

The Prevention of Communal and Targeted Violence Bill, 2011 - A Draconian Document

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The National Advisory Council presided by Sonia Gandhi has made 'The Prevention of Communal and Targeted Violence (Access to Justice and Reparations) Bill, 2011' public. The purpose of this bill has been outlined in that it will help check communal violence in the country. After going through the bill, one comes to the conclusions that if the bill is passed, then not only will the results be devastating; it will also lead to a further polarisation in the already communally divided society. Even an arch-secularist like Shekhar Gupta has recognized that the bill 'will polarise people on a communal basis just when they seem to be getting over that sad past.' (Indian Express, 4 June 2011) The ultimate goal of this bill seems not only to strengthen the minority vote-bank but also to trample the Hindu organisations and their leaders.

We have been a witness to how this government is more concerned with protecting the corrupt rather than punishing them. It has also left no stone unturned in victimizing the ones who have dared to raise their voices against the corrupt. In the same vein, this bill seems to be a sinister design to not only protect the ones who perpetrate violence but also to suppress the Hindu organisations and their leaders. It will also lead to interference in the working of the state government and lead to an attack on the federal polity of the country. It also seems to be in variance with the basic structure of the constitution leading towards a new kind of dictatorship. It will also trample upon the spirit of the Hindu ethos and the trample the Hindu organisations that have been lending its voice to it.

The National Advisory Council (NAC) that has recommended this bill has been functioning as a parallel government. Neither is this an elected body, nor are all its members duly elected representatives of the people. The logic that the government has been using against the 'civil society' falls flat on its face in the case of the NAC.

The NAC is an unconstitutional super power that issues commands in the guise of advice and that too without any responsibility. The central government, steeped in servitude, is always eager to implement its orders. A look at the members of the draft committee and an analysis



of their characters leaves one in no doubt about their sinister designs. This committee has nine members and four advisors. The common thread that binds them together is their opposition to the Hindu organisations, their constant opposition of the Hindu society in Gujarat and attempting to put them in the dock. This bond runs so deep that they can even go to the extent of maligning the nation in trying to wear the facade of the sole protectors of the Muslim society.

Harsh Mander is one of the biggest opponents of the Raam Janmabhoomi movement and Hindu organisations. Anu Aga, a successful businesswoman in her own right, became to be known as a social activist only because she espoused the cause of the Muslims in the post-Godhra riots. Teesta Setalvad and Farah Naqvi's stand on Gujarat is too well-known to be recounted here. Not only have these people bought people to make false testimonies, but also garnered huge support from anti-national elements to file false cases and thereby committed the impropriety of trying to prejudice the enquiry in an unconstitutional manner. Their conspiracies today stand exposed, and they could find themselves be in the dock anytime soon. These people can go to any extent in trying to overcome their frustration.

It seems that through this bill, they are trying to push through our throats, what they could not hammer down into the polity, through the judiciary. The bill definitely looks like back-door tactics to implement their sick ideology. However, the names of the declared and undeclared advisors of these people are enough to take the lid off their real intentions. One can easily guess the kind of draft bill a committee that comprises of people like Syed Shahabuddin, the owner of 'Muslim India', John Dayal, who has given India a bad name in the west by speaking lies about his own country, and people like Shabnam Hashmi and Niyaz Farooqui who openly support the desecration of Hindu gods and goddesses in the name of artistic freedom..

The outspoken minister, Kapil Sibal's remarks about the alleged involvement of the state government in the Gujarat riots while making this bill public, speak volumes about the one-point agenda of the present dispensation. It seems as if Sonia Gandhi is trying to achieve what the whole secular brigade could not achieve. In the Gujarat episode, all their efforts are coming to a naught. Those who were once making allegations are continuously ending up as the culprits. The fear of the law catching up with them is making them scared for their lives. A look at the format of the bill and it is evident that the bill has been made by one of those so-called human rights activists who seem to have ended up on the losing streak of the

Gujarat episode.

When it comes to human rights, we are all aware of the double standards of the various organizations and countries like America. They are concerned with the events of Orissa and Gujarat but not with the plight of the Kashmiri Hindus in Kashmir. Or with the Christian organisations which indulge in the killings of Hindus in Tripura and Manipur.

It is a tragedy that no Indian leader could summon enough courage to warn America not to interfere in its internal affairs. India's Muslim and Christian organisations have supported this American misadventure. This also goes to prove their unpatriotic ways.

The lack of sincerity on part of the NAC is clear when one considers that they have not dwelt into the issue of why the riots take place in the first instance. In April 2002, one of the members of the NAC, Anu Aga said, "If in the past the minority has been pampered and given concessions, it needs to be looked at afresh. If in the past, practices went against the majority, we need to have the guts to reverse them. Muslims will have to come out of the clutches of fundamentalism. Let us have public debates on these issues." (Indian Express, April 8, 2002) In all these nine years, Aga did precious little create the debate. Perhaps she realizes that if the truth comes out, a bill will be needed to punish the perpetrators of the crime, rather than victims.

Some of the dangerous provisions of the bill are as follows:

1) The culprits of any communal violence will be sorted on the basis of majority and minority. This compartmentalisation cannot be acceptable to any civilised society, since it will lead to further polarisation. Till now, these people themselves were the votary of the saying, "A criminal has no religion." Then why have the culprits of communal violence of the minority community been kept out of the purview of conviction? They are of the view that no member of the minority community is responsible for communal tension or violence whereas the reality is just the opposite. Not only in India, but the leaders of these communities spew venom on the religion of others in every country of the world. Even in India, many judicial verdicts and reports of various commissions have said that the hate-speeches and doings of these people are at the base of the most of the communal violence. Gujarat and Orissa, two of the refrains of the minority community that constantly keep hankering about, even here the judiciary and various commissions have found the violence perpetrated by the minorities



to be the basic reason. To leave the ones who have committed the crime and target the majority who are the aggrieved is not only against the tenets of law but also goes against the acceptable norms of a civilised society. In the history of independent India, the so-called minorities have made 1,50,000 attacks on the Hindus and some 500 attacks on Hindu temples. Even now, in late 2010, the violence that have been unleashed on the Hindus of Deganga (West Bengal) leaves one wondering if it is a part of India. The recent attacks on Hindus in Bareilly and Aligarh are still fresh in our memories. Hindus in India have been attacked when a foreign cartoonist made a cartoon of the prophet in a foreign magazine in a foreign land. Can the prosecution of the aggrieved and the letting off of the perpetrator of violence be condoned and justified in any society? Another arch-secularist wrote, "While the mood of the nation is moving away from communal violence, the draft Bill's presumption that communal trouble is created only by members of the majority community and they alone are punishable is patently discriminatory." (Sam Rajappa, The Statesman, 6 June 2011)

2) According to Article 7, if a Muslim woman is subjected to abuse, that will constitute a crime. However if a Hindu woman is subjected to rape, then it will not be considered a crime. But don't we all know that whenever there are riots, it is the Hindu woman who is at the receiving end?

3) The community that is going to be protected by the enactment of this draconian law has been given the name of 'Group' The so-called minorities belonging to this group have been grouped together with the Scheduled Castes and Scheduled Tribes. Isn't there a mutual animosity between these communities? The bloody battle between the Shias and Sunnis is too well-known to the world. Who will take responsibility for this? The sub-castes in dalits also indulge in violent clashes, though most of the times, those with a supposed secular badge are the ones who are responsible. Will this bill lead to a cessation of these hostilities? The goodwill that is required to stop this violence, will that not become a liability because of this bill?

4) The majority Hindu community is in the dock now because of this bill. Sonia Gandhi must remember that she has praised the Hindu religion for its tolerance on many occasions. In a Congress sessions, she had herself said that secularism is living in India only because of the Hindus and India will remain secular as long as there are Hindus. Communities like the Jews, the Parsis, and the Syrian Christians, who had been persecuted in their own homelands, were

provided shelter by the Hindus in India. Therefore, instead of targeting this peaceful community, the basic reason of communal tension should be explored. Soniaji should forget about vote-bank politics and think about the nation's interests. If they demonise the tolerant Hindu society, then the polarisation between the two societies will only become stronger. N C Saxena, also a member of the NAC, said, "In case a member of a minority community indulges in violence against the 'majority community', it would be covered under Criminal Procedure Code and Indian Penal Code and not under the Communal Violence Bill," (The Pioneer, June 23, 2011) These codes are available not only for the majority community, but also the minorities. In addition, these codes also deal with intra-community issues. So, what is the need of this bill? Does this not expose their extreme agenda?

5) The definition of communal violence in this bill is: "The activities that breaks the secular credentials of the country." In India, there are different definitions of secularism. Be it the Indian Constitution or this bill secularism has not been defined anywhere. Is 'saving Afzal Guru from the gallows', 'visiting Azamgarh to encourage the terrorists', 'insulting the police in the Batla House encounter and thereby encouraging the terrorists', 'raising a question mark over the sacrifices in the Mumbai bomb blasts', 'encouraging the training given to the terrorists in Madarsas,' 'encouraging the Bangladeshi infiltrators' secularism in the eyes of Sonia Gandhi and raising a voice against them 'breaking the secular credentials of the country? Why are they trying to victimise the patriotic Indians by giving arbitrary definitions of secularism?

6) According to sub-clause 74 of the Bill, "Any person who has been implicated in making a hate-speech will remain guilty until he is proven innocent". This sub-clause is against the basis features of the constitution. The Indian constitution states that the accused is considered innocent until his guilt is proved. If this bill becomes a law, then to send someone behind bars, one only needs to make an allegation against him. It will become impossible for him to prove his innocence.

7) If an allegation of this kind has been made against a state government employee, then even the Chief Minister can be made responsible for it as it can be proved that he was unable to stop the employee from committing the wrong. This means that on the basis of wrong witness, it can now become very easy to entangle the Chief Minister of the opposition. The Chief Ministers, who had not yet fallen in the trap, will now become easy meat for them.

8) If a member of a particular organisation is accused, then the head of that organisation will also be held responsible, According to the law, even he will be said to be hand in glove. Now they can very easily nail any Hindu organisation and its leaders with the help of this draconian law. Not that they are not already doing so, but once this bill becomes a law, it will become that much easier for them to arbitrarily persecute the Hindu organisations and its leaders.

9) If this bill were to see the light of the day, then the central government can very easily usurp the powers of the state government. Law and order is the preserve of the state government. The central government can only offer advice or issue 'advisories' on this. This protects the federal structure of the country. But now, communal violence and violence targeted at any particular community, without going into the cause, will be seen as an internal disorder of the state. This means that the central government can use article 355 and impose President's rule in the state. Now, by making small modifications, they are trying to scuttle the vehemence of opposition of the bill by the political parties. Despite this, their intention of trying to trample the state governments has not taken a back seat.

10) The Bill states that there will be a 7-member committee to oversee and make decisions. Along with the Chairperson and deputy Chairperson, there will be four members of the minority community in this 7-member body. Won't this lead to mutual distrust? This means that any person, holding any post, only thinks about the good of his own community. The country must pause and think what this kind of narrow-mindedness can lead to.

11) This committee has been given unlimited powers. Not only can this committee issue orders to the police and the armed forces, but the testimony given to the committee will be as good as the testimony given in a court of law. This means that people like Setalvad, who are past masters of this game of creating false witnesses, can now do it more openly.

12) Article 13 tightens the screws on the government officials in such a way that they will be compelled to take sides with the minorities even when they (minorities) are the criminals.

13) If this bill were to take the shape of a law, it will become very easy for the minorities to implicate the majorities in any false case. If the minority were to even file a complaint with the police, the police will have to arrest the Hindu despite any evidence. The Hindu cannot demand any proof as now the onus of providing his innocence falls on him only, worse, he



cannot even demand to know the name of the complainant. It is now left to the police officer to keep the complainant informed about the progress of the case as if he (minority) was the officer of the case and not the police.

14) According to this bill, the police will have unrestricted powers. He can search the premises of the accused Hindu whenever he wants. These provisions of the bill can make it even more sinister in design than what the British colonialists tried to do to control the activities of the Indian nationalist movement.

Only some important facts of this bill have been analysed. The kind of picture that has come out, if this bill becomes a law, then the communal scene of the country will become even more diabolical. The arbitrary decisions that are taken during an emergency situation, even they will not match the draconian clauses of this law. It will become more difficult for Hindus to lead a respectable and safe life in their own country if this bill is passed. Manmohan Singh had said that the Muslims have the first right on all the resources of the country. Now, they will have complete rights over the resources. A strong movement will have to be launched against this draconian bill to put this dictatorial bill on hold.