/article/india/india-others/sunday-story-asaram-bapu-rape-case-in-godman-they-fear/>

¹¹ Vanu Dev, *Condoms, Drugs and Secret Contracts... The Story of Why Nithyananda is in Trouble*, Jun. 13, 2012, <http://indiatoday.intoday.in/story/swami-nithyananda-arrest-the-story-of-why-he-is-in-trouble/1/200560.html>

¹² *Sarathi Baba Scandal: Everything You Wanted to Know*, <http://indiaopines.com/sarathi-baba-scandal/> last visited on 18-11-2015.

¹³ Angshukanta Chakraborty, *How RadheMaa's Mini Skirt Exposes Our Blind Bhakti*, Aug. 07, 2015, <http://www.dailyo.in/politics/radhe-maa-religion-mini-skirt-satsang-sex-bhakti-godwoman-godman-asaram-hindu-gajendra-chauhan-dolly-bindra/story/1/5538.html>

¹⁴ Tejas Mehta & Anindita Sanyal, *Mumbai Police Registers Another Case Against RadheMaa*, Sep. 01, 2015, <http://www.ndtv.com/mumbai-news/mumbai-police-registers-another-case-against-radhe-maa-1213273>

¹⁵ *Ibid.*

¹⁶ *INDIA*, available at <http://www.state.gov/documents/organization/171754.pdf> last visited on 14-11-2015.

¹⁷ U.S. Comm'n on Int'l Religious Freedom, *Annual Report 244* (2007), available at <http://www.uscirf.gov/countries/publications/currentreport/2007annualRpt.pdf#page=1>

¹⁸ AIR 2000 SC 1650

¹⁹ AIR 1995 SC 1531

²⁰ Mahima Kaul, *India's Elections: Hate Speech and the "Greatest Show on Earth"*, Apr. 22, 2014, <https://www.indexoncensorship.org/2014/04/indias-elections-hate-speech-greatest-show-earth/>

²¹ Yusuf Ansari, *Pasmanda Muslims: The Voice Unheard!*, Zee News India, Feb. 23, 2008, <http://www.zeenews.com/articles.asp?aid=425815&sid=ZNS>

²² *Not in Favour to Give SC Reservation to Christian and Muslim Dalits: Government*, DNA India, Dec. 09, 2014, available at <http://www.dnaindia.com/india/report-not-in-favour-to-give-sc-reservation-to-christian-and-muslim-dalits-government-2042306>

²³ Vivek Agnihotri, *The Miracle Industry: How Godmen are a Byproduct of Our Failed System*, DNA India, Aug. 13, 2015, available at <http://www.dnaindia.com/analysis/standpoint-the-miracle-industry-how-godmen-are-a-byproduct-of-our-failed-system-2113883>

²⁴ *PIL Seeks Regulation of Godmen, Astrologers*, Aug. 31, 2013, <http://www.firstpost.com/fwire/pil-seeks-regulation-of-godmen-astrologers-1074615.html>

²⁵ John Sifton, Human Rights Watch, *The Plight of Religious Minorities in India* (April 4, 2014), <https://www.hrw.org/news/2014/04/04/plight-religious-minorities-india>

²⁶ Hariharan Kumar, *Anti-Superstition Laws in India*, Dec. 20, 2013, <http://blog.ipleaders.in/antisuperstition/>

²⁷ *Secularism in India*, Civil Service India, <http://www.civilserviceindia.com/subject/Essay/secularism.html> last visited on 19-11-2015.

²⁸ *Facts About Ram Janmabhoomi- Babri Masjid Issue*, Aug. 18, 2015, <http://www.indiatvnews.com/news/india/facts-about-ram-janmabhoomi-babri-masjid-issue--20098.html?page=2>

²⁹ *Godhra Verdict: 31 Convicted, 63 Acquitted*, Mar. 01, 2011, <http://www.ndtv.com/india-news/godhra-verdict-31-convicted-63-acquitted-448265>

³⁰ Jaideep Prabhu, *The Dadri Debate: Here's Why Most Arguments About Beef are Flawed*, Oct. 20, 2015 <http://www.firstpost.com/india/the-dadri-debate-heres-my-beef-with-most-arguments-2475354.html>

³¹ Press Trust India, *Centre Has No Plan to Ban Beef Across Country: Union Minister M Venkaiah Naidu*, May 29, 2015, <http://www.ndtv.com/india-news/centre-has-no-plan-to-ban-beef-across-country-union-minister-m-venkaiah-naidu-766830>

³² 2005(8) SCC 534

³³ Raghu Krishnan, *All You Need to know About the Tipu Sultan Controversy*, Nov. 13, 2015, http://www.business-standard.com/article/current-affairs/all-you-need-to-know-about-the-tipu-sultan-controversy-115111300161_1.html

³⁴ *Ibid.*

³⁵ *Religious Intolerance in India*, Dec. 25, 2014, http://www.nytimes.com/2014/12/26/opinion/religious-intolerance-in-india.html?_r=0

³⁶Annie Gowen, *Narendra Modi's Remarks on Religious Tolerance Spark National Debate in India*, The Washington Post, Feb. 24, 2015, available at <http://www.theguardian.com/world/2015/feb/24/india-modi-religious-freedom-tolerance>

³⁷http://censusindia.gov.in/Census_And_You/religion.aspx last visited on 19-11-2015.