

“Minorities and Terrorism”

Shubham Sharma
NALSAR University of Law

Abstract

For the purpose of this paper the author would be researching on the interplay between a minority group and terrorism. The link between why terrorism and minority actions seem to be taken hand and hand where as actions of political groups who take to vigilante justice are not labeled the same. So for the purpose of this paper the author would examine the question of how actions of minority groups become to be actions of terrorism. Are all actions taken by minority are terrorist action or only those that go against the majority. Primarily, for this paper we would examine two laws in India, the anti-conversion law and the beef ban in order to study how laws can be detrimental to minorities which can lead to oppression of culture and identity causing a lash back forms those communities. For this paper we do not try to define who a minority is nor do we define what constitutes terrorism rather we use the globally accepted definition of both.

Introduction

With the rather increasing trend of violence against minorities by those who hold extreme ideologies has led to many tragedies, such as the one in Christchurch, New Zealand¹, or by those who hold political power can cause the oppression of minorities by enacting legislation such as anti-conversion or anti-cow slaughter laws² that seem to target certain groups of people. Minorities for our purpose is as per the definition offered in 1977 by Francesco Capotorti, a special Rapporteur of the United Nations on the sub commission on Prevention of Discrimination and Protection of Minorities. According to him a minority is “A group numerically inferior to the rest of the population of a State, in a non-dominant position, whose members—being nationals of the State—possess ethnic, religious or linguistic characteristics differing from those of the rest of the population and show, if only implicitly, a sense of solidarity, directed towards preserving their culture, traditions, religion or language”. However, in 1992 the united nations in article one of the United Nations Minorities Declaration adopted defined the meaning of minorities “ national or ethnic, cultural, religious and linguistic identity, and provides that States should protect their existence”. In this paper we will be using the definition adopted by the united nations general assembly in 1992, for the purpose of not delineating into defining a minority because as of now there is no globally accepted definition of what a minority is, rather than defining what a minority is we look in to two types of individuals, indigenus people and citizens, if these groups fall within the definition of a minority.

¹ Charlotte Graham-McLay, Death Toll in New Zealand Mosque Shootings Rises to 51, The New York Times, May 2, 2019, Available at <https://www.nytimes.com/2019/05/02/world/asia/new-zealand-attack-death-toll.html>

² Indian govt accused of inciting violence against minorities, UCANEWS, May 2, 2019, Available at <https://www.ucanews.com/news/indian-govt-accused-of-inciting-violence-against-minorities/85098>

Terrorism, what purpose does it serve and who is affected but it, in its broad understanding terrorism is it is an act of violence either against the state or in service of state³. If we are talking about violence against the state then terrorism severs to send a message for political change, through the use of threat of symbolic, low-level violence by an organized group⁴. The aim is to communicate a political message therefore the victims or the targets have very little intrinsic value as a whole, rather the aim of these acts is to grab the attention of a larger audience, the populace. The concept of terrorism has its roots in the French revolutionary period where challenges to the authority of a state by various revolutionaries of France in order to recreate the mass uprisings to overthrow the political regime. The term has coined as terrorism and it states to induce anxiety and fear in order to control and direct a civilian population in a systematic manner.

Terrorism is a political action taken by those who are not satisfied with the current political regime, this is one way to look at terrorism. Another is terrorism are acts of violence by those who support the state actions . therefore for this paper we must look in to the relationship between minority and terrorism, are any violent action taken my a minority fall within the meaning of terrorism as defined above. Also action taken against a minority induced by political motives, is that also terrorism?

Although, for this paper we are not defining what a minority is and who constitutes it, the status of indigenous peoples and non-citizens need to understood, whether they classify as a minority or not, because they are also a target discrimination and violence according to amenity international. It is to be noted that although they face discrimination, the reason are not the same as conventional forms of minority persecution, for the indigenous people, they have a culture apart from the majority and hold land which is rich recourses and therefore valuable, hence these people are often forced to abandon their land⁵ and move to cities where why maybe targeted by the conventional form of discrimination.

So who are Indigenous people, according to Convention No. 169 of the International Labor Organization(ILO) and United Nations Declaration on the Rights of Indigenous Peoples, the characteristics that make some identified as an indigent are as follows:

- are descendants of the peoples who inhabited the land or territory prior to colonization or the establishment of State borders;
- they possess distinct social, economic and political systems, languages, cultures and beliefs, and are determined to maintain and develop this distinct identity;
- they exhibit strong attachment to their ancestral lands and the natural resources contained therein;

³ Martha Crenshaw, The Causes of Terrorism, Comparative Politics, Vol. 13, No. 4 (Jul., 1981), pp. 379-399, Available at <https://www.jstor.org/stable/421717>

⁴ Supra 3

⁵ Indigenous Peoples, Amnesty International, Available at <https://www.amnesty.org/en/what-we-do/indigenous-peoples/>

- and/or they belong to the non-dominant groups of a society and identify themselves as indigenous peoples.

Minorities and indigenous people are, similar but not the same, as they both try to their cultural identity, there can be situation in which a indigenous person can identify as a minority due to the broad definition adopted by the general assembly, however the major aspect which sets apart a minority from an indigenous person are ancestral, traditional and spiritual attachment connected to their land. Moreover indigenous people seek to afforded the rights they have over the land they own as the land is inherently a part of their culture. Therefore although indigenous people can be classified as a minority, they however are a separate group of peoples.

In the provision of human rights, every state has a duty to protect the rights of all those living in its jurisdiction and non citizens are no different, by non citizen the reference is made to those living in an area, originally not theirs such as migrants.

Practically speaking, under international law, certain minority rights have been made appropriate to recent migrants who share an ethnic, religious or linguistic identity. Their treatment is to be established in the customary international law guideline of non-discrimination, the fundamental of international law and is reflected in every single human right instruments and archives. In fact, the privilege not to be oppressed is ensured under a few instruments of direct pertinence to minorities. These have been incorporated in the Convention identifying with the Status of Stateless Persons, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the Convention identifying with the Status of Refugees, and the Declaration on the Human Rights of Individuals Who are not Nationals of the Country in which They Live.

Legislation effect of minority

The need to understand what terrorism is in light of minorities right important due to actions of state by creations of law which are detrimental to minorities rights. For us to understand how laws can be detrimental to minorities, we must examine them. Firstly, *India's Freedom of Religion Acts also known as the anti conversion law*. It must be stated that the intent of the law when it was created in itself is not anti minority rather it served a purpose, rather looking upon the history of the anti conversion law, the law was introduced by the Hindu princely states during the British Colonial period to preserve the Hindu religious identity in face of the British missionary, the law in existence today also prohibit conversion by force, fraud, or inducement. However, whether the law is currently in need or not. The right to religious practice under the constitution of India, gives the inhabitants the right to choose their religion, the anti conversion laws aim to prevent un-will full, fraudulent practices of conversion. These anti conversion laws have been enacted in seven states in India have such laws Arunachal Pradesh (1978), Chhattisgarh (2000), Gujarat (2003), Himachal Pradesh (2006), Jharkhand (2017), Madhya Pradesh (1968), Orissa (1967), and Uttarakhand (2018).

India's anti-conversion laws are problematic. Firstly, the assumption is that in modern India there are still Muslims and Christians who are forcibly converting poor and disadvantaged from Hinduism, there has been very little evident to support the claim, rather, due to the cast system in India, the lower casts or the untouchables as they are referred to, opt to convert from Hinduism to another religion to escape persecution. Meaning that the anti conversion law doesn't not recognize will full conversion and deems every conversion as problematic and open to investigation as per the law. Secondly, the problem with the language of the law, where it has been criticized for being too broad without proper definition of the terms used such as "force," "inducement," "allurement," and "fraud."

The ICCPR article 18 and 19 read together recognizes the freedom to express one's beliefs, and guarantee of freedom of religion, individuals must be permitted to share their religious convictions. The anti conversion laws mean to criminalize a wide scope of speech by those imparting their religious convictions to other people, regardless of whether they trust their audience members convert or not; this chillingly affects religious speech. praying for health of an ailment or offering help with food or water after a catastrophic event could be viewed as allurement or inducement under the act making charitable work illegal.

Secondly we will examine the anti-cow slaughter laws, also known as the beef ban. After a controversial supreme court judgment which upheld the constitutional validity of the beef ban, the resulting effects on the minority groups was negative, as it was effected them economically, culturally, and open them to attacks from religious extremist. The issue quickly became a minority issue as primarily those in the minority community or those who were lower in the Hindu cast system consume beef, either because of economical reason, since beef was one of the cheapest forms of protein for the poor of the country, or beef consumption was not prohibited by their cultural practices⁶.

Dalits and Muslims have been affected the most by laws, policies, and unlawful attacks harming cattle-related industries. Most Slaughterhouses and meat shops are primarily run by Muslims. Similarly, Dalits have traditionally carried out the job of skinning and disposing of cattle carcasses and skin for commercial purposes such as leather for the leather industries. By enacting a law which disproportionately targets a few communities the resulting policies cause harm to entire communities especially farmers and laborers.

Form the legal prospective the implication of this law can be very dire as the beef legislation mandated cow slaughtering be a non-bailable offence, with a punishment of up to five years in prison, along with a Rs.10,000 fine⁷, meaning those caught with beef could be spend half a decade in prison. Moreover there is direct restriction on trade of cattle if such trade lead to

⁶ Ajaz Ashraf, Beef ban is an attempt to impose upper-caste culture on other Hindus: Kancha Ilaiah, Scroll.in, March 19, 2015, Available at <https://scroll.in/article/714661/beef-ban-is-an-attempt-to-impose-upper-caste-culture-on-other-hindus-kancha-ilaiah>

⁷ Beef ban triggers criticism; poor, minorities most affected, Hindustan Times, March 5, 2015, Available at <https://www.hindustantimes.com/india/beef-ban-triggers-criticism-poor-minorities-most-affected/story-24SvDGWxn3607fivqEXm9H.html>

the slaughtering of the animal, for farmers, who are selling such cattle they face punishment under the act if the cattle they sold went for slaughter, the legislation disregards the facts that the farmers would have no control over what happens to the cattle after it has left his care.

Vigilante

Moreover with the enactment of the beef legislation a dangerous trend of violent vigilante campaign have began to spur up throughout India, it was estimated that between May 2015 and December 2018, 44 people were killed across 12 Indian states due to communal rhetoric which furthered the vigilante motives for imposition of Hindu values on other sectors of the community. It is also noteworthy that of the 44 killed 36 of the individuals were Muslims. Following these attacks the minority groups where denied due procedure and the vigilantes committing these felonies were free to go. As reported by Human Rights Watch, there was a complete lack of support from the police, as initially the attempted to ignored procedures, stalled investigations, or even played a complicit role in the cover-up of crimes or killings⁸. The reason was due to heavy support from Hindu political leaders some of whom were a member of the Modi led BJP government. It was not until the 2018 judgment⁹ by the Supreme Court which placed preventive, remedial and punitive” measures to address “lynching” by vigilantes and to address the lack action against these crimes and supporters of government officials.

When talking about minorities and there link to terrorism why is important to talk about unjust laws of a state that seemly discriminate. As stated earlier, terrorism is driven by political strain, terrorism is essentially a protest by the discriminated against the discriminator, this occurs in one of two ways: as a reaction or a resistance to what is unjust. The idea that terrorism may be associated with discrimination by means of being deprived of economical or educational advancement has been argued, stating that a direct cause of terrorism is discrimination¹⁰, historically this was associated with social up rising, such as the revolutions of France, but in the modern era, political strains have led individuals to take extreme action in the name of the greater good, hence your acts of suicide bombing. Therefore it can be argued that terrorism is a form of reaction to the discrimination faced by those who feel they are being disadvantaged. Hence forth it can be assumed that those polices which are discriminator in nature cause strain in the political sphere leading to a political demonstration in the form of terrorism.

Robert Agnew' General Strain theory suggests that negative emotions like anger and frustration are generated by things like discrimination, abuse by a certain institutions, or some

⁸ Violent Cow Protection in India: Vigilante Groups Attack Minorities, Human Rights Watch, February 18, 2019, Available at <https://www.hrw.org/report/2019/02/18/violent-cow-protection-india/vigilante-groups-attack-minorities>

⁹ *Tehseen S. Poonawalla & Ors. v. Union of India & Ors*

¹⁰ Cassady Pitt, U.S. PATRIOT ACT AND RACIAL PROFILING: ARE THERE CONSEQUENCES OF DISCRIMINATION?, Michigan Sociological Review, Vol. 25 (Fall 2011), pp. 53-69, Available at <https://www.jstor.org/stable/pdf/41289191>

form of deprivation. In our case the abuse is done to the minority by means of special legislation which target certain communities based on cultural or religious practices.

The strain theory draws a link between injustice and causation, in our case we used two example of nationwide laws administrated at the state level. These are just two of the most rest laws enacted in India amongst the many the already exist, like Armed Forces Special Power Act (AFSPA). The aim of minority rights should at the very basic level attempt to resolve this most fundamental issue of oppression in order to remove what the strain theory calls “negative emotions” which are created when a group feels that they are at a disadvantage. By doing, so by getting acceptance of law that are just not only in text but in practice and do not serve a political agenda. There are changes you will remove the chances of political response or resistance by said groups.

International Mechanism for Protection from Discrimination

In order to curb discrimination the Human rights treaty bodies have created a means of detecting early signs of discrimination these have been called the early warning mechanism developed by the committee on Elimination of Radical Discrimination which draws the attention of the State parties to the situations where discrimination has reached an alarming level. In fact, the committee has adopted both early and urgent warning methods and procedures to effectively respond to the violations of the convention. This mechanism has been specifically adopted to prevent the violation on the first place before it even starts. If the following indicators are present the early warning method will be applied¹¹:

- Pattern of social and economic indicators which represent persistent and significant racial discrimination.
- Radical intolerance in a pattern, propaganda by any group, organization or any person which is noted by any elected or other officials.
- Discriminative legislation that has been adopted.
- Polices that is segregated in nature or de facto exclusion of member of any cultural, social, or economic group.
- Lack of a sufficient administrative system characterizing and condemning all types of racial segregation or absence of successful instruments, including absence of response methodology;
- Policies or routine with regards to exemption in regards to: (I) viciousness focusing on individuals from a gathering recognized based on race, shading, plummet or national or ethnic inception by State authorities or private on-screen characters; (ii) grave proclamations by political pioneers/noticeable individuals that excuse or legitimize brutality against a gathering distinguished on the ground of race, shading, plunge, national or ethnic root; (iii) improvement and association of volunteer army gatherings as well as extraordinary political gatherings dependent on a bigot stage;

¹¹ Minority Rights:International Standards and Guidance for Implementation, United Nations Human Rights Office of the High Commissioner, HR/PUB/10/3, Available at https://www.ohchr.org/documents/publications/minorityrights_en.pdf

- Significant progressions of outcasts or uprooted people, particularly when those concerned have a place with explicit ethnic gatherings;
- Encroachment on the customary grounds of indigenous people groups or constrained expulsion of these people groups from their own lands in aim of exploitation of natural resources
- Activities that are hazardous in nature which reflect patterns of discrimination which harm a specific group

The aim of the early detection system is to identify issues of racial discriminations, to identify what is causing a minority the disadvantage, in the hopes of being able to mitigate the issue or find an optimal solution. We spoke of indigenous peoples, in most cases, when a land of an indigenous is appropriated for mining purposes, there is very little in the means of negotiation¹² which takes place, instead they are relocated to, according to an amnesty¹³ in many countries over 50% of the indigenous people have moved to the city in the last three decades. The reason varies, from enjoyment of a better life, access to education, while others are attempting to escape human rights abuse. Removed from their lands, cutoff from recourses and traditions essential to their welfare, many are facing poverty, marginalization, disease and violence.

The aim of governments across the globe shouldn't be sole economical development at the cost of indigenous rights rather there should be a balancing of both the rights, which doesn't leave either of the party involved marginalized. If minority rights are respected, all groups would be able to exercise rights on equal footing, However this principal is far from being realized in most countries as discrimination inequality and exclusion are the root cause of much of the suffering especially in states are either failing at incorporating minority right or are deliberately excluding minorities, such as China's treatment of Uyghurs and other Turkic Muslims in its borders.

In order to have effective prevention of minority rights abuse there needs to be effective participation by minorities in public life. This is an essential component of a democratic society where dialogue can occur and should take place across a wide range of areas. Efforts should be made to include minorities in the decision making process where they have been systematically excluded in order to facilitate representation at all levels. This will ensure that meaningful and informed consultation by way of participation and management by minorities is taking place in regards to matters that directly affect them the most. These are however recommendations, that without proper state backing would not be realized

¹² Pacific Standard. (2019). *Violence and Persecution of Indigenous Protesters Is on the Rise*. [online] Available at: <https://psmag.com/social-justice/violence-is-on-the-rise-toward-indigenous-protestors>

¹³ Indigenous Peoples, Amnesty International, Available at <https://www.amnesty.org/en/what-we-do/indigenous-peoples/>