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COMMUNALISM AND ITS LEGAL IMPLICATIONS: A HUMAN RIGHTS-CENTRIC APPROACH

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ABSTRACT

India's social cohesion and togetherness are seriously threatened by communalism, a divisive ideology based on religious and cultural divides. It feeds on dividing people, inciting hostility, and weakening the secular values that the Indian Constitution upholds. The effects of communalism are extensive and impact many facets of national life. Economic advancement is hampered by communalism because resources are shifted from development to security and dispute resolution. It impedes economic progress, inhibits investment, and interferes with corporate operations. It erodes societal ideals such as harmony, tolerance, and respect, which causes social discontent and divisiveness. One common consequence of communalism is communal violence, which upends social order and induces severe psychological trauma while also resulting in fatalities, property destruction, and community dislocation. Politically, communalism subverts democratic establishments by taking advantage of religious feelings in order to get votes. It causes vote banks to be formed based on religious affinities, which taints democracy and jeopardizes the integrity of government. Effective policy design and implementation are impeded by communal politics, which frequently give precedence to sectarian interests over national ones. The rich fabric of Indian culture, which is distinguished by its variety and pluralism, is eroded by communalism. It encourages a restricted and exclusive interpretation of cultural and religious traditions, silencing dissident voices and inhibiting free thought. Cultural heritage places and symbols are frequently the subject of communal violence, which destroys priceless objects and wipes out historical memory. Communalism poses a severe threat to India's goals as a nation. It impedes the advancement and development of the nation by undermining the values of social justice, democracy, and secularism.

KEY WORDS: National interests, social fabric, democratic institutions, interfaith dialogue, secularism.

INTRODUCTION:

India's communalism is a complicated, multidimensional phenomena with a long history and important current ramifications. At its root, communalism refers to the ideology that elevates the interests and identity of a specific religious group over those of the greater society. This frequently results in hostilities and bloodshed between various religious communities as well as the

encouragement of polarizing political movements. The British government's colonial policies, which split the Indian populace along religious lines, are credited with giving rise to communalism in India. In order to "divide and rule," the British classified individuals according to their faith and encouraged distinct identities among various religious communities.

As a result, numerous religious communities within the multifaceted Indian civilization,



creating the conditions for conflicts amongst communities³⁴⁵. Throughout the post-independence era, communalism remained a prominent feature of Indian politics and society. Leaders and political parties have frequently employed community discourse to garner support and advance their agendas. Numerous incidents of community violence have occurred from this, especially during times of political turbulence or social unrest. One of the most terrible instances of communalism is the division of India in 1947, which resulted in the establishment of Pakistan and mass bloodshed that displaced millions of people.

There have been initiatives to address and lessen the effects of communalism despite the difficulties it presents³⁴⁶. The concepts of equality and secularism are enshrined in the Indian Constitution. seeking to establish a society in which everyone is treated with respect and dignity, regardless of their religious affiliation. To encourage harmony among communities and avoid communal violence, a number of legislative and policy initiatives have been put into place. Furthermore, the promotion of communication and mutual understanding between various religious groups has been greatly aided by civil society organizations and local authorities. communalism is a pervasive problem in India that has influenced the nation's past and is now having an impact on its present.

Even though a lot of work has been done to reduce tensions within communities, it is still difficult to build a community that values religious variety and upholds peace within it. Creating solutions that effectively promote peace and togetherness requires an understanding of the historical background and current dynamics of communalism.

DEFINITIONS AND MEANING OF THE SUBJECT:

In Indian context, communalism is defined as a

political and social ideology that prioritizes the interests of a particular religious group over those of other communities³⁴⁷. It is frequently motivated by the conviction that one's own community's identity and cohesiveness must be preserved and protected against external threats, and that the goals of many religious communities are incompatible. This ideology promotes polarizing politics that frequently result in inter communal bloodshed and threatens national unity.

In India, communalism is a socio-political phenomena that is defined by the preference for religious identity over national cohesion and the welfare of the whole population³⁴⁸. It places a strong emphasis on the concerns of certain religious communities, which frequently causes friction and disputes amongst various organizations. An "us versus them" mindset is encouraged by this philosophy, and it can lead to bloodshed and societal disintegration. The origins of communalism may be found in the British colonial era, when they employed the "divide and rule" tactic to keep power by inciting conflict amongst various religious groups.

HISTORICAL CONTEXT:

In India, communalism is a deeply ingrained phenomena with important historical ramifications. The idea of communalism has been developed by a complex interaction of historical events, policies, and socio-political forces. It places the interests of a certain religious group above those of the broader society.

One may trace the roots of communalism in India to the time of colonization. The colonial government used the "divide and rule" tactic under British rule in order to keep control over a multicultural populace. Because of their use of religious categorization, the British encouraged distinct identities among various religious communities. The establishment of

³⁴⁵ Ravi, V. &. (2024, September 16). Communalism in India - Meaning, causes, effects. Vajiram & Ravi. <https://vajiramandravi.com/quest-upsc-notes/communalism/>

³⁴⁶GeeksforGeeks. (2024, February 28). Communalism in India. GeeksforGeeks. <https://www.geeksforgeeks.org/communalism-in-india/>

³⁴⁷ Admin. (2024, February 15). Communalism in India - Meaning, Stages, Factors & Examples (UPSC GS-I & Essay). BYJUS. <https://byjus.com/free-ias-prep/communalism-in-post-independent-india/>

³⁴⁸ Kumar, P. (2024, March 27). Understanding Communalism in Modern India • Sociology Notes by Sociology.Institute. Sociology Institute. <https://sociology.institute/sociology-of-religion/understanding-communalism-modern-india/>



distinct electorates was one of the tactics used to institutionalize this polarizing strategy.

In 1909 under the Morley–Minto Reforms, for Hindus and Muslims³⁴⁹. The election of representatives from certain religious groups was made possible by these distinct electorates, which widened religious schisms and planted the seeds of communalism. Communities were further strained when Bengal was partitioned by the British in 1905 in an attempt to split the province along religious lines. The division affected Hindu–Muslim relations for a long time even though it was subsequently overturned in 1911 after massive protests. In the years that followed, a number of communal organizations emerged, like the Hindu Mahasabha and the All India Muslim League, to further the interests of their respective populations and foster the development of communal ideology.

CHAPTER – I

CONSTITUTIONAL PROVISIONS RELATED TO COMMUNALISM IN INDIA

1.1 SECULARISM:

❖ The concept of secularism is included into the Indian Constitution in a number of articles³⁵⁰

❖ **Article 14:** Provides equal protection under the law and equality before the law to all people, regardless of their religion.

❖ **Article 15:** Outlaws discrimination against any person on the basis of birthplace, sex, caste, religion, or ethnicity.

❖ **Article 25:** Every citizen has the ability to declare, practice, and spread their religion according to which guarantees their right to freedom of religion.

❖ **Article 26:** Gives religious groups the autonomy to run their own affairs when it

comes to religion.

❖ **Article 27:** Provides that no one shall be required to pay taxes whose revenues are expressly designated to cover costs associated with the upkeep or promotion of any specific religion.

1.2 JUDICIAL IMPACTS:

The Indian court has contributed significantly to the interpretation and observance of the secularism concept. Prominent instances include of:

❖ In the 1973 case of **Kesavananda Bharati v. State of Kerala**, the Supreme Court ruled that the Constitution's fundamental element of secularism was unchangeable and could not be altered by Parliament.

❖ **S.R. Bommai v. Union of India** (1994): The Court stressed the necessity of secularism in sustaining the unity and integrity of the nation.

❖ In the 1974 case of Ahmedabad **St. Xavier's College v. State of Gujarat**, the court decided that religious minorities operating educational institutions have the right to create and manage their own organizations.

CHAPTER – II

LEGAL FRAME WORK AND MECHANISM

2.1 PREVENTIVE MEASURES:

India's legal system has a number of mechanisms to deter and manage intercommunal violence. One such effort is the Communal Violence (Prevention, Control, and Rehabilitation of Victims) Bill. The purpose of this law is to penalize individuals who incite violence, rehabilitate victims, and establish methods to prevent and regulate community violence. In addition, the Indian Penal Code has prohibitions against rioting, unlawful assembly, and inciting hatred between communities that address communal violence. The aforementioned legal regulations highlight the significance of taking proactive efforts to prevent intercommunal confrontations and preserve public order.

³⁴⁹ Sahoo, Niranjana, "Justice System in Crisis: The Case of India's Undertrial Prisoners," ORF Issue Briefs (2015), available at <https://www.orfonline.org/research/justice-system-in-crisis-the-case-of-indias-undertrial-prisoners/>.

³⁵⁰ Law Commission of India, Report No. 268 on Prison Reforms (2017), available at <http://lawcommissionofindia.nic.in/reports/Report268.pdf>.



Communalism in India, defined by inter-religious disputes and tensions, offers a substantial challenge to social peace and national unity. A comprehensive strategy incorporating governmental, legal, educational, community, and media initiatives is necessary to solve this problem. These preventive steps are intended to provide a more inclusive and peaceful society by fostering mutual understanding, advancing secular ideals, and lessening the influence of inter communal disputes. India's legal system has a number of mechanisms to deter and manage inter communal violence. One such effort is the Communal Violence (Prevention, Control, and Rehabilitation of Victims) Bill. This law seeks to establish guidelines for stopping and managing acts of community violence, treating victims, and prosecuting offenders.

2.2 CRIMINAL LAW:

One of the primary elements of criminal law that handles communalism is **Section 153A of the IPC**. Acts that incite hostility between various groups on the basis of religion, race, place of birth, residence, language, etc., and that disturb public peace are made illegal under this clause. This clause is essential for preventing hate speech and violent instigation, which frequently lead to acts of community violence. The legislation intends to stop the rise of tensions between communities by criminalizing such behavior.

Another noteworthy element is **Section 295A of the IPC**, which penalizes deliberate and malicious conduct designed to offend religious sentiments by insulting religion or religious beliefs. This section acts as a disincentive to behaviors that might incite violence and discord within the community. Furthermore, rioting-related parts (parts 146–153) offer a set of laws that guarantee those engaged in violent intercommunal conflicts face consequences for their conduct. Enforcing these rules is essential to controlling and averting violence among communities. Law enforcement organizations are essential to preserving peace and order,

particularly at delicate occasions like political gatherings and religious festivals, which have historically served as hotspots. Community involvement, prompt action, and efficient policing are crucial in stopping the onset of communal violence.

CHAPTER-III IMPACT ON SOCIETY

3.1 SOCIAL COHESION:

In India, communalism poses a serious threat to societal cohesiveness. Communalism weakens the social fabric that unites disparate groups by prioritizing the identity and interests of particular religious communities over national unity. This worldview breeds mistrust and conflict amongst various religious communities by encouraging a "us versus them" mindset. As a result, there is social discord and community tensions that are prone to turning violent and conflictual, upsetting the peace and stability of the country.

3.1.1. EFFECTS ON THE SOCIAL COHESION

The loss of mutual respect and trust between various religious groups is communalism's most direct effect on societal cohesiveness. Tension and mistrust arise when groups are set against one another on the basis of religious affiliation. This mistrust may hinder cooperation and teamwork, which are crucial elements of In India, communalism poses a serious threat to societal cohesiveness. Communalism weakens the social fabric that unites disparate groups by prioritizing the identity and interests of particular religious communities over national unity. This worldview breeds mistrust and conflict amongst various religious communities by encouraging a "us versus them" mindset. As a result, there is social discord and community tensions that are prone to turning violent and conflictual, upsetting the peace and stability of the country.

3.1.2 EFFECTS ON THE SOCIAL COHESION

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one another on the basis of religious affiliation. This mistrust may hinder cooperation and teamwork, which are crucial elements of but also affects the country's and the community's overall economy. Conflicts between communities can lead to economic instability, which discourages investment and growth and feeds the cycle of poverty and marginalization.

3.1.3 LEGAL AND POLICY MEASURES

A diverse strategy is needed to address communalism's negative effects on social cohesiveness. Legal systems, like the Indian Penal Code, have measures aimed at addressing violence within communities and fostering peace among them. Community divisions can be lessened by policies that support economic and social integration, such as affirmative action for underprivileged groups. Building a cohesive community also requires educational programs that prioritize secular ideals and promote tolerance and respect for all religions.

3.1.4 CIVIL SOCIETY'S ROLE

Mutual respect and understanding can be fostered through community programs and grassroots initiatives that facilitate interfaith dialogue. These initiatives have the potential to dispel prejudices and strengthen links between groups. Civil society may offset the divisive impacts of communalism by advancing inclusive narratives and pushing for communal peace. In India, communalism is a serious danger to societal cohesiveness. It causes tensions and rifts by undermining mutual respect and trust amongst various religious groupings.

A comprehensive strategy involving responsible media practices, legislative and policy changes, and the active participation of civil society is needed to address this situation. India may endeavor to create a society that is more peaceful and cohesive by assuring inclusive growth, supporting secular principles, and encouraging mutual understanding.

CHAPTER –IV

LEGAL AND POLICY MEASURES

4.1 REHABILITATION OF VICTIMS

One of the most important aspects of dealing with the fallout from communal violence in India is the rehabilitation of the victims. It entails giving victims of community violence long-term assistance, instant alleviation, and recompense. By addressing the underlying causes of interpersonal conflicts, the objective is to repair the lives of the victims, guarantee their safety, and advance societal cohesiveness.

4.1.1 QUICK RELIEF AND PAYMENT

Victims of community violence frequently need rapid access to basic essentials like housing and medical attention. The Communal Violence (Prevention, Control, and Rehabilitation of Victims) Bill, 2005, stipulates that each state and district must create a Victims Assistance Fund and a Communal Disturbance Relief and Rehabilitation Fund. These grants are intended to help victims or beneficiaries of their dependents, making certain they have the help they need to start over.

4.1.2 LEGAL STRUCTURE

Provisions for prompt investigations and trials are part of the legal framework for victim rehabilitation, ensuring that offenders are held accountable. Provisions **section 153A and 295A** of the **Indian Penal Code** (IPC) prohibit actions that incite hatred amongst various communities and offend religious sentiments. These provisions tackle communal violence. These legislative safeguards are necessary to stop such tragedies in the future and to provide victims justice.

4.1.3 EXTENDED ASSISTANCE

In order to help victims reintegrate into society, long-term support services include financial aid, vocational training, and psychological counseling. The Communal Violence Bill also suggests establishing Communal Disturbance Relief and Rehabilitation Councils (CDRRC) at the national, state, and district levels. These



councils are in charge of supervising the rehabilitation procedure and guaranteeing that victims get the assistance they need to start over.

4.1.4 PROBLEMS FACE IN THE SOCIETY

Leaders in the community and civil society groups are essential to victims' rehabilitation. These groups frequently operate at the local level, offering victims of interpersonal abuse support, therapy, and legal assistance. Their endeavors are vital in cultivating reciprocal comprehension and advancing collective concord.

Even with these attempts, victims' rehabilitation still confronts a number of obstacles, such as lack of funding, societal shame, and bureaucratic hold-ups. A coordinated strategy including government institutions, civil society groups, and the community is needed to address these issues. Key actions in ensuring prompt and sufficient compensation include offering psychological assistance, encouraging social integration.

CHAPTETR – V INTERNATIONAL PERSPECTIVES

5.1 GLOBAL EXAMPLES

The global task of rehabilitating victims of communal violence necessitates extensive and coordinated efforts. Different approaches have been put into practice by different nations to help the impacted communities and deal with the fallout from inter communal violence. Here are a few worldwide instances:

5.1.1. RWANDA: REBUILDING AFTER THE GENOCIDE

Rwanda was confronted with the enormous job of rehabilitating millions of survivors following the genocide in 1994. The government launched a number of initiatives to offer social reintegration, financial aid, and psychological treatment, with assistance from foreign groups. For victims' justice and healing, the Gacaca courts, a traditional community-based judicial system, were essential.

5.1.2 SOUTH AFRICA: REBUILDING AFTER APARTHEID

The Truth and Reconciliation Commission (TRC) was founded in South Africa in the wake of apartheid to investigate human rights abuses and advance reconciliation. The TRC offered a venue for victims to get compensation and to tell their story. The commission's efforts were crucial in promoting national harmony and peace.

5.1.3 BOSNIA AND HERZEGOVINA: REBUILDING AFTER THE WAR

The international community, which included the UN and other NGOs, assisted in the victims' rehabilitation after the Bosnian War. Programs aimed at helping individuals impacted by the conflict with financial support, psychological support, and medical treatment. Rebuilding infrastructure and fostering social cohesiveness were given top priority as well.

5.1.4 COLOMBIA: REHABILITATION FOLLOWING CONFLICT

The Revolutionary Armed Forces of Colombia (FARC) and Colombia reached a peace deal that included measures for victims' rehabilitation. A Comprehensive System of Truth, Justice, Reparation, and Non-Repetition was formed by the accord, with the goal of offering war victims⁴ psychosocial help, restitution, and social reintegration.

5.1.5 KENYA: VIOLENCE FOLLOWING ELECTIONS KENYA: RECOVERING FROM POST-ELECTION VIOLENCE

Following Kenya's post-election violence in 2007–2008, the government and outside NGOs launched a number of victim care initiatives. These initiatives included giving victims of the assault access to healthcare, psychological help, and financial aid. Prioritization was also given to initiatives that support national harmony and reconciliation.

5.2.1 INDIA: REHABILITATING COMMUNAL VIOLENCE:

A framework for the rehabilitation of victims of



communal violence is provided in India by the Communal Violence (Prevention, Control, and Rehabilitation of Victims) Bill, 2005. In order to supervise the rehabilitation process and guarantee that victims receive the required help, the law suggests establishing Communal Disturbance Relief and Rehabilitation Councils (CDRRC) at the national, state, and district levels victims of communal violence.

The provision of prompt relief and recompense, the guarantee of legal assistance and justice, the provision of psychological therapy and social reintegration, and the encouragement of national harmony and reconciliation⁷ are important components. Through examining these international models, nations may formulate efficacious approaches to mitigate the consequences of inter communal strife and provide assistance to the impacted communities.

RECOMMENDATION AND SUGGESTIONS:

- ❖ Provide Immediate Medical therapy To address both apparent and unseen wounds, make sure sufferers receive prompt medical assistance, including physical and psychological therapy.
- ❖ Emergency Shelter Give victims of community violence temporary, safe, and secure housing.
- ❖ Financial Compensation Establish an organized and transparent mechanism for giving financial compensation to victims and their families to assist them reconstruct their lives.
- ❖ Legal Aid Provide victims with free and easily accessible legal aid services to help them navigate the judicial system and seek justice.
- ❖ Community Counseling Centers Establish counseling centers in impacted areas to offer trauma treatment and continuous psychological assistance.
- ❖ Vocational Training Put in place programs for victims to learn new skills and find

work, which will aid in their economic recovery.

- ❖ Scholarships and educational help should be given to to guarantee the education and development of children impacted by community violence.
- ❖ Programs for Social Reintegration Create initiatives aimed at assisting victims in establishing their social networks and reintegrating into society.
- ❖ Permanent Housing to give victims of displacement stability and security, make sure permanent housing options are available.
- ❖ Community discourse Initiatives To promote understanding between people and avert future disputes, support interfaith activities and community discourse.
- ❖ Public Awareness efforts Start efforts to inform the public about the dangers of intergroup conflict and the value of intergroup peace.
- ❖ Policy Reforms: Push for changes to the law that better assist victims and deal with the underlying causes of communal violence.
- ❖ Establish systems for keeping an eye on and prosecuting individuals culpable for acts of community violence in order to ensure justice.
- ❖ Victim Assistance Funds: Establish special funds to give victims continuous support and make sure they have access to services they need.
- ❖ In order to reestablish normalcy and encourage economic recovery, infrastructure development and reconstruction should be prioritized in the impacted areas.

CONCLUSION:

A coordinated and all-encompassing strategy is necessary for the complex and vital process of rehabilitating victims of community violence. Ensuring immediate assistance and long-term support for victims is crucial for rebuilding their lives, preserving social cohesion, and averting repeat conflicts. The Communal Violence



(Prevention, Control, and Rehabilitation of Victims) Bill, 2005, and similar legal frameworks offer a platform for these initiatives, highlighting the need of compensation, legal help, and rehabilitation programs.

In order to meet the victims' immediate needs and guarantee their safety, immediate medical attention and emergency housing are essential initial stages in the recovery process. In order to assist victims in rebuilding their lives and pursuing justice, financial compensation and legal aid services are essential. Long-term assistance is essential and includes educational programs, career training, and psychological therapy. Part in encouraging victims' social reintegration and financial security. Community-based efforts are crucial for promoting understanding amongst people and dispelling prejudices. Examples include interfaith talks and workshops. These initiatives support societal cohesion and avert future hostilities by assisting in the construction of bridges between various religious communities. NGOs and civil society groups are essential for assisting victims, offering legal help, and pushing for legislative changes.

The rehabilitation process still faces obstacles in spite of these initiatives. Rehabilitation programs may be less successful due to societal stigma, resource shortages, and bureaucratic delays. A coordinated strategy including government institutions, civil society groups, and the community is needed to address these issues. Important phases in the rehabilitation process include facilitating social integration, offering psychological assistance, and guaranteeing prompt and sufficient recompense.

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