

FROM COMMUNAL POLICING TO HATE CRIMES: THE ATTACK ON AMBEDKAR'S DREAM OF FRATERNITY

A Report on Dakshin Kannada,
January - September 2021

सत्यमेव जयते

CONSTITUTION OF INDIA

WE THE PEOPLE
solemnly resolve
sovereign Socialist
and to secure

having
India into a
Democratic Republic
citizens

Social

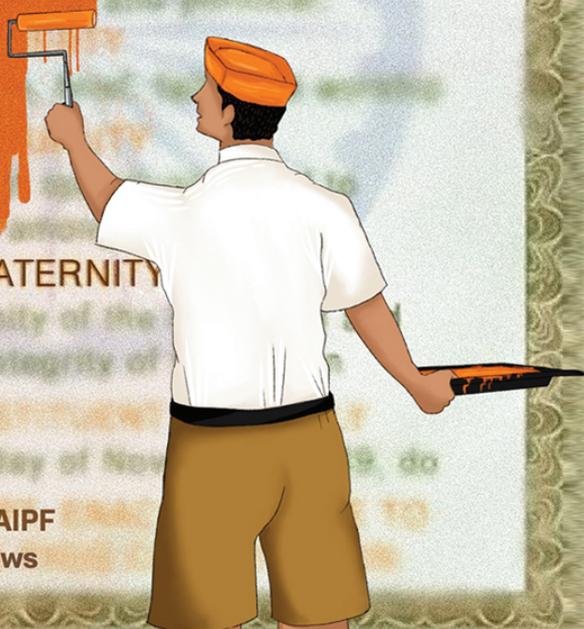
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of all

FRATERNITY

the dignity of the
the unity and integrity of
the twenty-sixth day of Nov

Report by: PUCL-K, AILAJ, AIPF
Gauri Lankesh News



“What objection can there be to Fraternity? I cannot imagine any. An ideal society should be mobile, should be full of interest channels for conveying a change taking place in one part to other parts. In an ideal society there should be many interests consciously communicated and shared. There should be varied and free points of contact with other modes of association. In other words, there must be social endosmosis. This is fraternity, which is only another name for democracy. Democracy is not merely a form of government. It is primarily a mode of associated living, of conjoint, communicated experience. It is essentially an attitude of respect and reverence towards one's fellow men.”

– Dr. B.R. Ambedkar;
My Ideal: A Society based on Liberty, Equality, and Fraternity
in The Annihilation of Caste, 1936

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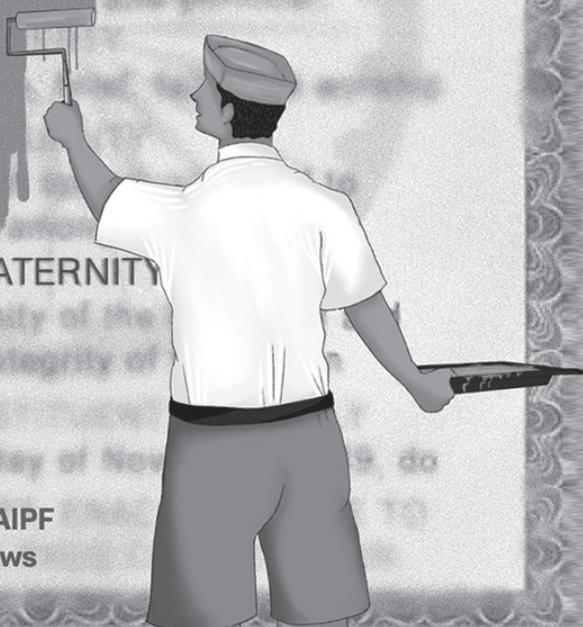


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Acknowledgments

While this report started out as a Fact finding into the instances of communal violence in Dakshina Kannada in April 2021; after 6 months of work, it has taken the shape of an extensive report that identifies the broader patterns in which the Hindutva groups operate in the region. The report also provides a lens of fraternity to conceptualise the response to this communal policing, hate crimes and forced segregation. This was possible because of the extensive comments received from Arvind Narrain, Clifton D’ Rozario and Swathi Shivanand. Their comments contributed greatly in shaping the arguments in the report. Swathi Shivanand painstakingly reviewed the report word by word, which helped the report reach finality. Avani Chokshi provided her inputs on writing the final chapter which is deeply appreciated.

The authors of this report would like to thank all these individuals for their time and valuable contribution to the report.

INTRODUCTION

The issue of communal hate crimes and communal policing has yet again been spotlighted by the media after the statement by Chief Minister Basavaraj Bommai, justifying communal policing.

In response to a question on moral policing in Dakshina Kannada¹, the Chief Minister responded in the following manner:

“ಸಮಾಜದಲ್ಲಿ ಹಲವಾರು ಭಾವನೆಗಳಿದ್ದಾವೆ, ಆ ಭಾವನೆಗಳಿಗೆ ಧಕ್ಕೆ ಬಾರದ ರೀತಿಯಲ್ಲಿ ನಡವಿಬೇಕಾಗುತ್ತೆ, ಆ ಭಾವನೆಗಳಿಗೆ ಧಕ್ಕೆ ಬಂದಾಗ, ಸಹಜವಾಗಿ ಆಕ್ಷನ್ ಅಂಡ್ ರಿಯಾಕ್ಷನ್ ಆಗ್ತದೆ, ಆದ್ದರಿಂದ ನಮ್ಮ ಕರ್ತವ್ಯ, ಸರ್ಕಾರದ ಕರ್ತವ್ಯ ಕಾನೂನು ಸುವ್ಯವಸ್ಥೆ ಜೊತೆಗೆ ಸಾಮಾಜಿಕ ವಾಗಿಯು ಕೂಡ ಸಾಮರಸ್ಯವನ್ನೆ ಕಾಪಾಡೋದಕ್ಕೆ ನಾವೆಲ್ಲಾರು ಕೂಡ ಕ್ರಮ ತೆಗೆದುಕೊಳ್ಳಬೇಕು, ಅದಕ್ಕೆ ಎಲ್ಲಾರು ಸಹಕಾರ ಕೊಡಬೇಕು, ಕೆಲವು ಯುವಕರು ಸಾಮಾಜಿಕ ಭಾವನೆಗಳಿಗೆ ಧಕ್ಕೆ ಆಗದಂತೆ ಅವರು ಕೂಡ ನೋಡಿಕೊಳ್ಳಬೇಕಾಗುತ್ತದೆ, ಹೀಗಾಗಿ ಇದೊಂದು ಸಾಮಾಜಿಕವಾಗಿರುವಂತಹ ಒಂದು ಪ್ರಶ್ನೆ ಇದೆ. ಅದರ ಬಗ್ಗೆ ನಾವು ಖಂಡಿತವಾಗಿ ಮಾಡಬೇಕು. ಮತ್ತೆ ಮೂರಲಿಟಿ ಅನ್ನೊಂದು ಬೇಕಾಲ್ತಾ ಸಮಾಜದಲ್ಲಿ?, ನೈತಿಕತೆ ಇಲ್ಲದೇನೆ ನಾವು ಬದುಕುವುಕ್ಕಾಗುತ್ತಾ?, ಇದತ್ತು ನಾವು ನೈತಿಕತೆ ಇಲ್ಲದೇನೆ ಬದುಕುವುದಕ್ಕಾಗುವುದಿಲ್ಲ, ನಮ್ಮೆಲ್ಲಾರ ಸಂಬಂಧಗಳು ಮತ್ತು ಶಾಂತಿ ಸುವ್ಯವಸ್ಥೆ ಇರೋದು ನಮ್ಮ ನೈತಿಕತೆ ಮೇಲೆ.”²

- 1 ‘Dakshina Kannada’ here refers not only to the administrative entity called by this name but also to the area of coastal Karnataka historically known as the Dakshina Kannada region, comprising the talukas of Mangaluru, Puttur, Belthangady, Sullia and Bantwal, Karkala, and Udupi, which is also collectively known as Tulunadu (land of Dravidian Tulu-speaking people.)
- 2 English translation of the Statement of the Chief Minister, Basavaraj Bommai: “There are many sentiments in the society. We should all behave in a manner that would not hurt these sentiments. When these sentiments are hurt, actions and reactions are elicited. Along with government’s responsibility of maintaining law and order, we have to also ensure societal unity. For this, everyone should cooperate. The youth also should ensure the sentiments are not hurt. This is a societal issue. There has to be morality in society, right? When the morality is forgotten, action and reactions are elicited.”

This statement was particularly troubling as it showed the Chief Minister's tacit encouragement to the nature of the problem where fundamentalist forces have been allowed to implement their Hindutva agenda unhindered by any notion of rule of law. The statement by the Chief Minister, that social morality is to be protected, is not an innocent message. For all those who believe in a constitutional democracy that India is, the Chief Minister's statement indicated that as far as he is concerned, Hindutva crimes will be condoned and the state sees their lawless actions as a legitimate expression of "social morality".

The Chief Minister's statement reveals a BJP government's complete political alignment with those claiming to protect social morality and who have no compunctions in violating the constitutionally guaranteed rights of the individual based on dignity and equality.

Concerned citizens including retired judge of the Karnataka High Court, Jst. (Retd.) Nagamohan Das, historian Ramchandra Guha and others noted that:

*"Your statement that social morality is to be protected is not an innocent message. It sends out a dangerous message that as far as you are concerned, it is ok to use violence to enforce what some people see as 'morality'. The people of the state expected you to condemn these violent acts of 'moral policing' and take action like you did with the BTM layout case in Bangalore. Instead, shockingly you have instead spoken in a manner, which may encourage more such acts. This is hypocrisy of the highest order."*³

Former Chief Minister Siddaramaiah pointed to the impropriety with which the Chief Minister acted and said: *"The government is trying to protect anti-social elements instead of putting them behind bars...It is more criminal to encourage & incite violence, and protect the perpetrators.*

3 Moral policing should be viewed through prism of 'action and reaction': Karnataka CM, The Hindu, Mangaluru, 13th October, 2021 <https://www.thehindu.com/news/cities/Mangaluru/moral-policing-should-be-viewed-through-prism-of-action-and-reaction-cm/article36978715.ece>

Do you have any plans to dissolve the police department, and handover the law & order to RSS? Or are you planning to establish Jungle Raj?⁴

While strong condemnations have poured in against the Chief Minister's statement, it is important for us to grasp the exact nature of the issues at stake in opposing his statement. To get a sense of the extent, nature and character of the violations, we have undertaken a study of what the Chief Minister calls 'social morality', which we term communal policing and what the Kannada press has rightfully termed as "*Mathiya Goondagiri*" (Communal Hooliganism).

According to details compiled by Shri. Suresh Bhat Bakrabail, member of the Karnataka Communal Harmony Forum and People's Union for Civil Liberties - Karnataka (PUCL-K) based upon his archive of newspaper reports (both regional and national), there are 71 incidents of communal policing in Dakshina Kannada in 2021 up to the month of September. This compilation is of the incidents that have been reported by the media and it is likely that there could be quite a number of unreported cases too.

In each of these incidents, members of various Hindutva organisations have taken law into their hands and engaged in criminal offences from intimidation to assault. This, they have done, with impunity and without any fear of dire consequences or action. Every incident is aimed at establishing the supremacy of the Hindu community and the subordination of minorities, especially the Muslims.

This engineering of communal polarization is not merely a distraction – it is an agenda; it is not a ploy for securing electoral gains – it is the politics; it is not the activities of fringe organisations – it enjoys political patronage and the support of the administration, overtly or otherwise. These everyday acts of terror, are inevitably by mobs of radicalised Hindu men from Hindutva organisations, perpetrated on ordinary citizens of the country, who are more often than not, Muslim, and who have been, over a period of time, dehumanised by majoritarian politics.

4 Karnataka CM defends moral policing, then gets into Twitter war with Siddaramaiah, The Newsmminute, 14th October, 2021 <https://www.thenewsminute.com/article/karnataka-cm-defends-moral-policing-then-gets-twitter-war-siddaramaiah-156485>

The COVID-19 pandemic has not halted the onslaught of incidents of communal policing in Dakshina Kannada. While there appeared to have been a lull in the incidents from April 2021 till August, a rise in these communal incidents was observed in the months of September – October, co-terminus with the aggressive and vocal calls for enactment of various legislations to “regulate” conversions and inter-faith marriages.

Daily routines and social interactions are communally policed, and social segregation is violently enforced in the coastal parts of Karnataka. To get a sense of the deep-rooted communal polarisation and segregation that is being effected in the society here, we can recollect a recent incident of a young man who was stopped from playing cricket in the grounds of a temple in the town of Sullia, Dakshina Kannada by a temple official on the account that he was a Christian.⁵ A video of the interaction between the temple official and the group of young men was shared widely on social media. In the video, the temple official is seen arguing with a group of men who play cricket in the temple ground saying – *“If we have to fight, I am ready. I have called the MLA and I won’t fear anybody. Isn’t he an SC? He is here playing. But you are playing with people who are not Hindu. Why are you playing here? We don’t go near Muslims and we don’t go near Christians. There is a ground in front of the church. Can’t he go and play there?”*⁶ Incidentally there has been no action taken by the police or the district administration against the temple official.

This has become the accepted normal. No public outrage or protests against the patently communal action of the temple authorities has taken place. No complaints about the inaction of the police and the district administration or dereliction of duty on their part has been registered. The possible reasons behind this inaction will be dealt with in the next part of this Report. Even so, it must be commented that the cumulative effect of these communal incidents is the dismantling of

5 Karnataka temple official asks Christian man playing cricket at premises to leave, The Newsminute 14th July, 2021 <https://www.thenewsminute.com/article/karnataka-temple-official-asks-christian-man-playing-cricket-premises-leave-152329>

6 PUCL-K, “Cultural Policing in Dakshina Kannada, Vigilante Attacks on Women and Minorities, 2008-09”, <https://sabrangindia.in/reports/cultural-policing-dakshina-kannada-vigilante-attacks-women-and-minorities-2008-09>

the notion of fraternity and the entrenching of social segregation. This further enables a social and political environment where such criminal acts are perpetrated with total impunity with no risk of penal or any other consequences. Rather, there is the guarantee of reward.

There is a veritable breakdown of law and order in this region.

The words of Babasaheb Ambedkar ring true in Dakshina Kannada: *“If Hindu Raj does become a fact, it will no doubt, be the greatest calamity for this country. No matter what the Hindus say, Hinduism is a menace to liberty, equality and fraternity. On that account it is incompatible with democracy. Hindu Raj must be prevented at any cost.”*⁷

1.1 Fact-Finding into the incidents of Communal Hate Crimes in April 2021

Need for the Report

The fact-finding into the increased instances of communal incidents in Dakshina Kannada was initiated in the backdrop of the increased number of such incidents being reported in the media (newspapers and online) during the first quarter of 2021. The fact-finding was constituted after several rights-based organizations, mostly in the state's capital, took cognizance of the issue at hand and wanted to understand the unfolding of these incidents in all its complexities to be able to engage with a process that could address the incidents. The continuously increasing number of such communal hate crimes being reported required that the fact finding be done with urgency.

The fact finding team (hereinafter referred to as the *Team*) consisted of Maitreyi Krishnan (All India Lawyers Association for Justice), Manavi Atri (Peoples Union for Civil Liberties - Karnataka), Swathi Seshadri. (All India People's Forum), Manu Choudhary (Women's Rights Activist), Shashank S.R. (Gaurilankeshnews.com).

The fact-finding was undertaken in the month of April 2021 and has focused on the incidents that had taken place till then, and which were reported in the local and state media. The fact-finding committee looked into 12 incidents out of these during their visit from the 10th –

⁷ Pakistan or the Partition of India by Dr. B. R. Ambedkar

12th April, 2021 to the Dakshina Kannada region. The team travelled to the respective Police Stations of Belthangady, Bantwal, Uppinangady, Mudipu, Puttur (including women's police station), Surathkal, Konaje, Ullal, Mulki, the mosque in Farangipete and visited victims of the incidents detailed in Chapter 2. The team met the DCP (Law and Order) and the Commissioner of Mangaluru Police to discuss the role of the police in the region. The Team also spoke to the activists and others concerned from Dakshina Kannada, namely Vidya Dinker, Shabeer Ahamed, Mohammed Kabeer, Mohammed Kunhi and Advocate Puneeth Appu. The Team also spoke to scores of general public during its visits to various places in Dakshina Kannada to understand the communal divide that was being enforced and normalised in Dakshina Kannada. The team also attempted to meet some of the local leaders of Bajrang Dal and Vishwa Hindu Parishad, to no avail.

The team notes that a large quantum of such cases go unreported in newspapers. The fact-finding committee ascertained facts and narratives from the victims in the incidents detailed below, and notes that there is an imminent need to understand the issue of communalization in the day-to-day lives of people of the region.

Though the fact-finding was conducted in April 2021, due to the onset of the second wave of the COVID-19 pandemic, the team was unable to ensure its immediate release. By October 2021, several communal incidents had taken place between the time that the fact finding had been undertaken and the preparation of the Report. In that context, the team believed that it would be appropriate to place the fact-finding report within the large context of the various incidents that had taken place over 2021.

This report can be seen as a continuation of the reports, "*Cultural Policing in Dakshina Kannada: Vigilante Attacks on Women and Minorities, 2008-9*" by PUCL-K, and joint report "*Attacking Pubs and Birthday Parties: Communal Policing by Hindutva Outfits*" dated September 2012 by PUCL-K and Forum Against Atrocities on Women. Both reports provide deep insights into the processes and methods through which entire sections of society in this region have been communalised. It provides a foundational understanding and context to the situation that persists today.

FROM COMMUNAL POLICING TO HATE CRIMES: THE EMERGING PATTERNS

The communal violence in Dakshina Kannada has to be viewed as a challenge to the Constitutional ideal of fraternity. Dr. Ambedkar recognized how difficult, yet important, the principle of fraternity was. As he put it, “*Fraternity means a sense of common brotherhood of all Indians—if Indians are seen as being one people. It is the principle which gives unity and solidarity to social life. It is a difficult thing to achieve.*” He goes on to underline the centrality of fraternity by noting that that “*Without fraternity, equality and liberty will be no deeper than a coat of paint.*”

Two earlier reports are to be referenced to understand the graph of communal violence in Dakshina Kannada - “*Cultural Policing in Dakshina Kannada: Vigilante Attacks on Women and Minorities, 2008-9*” by PUCL-K, and joint report “*Attacking Pubs and Birthday Parties: Communal Policing by Hindutva Outfits*” dated September 2012 by PUCL-K and Forum Against Atrocities on Women.

The Report titled “*Cultural Policing in Dakshina Kannada: Vigilante Attacks on Women and Minorities, 2008-9*” originally used the term “Cultural Policing” to describe the various attacks that were being witnessed in Dakshina Kannada. In the Second Edition of the PUCL Report on Cultural Policing, it was found that the original phraseology used of “Cultural Policing” was inadequate, as it was seen as a value neutral term that did not sufficiently communicate the charge of policing the borders of community with a view to producing self-enclosed, monolithic communities. It was found that the communal fascistic attack on Indian polity and society of groups such as the

Bajrang Dal, Hindu Jagarana Vedike and Sri Ram Sene, all owing their genesis and existence to the RSS, and their aim to disrupt and destroy fraternal ways of living were not captured by the seemingly neutral description as 'cultural policing'. Instead, it was seen that the term best captured the range of illegal actions aimed at destroying the idea of fraternity enshrined in the Indian constitution was 'communal policing'. The Report explains the term communal policing or the policing of the border of the community, to extended not only to social and romantic interactions across communal boundaries but also to norms of dress and choice of entertainment of women within each community.

The growing violence in Dakshina Kannada from thereon has only increased and taken on new forms. This, as detailed in the latter parts of the report, must be seen in the larger context of the rise of the Hindu Right through its political party Bhartiya Janata Party in the centre and regional politics. With what was the fringe, coming to the centre, the form and nature of the illegal actions have taken on new proportions. Solely, on it its own, communal policing as a framework is not adequate to understand the beastly nature of violence. It fails to encompass the brutal acts of violence or recognise the minority identities of the victims that are subject to the violence.

The brutal nature of the Hindutva organizations and their actions which includes use of illegal physical force, weapons and the power of mob mentality, brings forward the need to recognize such actions as **“communal hate crimes”**.

Barbara Perry, a hate crime scholar argues¹ that the concept of hate crime is able to recognise the harm to the victims, as well as the fact that such crimes are an expression of social hierarchy and difference. The predominant victims of hate crime are those already marginalized in other ways, and these crimes themselves contribute towards their further marginalization. Perry understands hate crime as *“a mechanism of power intended to sustain somewhat precarious hierarchies, through violence and threats of violence (verbal or physical). It is generally directed toward those whom our society has traditionally stigmatized and marginalized.”* In the UK, a hate crime is understood to be as *“any*

1 Barbara Perry, *In the Name of Hate: Understanding Hate Crimes* (Routledge 2001)

crime that is motivated by hostility on the grounds of race, religion, sexual orientation, disability or transgender identity.”²

The violent actions of Hindutva organizations that police the boundaries of communities enforcing social segregation, calls for economic boycott against Muslims, and attack in the name of Cattle, all with the intent to segregate, discriminate and subordinate minority communities - are founded on the premise of hatred and prejudice against the minority community. It is perpetuated on persons owing to their membership to a particular marginalised group, and has to be understood as “communal hate crimes”.

The Supreme Court in *Tehseen Poonawalla vs Union of India*, defined hate crimes as,

“20. Hate crimes as a product of intolerance, ideological dominance and prejudice ought not to be tolerated; lest it results in a reign of terror. Extra judicial elements and non-State actors cannot be allowed to take the place of law or the law enforcing agency. A fabricated identity with bigoted approach sans acceptance of plurality and diversity results in provocative sentiments and display of reactionary retributive attitude transforming itself into dehumanisation of human beings. Such an atmosphere is one in which rational debate, logical discussion and sound administration of law eludes thereby manifesting clear danger to various freedoms including freedom of speech and expression.”³

The lack of a law on mob violence - lynching or otherwise, provides an escape for the state to not record data on these instances and the perpetrators (which very often have ties to the state). To questions about the number of incidents of mob lynching/violence, the answer received was “*No separate data for mob lynching is maintained by NCRB.*”⁴. Thus, the State continues to have no official numbers on these crimes.

2 Hate crime: a thematic review of the current evidence Research Report by Olivia Hambly, Joanne Rixom, Shivani Singh and Tamsyn Wedlake-James, UK Government, October, 2018

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/748140/hate-crime-a-thematic-review-of-the-current-evidence-oct2018-horr102.pdf

3 AIR2018 SC 3354

4 <http://loksabhaph.nic.in/Questions/QResult15.aspx?qref=25485&lsno=17>

In order to address the worsening nature of violence and to centre the response to it around the experiences of the victims, it is necessary to understand the communal hate crimes framework along with the communal policing framework. We propose that both these frameworks must go hand in hand to fully understand the gravity of the situation in Dakshina Kannada.

Patterns in Communal Policing and Hate Crimes

It is valuable to formulate evident patterns in the incidents of communal violence to identify the strategies deployed by the Hindutva outfits. It is only when patterns of how the communal violence emerge, can they substantially be responded to.

On an analysis of the various incidents of communal policing and hate crimes in the year 2021 that have occurred, we have classified them into the following categories based on the patterns that emerged:

- I. Enforcing social segregation:** The Hindutva organisations, with the overt and covert support of the State machinery, especially with the BJP in power runs a concerted campaign to ensure the social segregation of, particularly the Muslims, from the rest of society. All inter-faith social interactions from friendships to a mere conversation are prohibited by them.
- II. Dictating Intimacies:** One of the focused activities of the Hindutva organisations has been to prevent any kind of inter-faith intimate relations. Over the last few years, it has begun the bogey of “love jihad”. In this, they accost couples, threaten them and assault them. The police then come into the picture only to take the couple into custody, inform the parents and then release them after “advising” them. There have also been instances of extreme violence carried out by these groups.
- III. Economic Boycott:** Another medium that is used to attack minorities and subordinate them is by calls for economic boycott. This ranges from calls being given not to buy from Muslim vendors to notices being issued prohibiting businesses to actually physical assaults prohibiting Muslims from engaging in business.

- IV. Attacks in the name of Cattle protection:** In the name of cattle protection, violence against Muslims and Dalits have become normalized. With the introduction of the 2021 Amendment ⁵ to the anti-cow slaughter law in Karnataka which hands out hefty punishment for killing cattle, cow vigilantism in the state has only increased. In the State of Karnataka, police have filed 400 cases⁶ and there have been several incidents of cow vigilantism up to September, 2021, and not all of them get reported. fact, those who have nothing to do with cattle are also subject to such violence in the name of cattle.
- V. Curbing Religious Freedom:** Hindutva organisations have been acting to curb religious freedom of minorities including make efforts to forcibly stop them from practicing the religion.
- VI. Hate Speech:** Hate Speech is especially weaponized in the region by right wing Hindutva leaders to deny the exercise of fundamental rights to members of minority communities. All platforms available to these groups ranging from social media to News media to Print media are used as platforms for hate speech. Hate speech seeks to demean, degrade those of minority faiths and deny them the ability to operate in society as full citizens of India.

The effort is to understand the various ways in which Hindutva organizations are looking to create communal polarisation, and the impacts of the same including the manner in which it has seeped into everyday life.

The various incidents from April to September 2021, have been listed below and classified in the above six patterns. Thereafter, they are categorised in two parts; firstly, as the incidents reported in the media chronicled by Shri. Suresh Bhat Bakrabail and secondly, as the incidents that the fact-finding team looked into.

5 [https://dpal.karnataka.gov.in/storage/pdf-files/01%20of%202021%20\(E\).pdf](https://dpal.karnataka.gov.in/storage/pdf-files/01%20of%202021%20(E).pdf)

6 Anti-cow slaughter law: 400 cases but no gaushalas in every Karnataka district yet, Deccan Herald 28th September, 2021, <https://www.deccanherald.com/state/top-karnataka-stories/anti-cow-slaughter-law-400-cases-but-no-gaushalas-in-every-karnataka-district-yet-1034884.html>

I. Enforcing social segregation

The reported⁷ incidents of social segregation are detailed below:

- 1.1. 14.01.2021: Members of the Sangh Parivar barged into a birthday party being held at a café in the Aruna theater premises, Puttur, claiming that boys and girls of different religious communities were present. The Police intervened and took the students to the police station and from there sent them home.
- 1.2. 15.01.2021: Alleging that Mir Parash (20), conductor of a private bus was continuously 'flirting' with a Hindu girl working at Karkal, two members of Sangh Parivar intercepted the bus at Kuntadi, and beat up Parash after asking him to get down. Parash has lodged a complaint of foul language and assault against the duo Santosh and Ashok at the Karkal Rural Police Station.
- 1.3. 18.02.2021: Members of the Sangh Parivar intercepted and stopped a bus at Kumbhasi on the basis of information from their colleagues in Udupi that a Muslim boy and girl were travelling together in the bus. It turns out that the Hindu girl and Muslim boy were neighbours from Kampli, Bellary who were studying in a college in Mangaluru and travel together every time they went home. The Sangh Parivar members made the couple alight from the bus and questioned them, and informed the police, who then took the duo to the police station and released thereafter.
- 1.4. 17.03.2021: Members of Bajrang Dal intercepted a bus and forced three youth including a woman belonging to different faiths, off the bus at Bantwal bus stand, causing a huge commotion. The two Muslim men and a Hindu woman were travelling together to attend a wedding in Bengaluru. The incident went viral on social media with accusations of the Bajrang Dal members gheraoing the trio. Police intervened and dispersed the crowd and the three youth were taken to the police station and later sent on their journey when it was "safe". Reportedly, no criminal case was registered since the trio refused to file any complaint and the police refused to register a suo- moto case.

7 These incidents are as per the "A Chronicle of Communal Incidents in the Coastal Districts of Karnataka" by Shri. Suresh Bhat Bakrabail

- 1.5. 04.06.2021: In a complaint lodged at the Sullia Police Station, Sundar Pataje, President of Ambedkar Rakshana Vedike, Dakshina Kannada has accused Bajrang Dal leader Latish Gundyia of posting defamatory messages against one Abhilash and threatening to kill him. Abhilash is the driver of Pragati ambulance owned by Ashraf, a Muslim. In the complaint, it is alleged that Latish in his message has asked Abhilash not to drive the ambulance belonging to a Muslim and not to carry dead bodies of Hindus in it; and if he did, he would be killed.
- 1.6. 14.07.2021: Authorities of a temple near Jayanagar, Sullia objected to a Christian youth playing with Hindu boys in the temple playground. The authorities advised the Christian boy to play in the church premises. The man representing the temple, identified as Praveen, forced him to leave. He also questioned Hindus why they are playing with people following other religions.
- 1.7. 19.08.2021: Guardians of some children have registered a complaint at the Sullia police Station against the SDMC president Sudarshan Pathikallu for calling children of a particular community as 'Talibanis' and preventing them from playing. The incident occurred while the children were playing at the Kolchar school grounds.
- 1.8. 20.08.2021: Two girls from Bengaluru who had come to Puttur on some work and were returning by a Puttur - Bengaluru bus. A Muslim youth from Bellary was occupying the seat behind the driver. While the bus was on its way, some members of the Bajrang Dal who happened to be traveling by the same bus raised a hue and cry alleging that the Muslim youth was chatting with the girls on mobile. They took away his mobile. In the meanwhile, the Bajrang Dal members spread word among their network, and more members began following the bus in a car. Scared, the youth tried to get down at Jalsoor. But the Bajrang Dal men did not allow him to get down. They asked him to come to the Sullia Police Station. Meanwhile, another group supporting the youth assembled at the spot and there were heated exchanges between the two groups. The Sullia police immediately rushed to Jalsoor

and took the bus and the members of both groups to the police station. There a heated exchange took place between the police and members of the Bajrang Dal activists who numbered around 50- 60, who were insisting that action should be taken against the Muslim youth. But when the police examined the mobiles of the youth as well as those of the girls, they did not find any record of chatting as alleged by Bajrang Dal activists. Thereafter, they were allowed to go.

- 1.9. 26.08.2021: The Punjalkatte Police registered a case and arrested three members of a five-man group on the charge of wrongfully restraining a group of six paramedical students who had gone to Karinjeshwara temple in Bantwal taluk. The six college students (three boys and three girls) had gone to Karinja Hill, and after visiting the temple were down at the pond at the foothills where they were stopped by the five-member group. On learning that the students belonged to different religions, the group questioned them about the purpose of their visit to the hill. After a complaint by a girl student, the police registered a case against the five-member group under Section 341 (wrongful restraint) of the Indian Penal Code. The five-men group is said to belong to the Sangh Parivar.
- 1.10. 29.08.2021: The management committee of the Mahalingeshwara Temple in Puttur has decided to ban the parking of vehicles belonging to non-Hindus at Devaramaru Gadde, a parking spot belonging to the temple. The committee of the temple which comes under Karnataka Hindu Religious and Charitable Endowments Department has warned of legal action if non-Hindus Park their vehicles at the site.
- 1.11. 01.09.2021: Five Muslim youth assaulted and issued threats to two Hindu youths for talking to a Muslim woman. Based on a complaint filed by the youth the police registered a criminal case and arrested three Muslims.
- 1.12. 22.09.2021: Members of Hindu Jagarana Vedike barged into a restaurant in Puttur and questioned a woman who was having dinner with two men, of whom one was a Muslim. They abused the woman for sitting with two men, took their photographs

and assaulted one of the men. There were other members of the Vedike standing outside the restaurant. The police rushed to the spot and took away the woman and her two colleagues. Based on a complaint by the woman, the police arrested 2 persons for offences punishable under Sections 143 (unlawful assembly), 147 (rioting), 323 (voluntarily causing hurt), 504 (intentional insult with an intent to provoke breach of peace) and 509 (act intended to insult modesty of a woman).

Incidents of enforcement of social segregation that the Team looked into:

a. Attack on students on 25.02.2021 at Ermai Falls, Mittabagilu village, Ujire, Belthangady Taluk, Dakshina Kannada, Karnataka.

We met the Inspector at the Puttur Women's Police Station. He provided us information in regard to the incidents that had taken place at Ermai Falls, Mittabagilu village, Ujire, Belthangady Taluk, Dakshina Kannada, Karnataka.

He told us that 7 Students studying at Mangaluru which included one Muslim youth came to see the Ermai Falls situated at Ujire on 25.02.2021. It appears that at the time of entering the falls, someone at the counter collected information about the students.⁸ When they were at the falls, a group of 5 people followed them and captured their photo on the mobile. When they were returning from the falls around 4.00 p.m., they were stopped by 5 people. They were asked by the 5 people as to who the Muslim boy with them was. When the students told them there was nothing wrong with the Muslim boy being there, the 5 persons shouted at them. Shri Imran was taken away and beaten by them with their hand, and when the same was questioned by another student, Shri Akash, he was also beaten by them on his head. The culprits restrained the students and told them they were waiting for their leader. After some time one Vinaychandra came and made Imran stand and other three students sit and captured their photo and put it on social media including WhatsApp, Facebook and Instagram.

8 In Mangaluru, Hindutva groups wield a web of informers to target interfaith friends, The Newsmintue, 6th July, 2021, <https://www.thenewsminute.com/article/mangaluru-hindutva-groups-wield-web-informers-target-interfaith-friends-151860>

According to the police, the men who accosted them included Vinaychandra, a BJP member and Ajith and Bharat, affiliated to Bajrang Dal. A complaint was filed with the Puttur Women's Police Station and is registered as Crime No. 8/2021.

b. Attack on students celebrating a birthday on 14th January, 2021 in Puttur

We met the Inspector and Sub-inspector of the Puttur Police Station. They informed us of an incident that occurred on 14th January, 2021 when students from Philomena's College had gone to a cafe called Coffee and Creams, behind Aruna theatre to celebrate one of their birthdays. Members of a Hindutva Right Wing organization had gathered there saying that there were some Muslim youth who were part of that group and they should not celebrate the birthday together. The police were called by the Café owners, and upon going there the police said that they informed the members of the organization to leave and also asked the students to leave. It appears that no complaint was registered in this incident against those who had attempted to enforce moral policing.

c. Attack on inter-faith friends on 30th March, 2021 at Surathkal, Mangaluru Taluk, Dakshina Kannada District

A report appeared in the Kannada Newspaper, Prajavani on an incident of communal violence that occurred in Surathkal on 30th March, 2021. We met the inspector at Surathkal Police Station. He informed us that two youths were travelling together on a bus. They were childhood friends travelling together to meet one of their relatives. It so happened that the girl was a Hindu and the boy, a Muslim. The bus conductor informed members of Bajrang Dal who stopped them at Surathkal. We met the Inspector Surathkal who informed us that as soon as he received the information, the police went to the spot and seeing the police, the group left. He told us that he asked the youth if they wanted to file a complaint, and they said they did not want to.

The Inspector informed us that on his posting to Surathkal he had issued a memo stating that strict action must be taken to ensure

maintenance of communal peace and also regularly spoke to the community leaders.

d. Attack on inter-faith students on 29.03.2021 at Mulki, Mangaluru Taluk, Dakshina Kannada District

Through news reports we became aware of a case of communal policing at Mulki and met the police officials at the Mulki Police Station. We were informed that on 29.03.2021 two students studying at Pompei College, were speaking to each other. Shyam Sundar Shetty, the Area Secretary, VHP along with two others persons brought a Muslim youth to the Police Station and filed a complaint at Mulki Police Station claiming that he was talking to a girl from another religion, and seeking for action to be taken about activities around Pompei College. The Muslim youth said that the girl in question had asked for his notes and hence he was speaking to her. Thereafter, she left. Since her ID card had gotten left behind with him, she called him back and he came back to return her ID card. After she left, 3 men started questioning him and brought him to the police station. We were informed that when the complainant found out that the girl in question was not a Hindu, they did not press the matter, and filed a complaint stating that the students were not studying and were forming groups [Case reference No. CCR: 11.IMPS/PTN/2021]. Very strangely, the police issued a letter on the basis of the same to the Principal of Pompei College seeking that they ensure that students don't come together and form such groups and concentrate on studying.

e. Attack on Masjid on 03.04.2021 by two adolescent youths at Surathkal, Mangaluru Taluk, Dakshina Kannada District

In our conversation with the Inspector, Surathkal Police Station he told us about an incident that was extremely disturbing. On the night intervening 03.04.2021 and 04.04.2021, in Janata colony at Kanakatte, two minor adolescents threw a stone at a masjid and broke the window. The leaders of both the Muslim and Hindu communities met the next day on 04.04.2021 both agreeing that the incident had taken place by outsiders and made a decision

not to file any complaint and decided to ensure the maintenance of communal harmony. However, an FIR was registered in this incident bearing No. 38/2021 by the Surathkal Police Station. The Police said that on the basis of CCTV footage they caught two youths, who were from neighbouring areas. When they asked them for the reason as to why they had thrown the stone, they are said to have stated that the masjid was 50 meters away from a Ganapathi temple. While the temple had one floor, the masjid had two floors and was at a higher level from the Temple, and they said that this had angered them.

Observations

As seen above, Hindutva organisations, with the overt and covert support of the State machinery, especially with the present dispensation in power, runs a concerted campaign to ensure the social segregation of, particularly Muslims, from the rest of society. This is done through criminal actions aimed at preventing all forms of social interactions between Muslims and Hindus. Its members consistently disrupt every social interaction – be it a picnic or party - where people from different faiths are interacting. They repeatedly stop buses where a man and woman from Hindu and Muslim community are travelling together. They prevent youth from playing together, students from talking to each other and moving around with each other. This is done with total impunity and with the confidence that there are no repercussions for their criminal activities. It is so blatant that these crimes are now routinely video-graphed by the members of Hindutva organisations and circulated on social media. Any action by the police is at best cursory. These actions which constitute criminal offences are ignored by the police who, if at all, register criminal cases against these persons for lesser offences without invoking the provisions pertaining to spreading religious hatred.

These actions are against the spirit of communal harmony and fraternity as enshrined in the Constitution.

The groups and individuals engaged in this political project of communalising in the coastal districts all bear their allegiance to the RSS and its fraternal organisations. As far back as 1937, at the 19th Session

of the Hindu Mahasabha, V.D. Savarkar, president of the Mahasabha articulating sole proprietorship over India stated,

*“There are two antagonistic nations living side by side in India...India cannot be assumed today to be a homogenous nation, but on the contrary, there are two nations in the main: the Hindus and the Moslems, in India.”*⁹

This setting up of the Muslim as the “other” is central to its political project of Hindu Rashtra. How then are Muslims to be treated in this Hindu Rashtra? M.S. Golwalkar, who would go on to become the general secretary of the RSS later, lays out the prescription for their treatment in “We or Nationhood Defined” in the following words:

“The non-Hindu peoples in Hindusthan must either adopt the Hindu culture and language, must learn to respect and hold in reverence Hindu religion, must entertain no idea but those of glorification of the Hindu race and culture i.e., they must not only give up their attitude of intolerance and ungratefulness towards this land and its age-long traditions but must also cultivate the positive attitude of love and devotion instead—in other words they must cease to be foreigners, or may stay in the country, wholly subordinated to the Hindu nation, claiming nothing, deserving no privileges, far less preferential treatment—not even citizen’s rights. There is, or at least should be, no other course for them to adopt. We are an old nation; and let us deal, as old nations ought to and do deal, with foreign races, who have chosen to live in our country.”

The normalisation of Hindu majoritarianism comes to fruition through the disempowerment of Muslims and the undermining of their status as equal citizens. At the core of every act of communal policing and hate crime lies the intention of creating, magnifying and institutionalising difference and separation on the sole basis of religion. This has created an atmosphere where the wider phenomenon of social segregation is violently enforced, with tacit understanding with the State. The impunity enjoyed by the perpetrators of this social segregation emboldens them to introduce it into every simple act of daily life and social interactions.

9 Samagra Savarkar Vadmay - Volume 6, Maharashtra Prantik Hindusabha Publication, 1963-65, Page 296

A pattern common in these incidents are celebratory messages shared by right-wing groups after such attacks. A message widely shared on WhatsApp following the 1st April incident in Pumpwell Circle says “Continued Operation of Bajrang Dal Today (Thursday 01/04 night) A Hindu young woman who was fleeing with a Muslim man was traveling from Mangaluru to Bengaluru. Bajrang Dal activists stopped the couple near Pumpwell”



The WhatsApp message being circulated to claim ownership of the attack on the interreligious couple

The role of the police in the enforcement of social segregation can be viewed in two related ways: on one hand they treat the victims as wrong-doers by taking them to the police station and questioning them and on the other hand they fail to take action against the vigilante organisations and its members thereby emboldening them.

In the incident at Surathkal, two childhood friends who were travelling together were stopped by members of Bajrang Dal. They were said to have been stopped after the girl was spotted resting her head on the shoulders of the boy. According to a message from the Mangaluru Police Commissioner “... This was observed by other passengers on the bus and they got down from the bus in Vidyadayini Circle. Upon information they were taken to the police station”¹⁰. Similarly, in another incident at Mulki on 29.03.2021 two students were speaking to each other at the bus stand. Members of the VHP picked up the boy who was Muslim and

10 In Mangaluru, Hindutva groups wield a web of informers to target interfaith friends, The Newsmminute, 6th July, 2021, <https://www.thenewsminute.com/article/mangaluru-hindutva-groups-wield-web-informers-target-interfaith-friends-151860>

filed a complaint at Mulki Police Station claiming that he was talking to a girl from another religion. The Police instead of taking action against the members of VHP issued a letter to the Principal of Pompei College asking the management to ensure that students don't come together and form such groups and concentrate on studying. On 19th August, 2021¹¹, a bus going to Bengaluru was stopped by members of the Hindu Jagarana Vedike and a Muslim man and Hindu woman travelling in it were dragged to the police station over suspicions that they were travelling together. According to the police, says the report, the Hindu Jagarana Vedike members chased the bus in a car and stopped it, based on information that the Muslim man and Hindu woman were travelling together. As it happened, the man and woman didn't even know each other, but they were taken to the Sullia police station. The Sullia Police inspector is reported to have said "*there was no prior connection between the man and the woman... We checked their phones*".

The stark contrast in the police's response can be illustrated through the incident detailed in 1.11, wherein when the members of the Muslim community threatened two Hindu youths for interacting with a Muslim women, a complaint was registered and the police proactively arrested them. This shows that the political and religious identity of the alleged accused becomes a significant factor in whether the police registers an FIR or not. This is the categorical difference of response of the police, when the accused is a Muslim vis a vis a Hindu, and the complainant is a Hindu vis a vis a Muslim.

Historically as well, this difference persisted in the response to communal policing largely by the State, as highlighted in the PUCL Report of 2008-09, "*While communal policing is not exclusive to Hindutva groups, one should note that the key difference is the access that Hindutva groups have state power which has protected and shielded a history of continuing anti-constitutional actions. The access to state power of Hindutva groups means that they exercise control over both the private and the public spheres rendering their form of 'communal policing' far more totalitarian.*"

11 Hate Pays: The ease of targeting Minorities in India July 2019 Citizens Against Hate, <https://citizensagainsthate.org/wp-content/uploads/2020/03/Hate-Pays-The-ease-of-targeting-minorities-in-India-July-2019.pdf>

This differential application of the law is in gross violation of Article 14 of the Constitution. Enforcers of social segregations – irrespective of their religion, must be dealt with equally before the law.

The treatment of inter-faith interaction as an offence that needs enquiring into shows the manner in which the police effectively assist the Hindutva organizations in enforcing social segregation. By failing to register complaints against the members of these groups for their acts of violence, they are granted impunity to continue their violent acts.

Thus, all inter-faith social interactions are prohibited by these vigilante groups who have laid down this law. Fraternity is the root of democracy. Social segregation, as is being enforced and normalised in Dakshina Kannada, cannot therefore be seen only as criminal acts, but as acts that undermines the very fundamentals of our Constitutional democracy.

II. Determining and dictating intimacies

The reported¹² incidents in regard to Determining and dictating intimacies are detailed below:

- 1.1 03.02.2021: Upon finding a couple at an isolated place at Mudipu, Mangaluru, members of Hindu Jagarana Vedike questioned them. The inter-faith couple raised objections and were attacked with a helmet. The couple were handed over to the Konaje police, who eventually set them free.
- 1.2 11.02.2021: Members of Bajrang Dal swooped down on an inter-faith couple, about to depart in a car to Madikeri for a picnic and handed them over to the Kankanady police. The police questioned the couple, who were students, informed their parents and then released them after giving “some advice”.
- 1.3 28.02.2021: Sachidananda Murthy, the chairman of ‘Association for Development of Brahmins’, speaking on the occasion of inauguration of ‘Brahmi Yuva Brahmin Parishat’ at Doddanagudde in Udupi said that Hindu and Brahmin girls are being especially targeted for ‘Love Jihad’ and it is part of the conspiracy against Hindutva and Brahmin community. According to Murthy, out of the 10800 Love Jihad cases in the state more than 4000 involve Brahmin girls and most of these cases have occurred at Sirsi in Uttara Kannada district.
- 1.4 29.03.2021: Members of Hindutva organisations tried to intercept a bus at Moodabidri, in which an inter-faith couple was travelling. This was averted by the police, who stopped the bus a few metres before it reached the bus stop and took them away to a safe place. The police questioned the couple and spoke to their parents before letting them off.
- 1.5 01.04.2021: Members of vigilante groups dragged an interfaith couple from a private bus near Mahaveer (Pumpwell) circle, Mangaluru and assaulted the youth before fleeing. The youth from Jokatte was travelling with a Hindu woman on a bus to

12 These incidents are as per the “A Chronicle of Communal Incidents in the Coastal Districts of Karnataka” by Shri. Suresh Bhat Bakrabail

Bengaluru. A group of vigilantes stopped the bus at Mahaveer circle and forced the couple to alight from the bus. The woman was handed over to her parents who were summoned to the spot. The vigilantes assaulted the youth before fleeing from the place. The youth was admitted to hospital and complaint was registered at Kankanady police station. Reportedly this was the fourth such incident within ten days with previous instances of interfaith couples being forcibly alighted from buses were reported in B C Road, Moodabidri, Surathkal and Mangaluru and in all previous three incidents, no cases had been registered.

- 1.6 17.08.2021: Addressing a protest meet at the Clock Tower, Mangaluru, Ganaraj Bhat, a leader of Hindu Jagarana Vedike said *'there are jihadist forces that draw Hindus towards terrorism in various forms; Hindu girls are being lured and later made to commit anti-national activities; hence in order to protect our community we will police it ourselves'*.

Observations

One of the focused activities of the Hindutva organisations is to prevent any kind of inter-faith intimate relations. In this, they accost couples, threaten and assault them. The police then come into the picture only to take the couple into custody, inform the parents and then release them after “advising” them. Lies are peddled consistently in the name of Love Jihad.

There are concerted efforts with the intention to ensure that Hindus and Muslims of different sexes do not fraternize in any form. These strictures are imposed on not just boy-girl love affairs, but extends to interaction of all forms, including friendships.

Over the last year, the BJP and the various Hindutva fundamentalist organizations have been raising the bogey of ‘love jihad’ and in its name has been forcibly detaining and assaulting inter-religious groups or couples, where the man belongs to the Muslim community and the woman belongs to the Hindu community. While in some cases, there was outright violence against them, in some instances, the police have intervened.

The first use of the concocted concept of love jihad was in fact in the same region of Dakshina Karnataka in 2007 by the vigilante group - Hindu Jannajagriti Samiti. It was also called 'Romeo Jihad' – in which 'love' was allegedly used as a 'weapon' by the Muslim youth to 'convert' innocent Hindu girls. This term gained greater legitimacy with the High Courts of Kerala and Karnataka using it in their court orders. It is crucial to note that during the first two matters when the DGP was required to probe the issue of love jihad, no evidence of it was found. In fact a report of the Director General of Police (CID) in 2009, who carried out detailed enquiries into "love jihad" found that there was, "no organized attempt by any group of individuals to entice girls/women belonging to Hindu or Christian religions to marry Muslim boys with the aim of converting them to Islam religion."¹³ In fact, the Report notes that "many of the girls who have married outside their religion and who could be contacted by our teams stated that they are leading a happy life after marriage."

There was no basis to this mythical concept of love jihad then, and there is no basis then. As recent as February of 2020, the Ministry of Home Affairs on being asked about any reported cases of love jihad on the floor of the Lok Sabha answered that,

*"Article 25 of the Constitution provides for the freedom to profess, practice and propagate religion subject to public order, morality and health. Various courts have upheld this view including the Kerala High Court. The term 'Love Jihad' is not defined under the extant laws. No such case of 'Love Jihad' has been reported by any of the central agencies. However, two cases from Kerala involving inter-faith marriages have been investigated by the National Investigation Agency (NIA)."*¹⁴

Despite the idea of "love jihad" being a complete bogey, the Hindutva organisations with the support of the BJP, continuously push this propoganda that criminalizes Muslims and infantilizes women.

13 8 years before NIA, Karnataka CID probed 'love jihad', found no specific instance, Indian Express, 22nd August, 2017, <https://indianexpress.com/article/india/8-years-before-nia-karnataka-cid-probed-love-jihad-found-no-specific-instance-4807667/>

14 <http://164.100.47.194/Loksabha/Questions/QResult15.aspx?qref=11406&lsno=17>

A person's right to autonomously choose partners or make life decisions is not optional since it is a fundamental right enshrined in the constitution, unequivocally held by the Supreme Court of India to be integral to Article 21 of the constitution. In Justice K.S Puttaswamy v. Union of India¹⁵, a the Supreme Court held that

“The autonomy of the individual is the ability to make decisions on vital matters of concern to life... The intersection between one’s mental integrity and privacy entitles the individual to freedom of thought, the freedom to believe in what is right, and the freedom of self-determination... The family, marriage, procreation and sexual orientation are all integral to the dignity of the individual.”

The Supreme Court in the case of Shafin Jahan vs. Asokan K.M. and Ors¹⁶, has gone to the extent of recognising that,

“75. ... Neither the state nor the law can dictate a choice of partners or limit the free ability of every person to decide on these matters. They form the essence of personal liberty under the Constitution.”

The Supreme court has been crystal clear that the right to choose a partner for marriage arises from a fundamental right which cannot be denied on the whims of a vigilante group. Not only that, courts have in fact welcomed, the inter-caste and inter-faith marriages that are taking place across the country. Such a right or choice is not expected to succumb to the concept of “class honour” or “group thinking”.

The police's continuation of the practice of 'counselling' Hindu women fraternizing with men of minority communities is an imposition of subjective morality upon citizens of the country by a constitutional functionary, which is impermissible. The acts of the Hindutva organizations is an assault on the idea of equality and fraternity embedded in our Constitution.

15 [2017 (10) SCC 1]

16 (2018) 16 SCC 368

III. Economic boycott

The reported¹⁷ incidents of economic boycott are detailed below:

- 1.1 During the COVID-19 crisis, it was seen that there were spread of hate speech and calls for economic boycott against Muslims and their business activities. While some have been direct calls for economic boycott, in other instances, there have been indirect ways in which such calls have been made.
- 1.2 On 03.01.2021, some miscreants started a campaign on the social media against fruit and vegetable stalls operated by Muslims. The message being circulated on WhatsApp, Facebook etc. asked people not to purchase anything from the road-side stalls operated by Beary (local Muslims) as the fruits and vegetables being sold there are deliberately poisoned in order to kill Hindus and that the entire operation is being financed by China. The message is accompanied by a picture showing a Muslim man sitting in his shop. Abdulla from the Hawkers' Association has alleged that this is a conspiracy to destroy the livelihood of Muslims and approached the police to take suitable legal action against such miscreants.
- 1.3 A Notice was put up at Krishnanagara in Thokkottu near Mangaluru, read, *"In the interest of the public, until coronavirus is completely contained, there is no entry for any Muslim vendor to our locality."*¹⁸

Incidents of economic boycott that the Team looked into:

a. Attack on Shri Abdul Haris, street vendor, on 10.03.2021 at Uppinagadi village, Puttur taluk, Dakshina Kannada district.

We met Shri Abdul Haris who was subject to violence on 10.03.2021. Abdul Haris works as an ice-cream vendor. Both he and his brother have been working as ice-cream vendors for about 10 years.

17 These incidents are as per the "A Chronicle of Communal Incidents in the Coastal Districts of Karnataka" by Shri. Suresh Bhat Bakrabail

18 Muslim vendors barred after social media misinformation, Deccan Herald, 8th April, 2020 <https://www.deccanherald.com/state/top-karnataka-stories/muslim-vendors-barrred-after-social-media-misinformation-823066.html>

On 10.03.2021, Shri Abdul Haris was attacked by a group of about 50 members, when he was vending. The annual festival Mukke Jaatre celebration happens at the Sahasra Lingeswara Mahakali Temple during the month of March every year. During the Jaatre, street vendors of all communities put up stalls every year, and there has not been any problems till this incident.

Shri Haris took permission from the temple authorities and put up his ice cream stall 600 meters away from the temple. He had already come twice earlier and vended, and there had been no problem.

On the last day of the Jaatre, i.e. 10.03.2021 around 12.00am in the night a group of about 50 people gathered at his ice cream stall and demanded that he pay Rs. 8,000/- to them. They were led by Mahesh Bhaje from the Bajrang Dal and Gau Rakshak Pramuk Puttur Prantya. They told him that Muslims can't vend in this place and asked him how much money he had earned. Then they forcibly put their hand in his pocket and took the Rs. 4,200/- that was inside. They took the money and gave him a receipt in the name of the temple. They abused him saying "*Bearys can't put a stall here, Sule maga*" and some members from the group jumped into his ice cream van and broke the lights and asked for more money. Finally, they took all the money that he had with him and damaged his vehicle.

He said that Mahesh Bhaje had several cases pending against him. He told us that he and other members of the Muslim community would regularly vend at the same place during the Jaatre for several years. However, the Sahasra Lingeswara Mahakali temple committee had undergone a change and a large number of RSS members were now part of the committee.

Subsequent to the incident, Shri Abdul Haris filed a complaint at the police station and FIR bearing No. 0022/2021 has been registered by the Uppinangady Police Station. After he filed the complaint, he received a call from 3 different persons demanding that he withdraw the complaint. However, he is firm that he wants justice for the violence to which he was subject to.

He said that they did not look at things through such a religious lens, and in fact the person who supplied the ice-cream to him was a Hindu. He was visibly shaken by the incident that had taken place and said that having been targeted solely for his religious identity, he is deterred from going to any more Jaatres.

We were also informed of another incident that had occurred on 06.02.2021, when during the annual Shivaratri festival, the stalls of two Muslim fruit vendors near Negigar and Hitnal cross was put on fire. The police came to the spot on the same night and asked the vendors not to file a complaint because this incident may escalate into a communal issue, and assured them that some compensation would be paid to them. We were informed that on Shivaratri festival night, several people would get intoxicated and steal various items and create other mischiefs.

Observations

The instances of economic boycott of members from a particular religious identity has vivid similarities to the call for boycotts of Jewish businesses during the Nazi Germany led Genocide. Similar to the slogan of not purchasing anything from Beary Muslims, Nazis used a boycott slogan of “*Don't buy from Jews*”, “*Jews are the misfortune*”.¹⁹ On the 1st of April 1933, a national campaign calling for the boycott of Jewish businesses in an attempt to drive Jews away from the German economy was undertaken.

These calls for economic boycott based on religion are not limited to this region but are gaining legitimacy as a strategy across the country especially by the use of online platforms.²⁰ What is particularly striking about such economic boycotts is that they can be seen evidently having immediate and direct consequences on members of the community who are boycotted.

At the height of the pandemic, miscreants began to take the law in their hands and forced the general public to not buy from the Muslim

19 <https://www.ushmm.org/learn/timeline-of-events/1933-1938/anti-jewish-boycott>

20 The ‘Hindutva Ecosystem’ Has a New Anti-Muslim Narrative. This Time Street Vendors Are the Target, The Wire, 28th Jun, 2021, <https://thewire.in/communalism/hindutva-ecosystem-muslim-fruit-sellers-threat-india>

Street vendors, resident welfare associations barred entry of Muslim vendors in premises, even volunteers providing relief measures were boycotted on account of religion.²¹

In public places such as markets, shops are seen having small saffron bhagwa flags at their very entrance to symbolise the identity of the owner of the shop as Hindu. One human rights activist shared with us that recently a narrative that is gaining popularity in rural areas is that one must not purchase anything from shops owned by members of 'other' communities.

In fact, leaders of Hindutva organizations have turned this fear into a business model. Sharan Pumpwell of the VHP runs a security service business for private establishments. These private establishments include three to four malls in city all of which house high end restaurants, pubs and bars²²—the same high pubs and bars in which the youth especially women are attacked by Hindu Right organisations since they 'violate' the majoritarian morality imposed by the Hindutva organizations. And yet, Sharan Pumpwell continues to be in business with these bars and pubs to make economic gains.

This economic and social boycott is an attack on Article 15 of the Constitution. In fact, the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 makes the imposition of social or economic boycott against a person belonging to the Scheduled Caste or Scheduled Tribe community, a criminal offence²³. This provision gives us a legal framework to think about these open calls for economic and social boycott.

21 The Wages of Hate: Journalism in Dark Times, Campaign Against Hate Speech, September, 2020, <https://hatespeechbeda.wordpress.com/2020/09/08/report-wages-of-hate-journalism-in-dark-times/>

22 Where fear is a business model: What's changed 9 years after the Mangaluru Pub Attack?, The Newsmminute, 17th March, 2018, <https://www.thenewsminute.com/article/where-fear-business-model-what-s-changed-9-years-after-mangaluru-pub-attack-78101>

23 Section 2(bc) of the SC/ST (Prevention of Atrocities Act), 1989, defines "Economic boycott" as -

- i) a refusal to deal with, work for hire or do business with other person; or
- ii) to deny opportunities including access to services or contractual opportunities for rendering service for consideration; or
- iii) to refuse to do anything on the terms on which things would be commonly done in the ordinary course of business; or
- iv) to abstain from the professional or business relations that one would maintain with other person;

IV. Attacks in the name of Cattle protection (Gau Raksha) – An attack on social, economic and cultural rights of minorities

The reported²⁴ incidents of attacks in the name of cattle are detailed below

- 1.1 09.01.2021: Three makeshift beef stalls operating in Thokkottu Olapete, Mangaluru were set on fire. The police have registered a case of arson. Incidentally on 07.01.2021 a delegation comprising Arjun Madoor the convener of Ullal VHP and Bajrang Dal; Rakshit Thokkottu, the *Prakhand Gau Raksha Pramukh*; Pavitra Kerebail, the *District Joint Gau Raksha Pramukh* and Kaushik Ullalbail had submitted a memorandum to the Ullal Municipality and the Ullal police station urging that the three beef stalls were operating illegally and should be cleared forthwith. The Team spoke to one of the stall owners and a report on that is detailed below.
- 1.2 12.01.2021: Members of the Sangh Parivar intercepted a truck carrying cattle at Mudipu and accused the occupants of illegal transportation. Meanwhile police from the Konaje station arrived at the spot and took the truck into custody. The truck was said to have been carrying six cows and a calf from Kotekar K.C. Road to Bakrabailwith permission from a veterinarian.
- 1.3 31.03.2021: Members of vigilante groups assaulted two men, Abdul Rahim and Muhammad Mustafa, suspecting them to be cattle lifters. Abdul Rahim and Muhammad Mustafa were on their way to get their pick-up vehicle repaired on Belthangady Church Road in the evening. When they were near the Melantabettu *gram panchayat* office, a few persons arrived in an OMNI car and assaulted them accusing them of transporting cattle. The Team met with Abdul Rahim and Muhammad Mustafa and the same is detailed hereunder.

24 These incidents are as per the "A Chronicle of Communal Incidents in the Coastal Districts of Karnataka" by Shri. Suresh Bhat Bakrabail.

- 1.4 06.04.2021: Members of Bajrang Dal halted a pick-up vehicle said to be carrying a cow and a calf illegally and handed it over to the Kadaba police along with the transporter Santosh. However, it was seen that there was nothing illegal and the transporter with his cattle and the vehicle were released.
- 1.5 13.04.2021: Members of Hindu Jagarana Vedike intercepted a vehicle carrying a cow and calf at Kashimath near Vittal.
- 1.6 06.07.2021: A gang of three men attacked a person for allegedly illegal transportation of cattle near Rampur junction at around 10.00 p.m. The Manipal police arrested one of the attackers as well as the transporter. They are Giriraj (28) and Sheikh Abdulla, respectively. The other two attackers, Romeo and Hari managed to escape. Cases have been registered against both parties.
- 1.7 18.09.2021: Members of a Hindutva outfit stopped a tempo alleging illegal transport of cattle at Modumarnadu Guddadamelu and informed the Moodabidri police. A team of policemen arrived at the spot, seized the vehicle with the cattle and arrested the transporters Harishchandra Acharya and Karia.

Incidents of attacks in the name of cattle that the Team looked into:

- a. **Attack on Shri Abdul Raheem and Shri Muhammad Mustafa, on 31.03.2021, at Melanthu Bettu village, Belthangady Taluk, Dakshina Kannada District in the name of transportation of cattle**

The Team met with the victims of a gruesome assault who were attacked in the name of transportation of cattle.

We met Shri Abdul Rahim and Muhammad Mustafa, both victims of a hate crime. Shri Abdul Rahim and Muhammad Mustafa are neighbours residing in Thanirupantha village, Belthangady Taluk. Shri Abdul works as a driver and Shri Mustafa works as a daily wage worker. They informed us that on 31.03.2021, both of them had travelled to Belthangady to get Shri Abdul Rahim's pick-up truck repaired. However, since it was evening, they could not get it repaired. They went to Mr Rahim's relative's house at Savanal for

dinner, after which they headed back to their village from Savanal around 10.30 pm.

On their way back, near the road at Melanthu Bettu village, their vehicle was blocked by a two-wheeler. Thereafter, an Omni van and another bike came with about 20 to 25 people. They had an iron rod in their hand, using which they hit the front door of Shri Abdul Rahim's vehicle. They beat both of them with an iron rod, wooden stick and slippers. They also threatened to kill them and abused them saying 'you are sons of bitches and came here to steal the cow', "cow-killers" and "Bearys do only this work". It was only on the arrival and intervention of the police about 30-35 minutes after the assault started, did the assault stop. Both of them suffered grievous injuries having been severely assaulted. They were initially taken to Government Hospital at Belthangady and thereafter shifted to Highland Hospital, Mangaluru. Due to the injuries suffered by them, they were unable to work for several days. When we met them on 11.04.2021, they still had visible injuries.



Image of the wounds on both Abdul Raheem and Muhammad Mustafa, sourced from the News minute.²⁵

25 2 men attacked for 'transporting cattle' in Dakshina Kannada — their vehicle was empty, The Newsminute, 2nd April 2021 <https://www.thenewsminute.com/article/2-men-attacked-transporting-cattle-dakshina-kannada-their-vehicle-was-empty-146379>

An FIR has been registered at the Belthangady police station bearing FIR No. 32/2021 in connection with the case under sections 143, 147, 341, 355, 326, 504 and 506 of the Indian Penal Code. We were informed by the police that one of the accused, Sabu, was a local goonda against whom there is a case related to moral policing pending from 2017.

b. Attack on 3 Beef Shops at Olapete Market, Thokkottu, Ullal Village, Mangaluru City

We spoke to Shri Mohd Haneef who has been in the business of selling beef for two generations. He told us that in the market at Ullal, people sold beef, chicken, mutton and had been doing so for several years and that his family had been in this business for two generations. The market in which they were running their business was dilapidated and the gram panchayat took a decision to demolish and reconstruct the building, and had asked the traders move to temporary sheds. Accordingly, Mr Haneef and other traders shifted to a temporary place where they continued to carry on their business.

On the night intervening 8th and 9th January, 2021, 3 temporary shops were set on fire including that belonging to Shri Mohd Haneef, where they sold beef. He said he was not aware as to who was behind such an attack. An FIR bearing No. 02/2021 was registered by the Ullal Police Station in this regard. They have been informed that one person has been arrested in this regard. Each of the shops lost their tent, table and other items resulting in loss of about Rs. 10,000/- due to this fire. Subsequent to the fire, on the intervention of the MLA, another temporary stall was put up for these 3 shops.

He also mentioned another incident that happened sometime in 2020. He said that they usually buy the beef from Kerala after following all the procedures. He shared that on the said day, at around 7 am when he had purchased the meat and was bringing it to the shop, about 150 metres away from his shop, about 8-10 people from the Bajrang Dal stopped his scooter and took

his keys. Despite Shri Haneef stating that he had all the bills of purchase and there was no illegality, they did not let him proceed. The police came to the spot and all of them then went to the police station. The police thereafter verified his bills, visited the shop in Kerala where he had made the purchase, and a doctor was called to check the meat. It was only after this extensive search that he could leave. The police informed him that there may be some problem and advised him to stay at the police station till the evening. The police also informed the members of the Bajrang Dal that he had all the requisite permissions.

Observations:

The activities purportedly for cow protection constitutes a social and economic attack, not just on the Muslim community but on Dalits as well. No doubt this is bolstered by the amendment to the anti-cow slaughter law handing hefty punishment for killing cattle. Again, Hindutva organisations act with total impunity to intercept and thrash Muslims and Dalits who they “suspect” of illegal cow slaughter or transport. Again, the police fail to take any actions against the various instances where particularly Muslims have been thrashed in the name of cow protection.

Private policing in the guise of beef is also apparent, where the Bajrang Dal has become the police and the police has become answerable to the Bajrang Dal. In the case of Mohd Haneef who was transporting cattle, the police not only undertook an extensive enquiry into proof adduced by Haneef but also informed members of the Bajrang Dal that he had all the requisite permissions.

Ever since the BJP came to power at the Centre in 2014, organised brutal violence under the guise of cow protection has acquired a new salience with two ghastly incidents standing out, in particular – the murder of Mohammed Akhlaq at Dadri on 28 September 2015, and the violent beating of four Dalit youth in Una on 11 July 2016.

Karnataka has not remained insulated from such hate crimes either. PUCL-K documented 44 incidents pertaining to the transportation

of cattle and eating of beef by vigilante elements from 1998 till July, 2012.²⁶

Two particular incidents stand out from recent times in Karnataka

In July 2016²⁷, seven Bajrang Dal members attacked a Dalit family's house in Chikmagalur district, claiming that the Dalits had stolen and slaughtered a cow. The Bajrang Dal members barged into their house and assaulted those present, causing severe injuries to five Dalits, two of whom suffered fractures. The police were informed before-hand by the Bajrang Dal and were present when this attack on the Dalits took place. All victims are agricultural workers from Shantipura and Kunduru, neighbouring villages under the Jayapura police station limits. The police, as in every incident, registered a case of illegal cow slaughter under the provisions of the Karnataka Prevention of Cow Slaughter and Cattle Preservation Act, 1964 against the Dalit family and arrested three of the victims. The following day, the complaint of the Dalits was received and an FIR registered against the vigilantes for raiding their house and attacking the men.

The other incident²⁸ was the barbaric attack on members of the Koraga community in Hosadu village, Kundapur taluk, Udupi District, on the intervening night of 24th and 25th April. This attack was carried out by a mob consisting of several persons including members of the Bajrang Dal, who forced entry into the homes of the Koragas and assaulted them for allegedly eating cow meat causing intimidation and fear. Thereafter, three young men of the Koraga community, who were savagely assaulted by the mob, were taken into custody by the police and escorted to the Gangolli police station.

26 Attacking Pubs and Birthday Parties, Communal Policing by Hindutva Outfits, A Joint Fact-Finding Report by People's Union for Civil Liberties Karnataka, PUCL-K & Forum Against Atrocities on Women, Mangaluru, <http://puclkarnataka.org/wp-content/uploads/2012/11/Mangalore-Report.pdf>

27 Cow vigilantes in Chikmagalur: Seven from Bajrang Dal booked for attacking Dalits, The Indian Express, 24th July, 2016, <https://indianexpress.com/article/india/india-news-india/cow-vigilantes-in-chikmagalur-seven-from-bajrang-dal-booked-for-attacking-dalits-2932283/>

28 Cow vigilantism: group attacks Koraga youth, The Hindu, 27th April, 2017, <https://www.thehindu.com/news/national/karnataka/cow-vigilantism-group-attacks-koraga-youth/article18260606.ece>

The modus operandi is the same. The Hindutva supremacist groups receive “information” or are “suspicious” of cattle theft or cow slaughter or cattle transportation. They storm into households or waylay the vehicle, as the case may be, physically and verbally assault everyone present without heeding to their desperate pleas. More often than not, this assault is in the presence of the police who were informed by these groups beforehand. The police thereafter, inevitably arrest the victims and charge them under the provisions of the Karnataka Prevention of Cow Slaughter and Cattle Preservation Act, 1964. Thereafter, depending on the ability of the victims’ kith and kin, a counter case may be registered against the Hindutva supremacist groups belatedly. The police remain a mute spectator even as the most brutal forms of torture are inflicted on the victims. This is a pattern and not an aberration.

More recently, the police have weaponized the sections of the Karnataka Prevention of Slaughter and Preservation of Cattle Act, 2020 to continue to incriminate the very same people that are the subject of right-wing vigilante violence. This Act is currently under constitutional challenge before the Karnataka High Court²⁹.

29 Writ Petition No 508/2021 and other matters pending before the Karnataka High Court

V. Curbing Religious Freedom

The reported³⁰ incidents where religious freedom has been curbed are detailed below:

- 5.1 10.09.2021: Members of Hindu Jagarana Vedike barged into a Christian prayer center at Anandi Maidan, Nakre in Kukkundoor village, Karkala making allegations of illegal religious conversion. Devotees of Pragathi Center, which has been in existence for 10 years, were taken aback by the sudden attack. Heated argument ensued between the HJV members and those who were praying in the center. Later, due to the intervention of the police, the situation was brought under control. Police cases were registered by the Karkala town station against 30 members of the Hindu Jagarana Vedike and Benedict, who is alleged to be indulged in religious conversion.
- 5.2 17.04.2021: A row erupted in Sullia over the issue of denying a student to write her examinations wearing a scarf. A first-year law student wearing a head scarf was prevented from entering the examination hall by the principal. The student said that she will not remove the head scarf. Finally, after a dialogue with the student, her parents, principal Udaykrishna and Academy of Liberal Education Advisor Prof Balachandra Gowda, the student was allowed to write examinations wearing a scarf. The student was also asked to co-operate when the examination squad visited the centre as a part of inspection.

Observations

The Hindu Right organisations believe that those practicing non-Hindu religions do not have an equal right to enjoy their religious freedom.

In furtherance of this belief, they believe that they have the right to barge into any, especially Christian, congregations and disrupt it while raising the bogey of “forced conversions”. See for instance what happened on 10th September 2021 at the Christian Prayer Hall at Anandi Maidan, Nakre in Kukkundoor village, Karkala. Members of Hindu Jagarana

30 These incidents are as per the “A Chronicle of Communal Incidents in the Coastal Districts of Karnataka” by Shri. Suresh Bhat Bakrabail

Vedike barged into a prayer centre making allegation of illegal religious conversion.

It is also noted that in the instances compiled by Mr Suresh Bhat, that there were also instances of desecration of Churches and Temples. However, the presence of any communal motivations behind these desecrations remain unclear. Some of these instances include placing of fake notes with blasphemous writing found in the offering box at the temple complex, Bhagavan Shri Babbuswamy Kshetra at Attavara Babugudde on 02.01.2021, damage to holy items inside the Furla Church at the Navura village, Bantwal on 24.01.2021, placing of objectionable matters in the offering box of Koragajja temple on 02.04.2021, a condom found inside the Banta Pilichamunndi Daivasthana at Kondana on 04.04.2021.

The Constitution bestows the rights on citizens of this country to profess any religion of their choice. Article 25 stated that; “*Subject to public order, morality and health and to the other provisions of this Part, all persons are equally entitled to freedom of conscience and the right freely to profess, practice and propagate religion*”. This right, however, is being flagrantly trampled upon.

The attacks on Christians and churches have heightened in the name of “forced conversion”. However, an investigation by the Newsminute³¹ has revealed that these attacks and the high pitch narrative against churches — sponsored by the RSS/BJP — are part of a well thought out plan for achieving two goals: introduce a stringent anti-conversion law in Karnataka, and prevent Scheduled Caste persons who convert to Christianity from availing reservation benefits. In the context of conversions, one cannot miss Ambedkar’s famous statement that “*I was born a Hindu but will not die one*”. His conversion to Buddhism and subsequently lakhs of Dalits to Buddhism are a demonstration of the nature of conversion and religious mobility in India.

The curbing of religious freedom, in reality exposes the true intentions of the Sangh Parivar, whose ideologue Golwalkar expounded, “*The*

31 Anti-conversion protests in Karnataka not sporadic — the BJP has a Plan, The Newsminute, 19th October, 2021 <https://www.thenewsminute.com/article/anti-conversion-protests-karnataka-not-sporadic-bjp-has-plan-156678>

foreign races in Hindustan must either adopt the Hindu culture and language, must learn to respect and hold in reverence Hindu religion, must entertain no ideas but those of glorification of the Hindu race and culture[...] or may stay in the country, wholly subordinated to the Hindu nation, claiming nothing, deserving no privileges, far less any preferential treatment — not even citizen's rights.”

VI. Hate speech

The reported³² incidents of Hate Speech are detailed below:

- 1.1 02.01.2021: Pramila M. Devadiga (45), an activist of the Janavadi Mahila Sangatane, lodged a complaint at the Cyber Crime Police Station, Mangaluru saying that she has been threatened with gang rape by a person on his Facebook account for her comments on social media about BJP's communal politics.
- 1.2 11.01.2021: Minister for Rural Development and *Panchayat Raj* K S Eshwarappa, speaking at the Jan Sevak convention organised by BJP at Bantwal, said that there is a need to teach lessons to those who raise slogans in favour of Pakistan. Eshwarappa said, *"If you utter 'Pakistan Zindabad' again, we will have to rip off your tongue. We will not take the law into our hands. We will teach lessons to such people through those who implement law and order,"* he added. Coming down heavily on those who speak against Hindutva, the minister said that there is no place for those who insult Hindutva.
- 1.3 31.01.2021: The Mangaluru cyber crime police have registered a case against unknown persons for attempts to create hatred between communities through social media. The Mangaluru City Police Social Media Monitoring Cell said that they had noticed a provocative message that was being circulated to create tensions between groups and communities. Based on this the cyber police have booked an FIR. 'Tantre Ba Taant' and 'Nee Tantre Ba Taant' social media accounts have been created to create hatred among communities.
- 1.4 11.02.2021: Mustafa a member of SDPI, has registered a complaint against Eshwarappa, minister for Rural Development and Harish Poonja, MLA for Belthangady at the Uppinangady police station alleging that they had made communally provocative speeches during the felicitation ceremony held at Belthangady on January 31.

32 These incidents are as per the "A Chronicle of Communal Incidents in the Coastal Districts of Karnataka" by Shri. Suresh Bhat Bakrabail

- 1.5 11.02.2021: Firoz Khan, a member of Puthige unit of SDPI has filed a complaint with the Moodabidri police against Hindutva leaders Sharan Pumpwell, Bhujanga Kulal and Rajashekharananda Swamy for making communally provocative and hate-spewing speeches at Thokkottu on December 25, 2020.
- 1.6 19.02.2021: The Ullal police have registered two separate cases against the activists of Popular Front of India in connection with the Unity March in the town. A case has been registered for violating permission conditions, obstructing police personnel on duty, for delivering provocative speeches and sloganeering by participants during the Unity March.
- 1.7 21.02.2021: Hakim Puttur Saheli Kurnadka, a social activist, has lodged a complaint with the city cybercrime station, Mangaluru asking for the arrest of, and stringent action against, the person responsible for vilification of Islam on the social media. In his complaint, Hakim has alleged, "*A youth belonging to a different religion has made an audio recording in which he has vilified Islam, Allah, the Prophet and women using scurrilous language. He has also caused this audio to be widely circulated on the social media.*"
- 1.8 25.03.2021: Several leaders representing the Muslim community and various organizations of Puttur have submitted a memorandum to the Puttur police asking for stringent legal action against Jagadish Karanth, a Hindutva activist for his derogatory speech against Islam which has hurt the religious sentiments of Muslims. Karanth had spoken during the recently concluded *Hindu Samavesha* at Puttur. The memo expresses regret about the police not registering a *suo moto* case against Karanth.
- 1.9 11.04.2021: A complaint has been lodged at the Belthangady police station against one Shivakumar Mendon for posting insulting and communal comments on Corona warriors and Muslim organizations carrying out the final rites of people who succumbed to Covid-19. The complainant, Nizam Gerukatte is SDPI's Belthangady constituency committee secretary.

- 1.10 09.08.2021: Vishwa Hindu Parishad informed the media that it will stage a protest in Ullal on August 11 condemning the support of some residents of Ullal to Islamic State. This is in the backdrop of a raid by the National Investigation Agency on the house of the former MLA and poet late B.A. Idinabba. Speaking about the wife of one of those arrested who had married several years ago, Sharan Pumpwell called it a case of Love Jihad and said “If you do not deal firmly with such youths, we will be forced to take legal action and it may lead to clashes”.
- 1.11 19.08.2021: Abubakr of Ullal has lodged a complaint with the Ullal police asking for stringent legal action against Sharan Pumpwell and others belonging to the Bajrang Dal for making a provocative speech vilifying a religion. The said incident had occurred on August 11 in front of B. M. Basha's residence at Ullal.

Observations

Communally provocative hate speech has become the norm, whether on social media or in public programmes by both elected leaders, journalists and Hindutva leaders. The prevalence of hate speech is a threat to the very idea of inclusiveness and pluralism – to the endeavour of working and living together. Such kind of speech is an assault to the dignity of individuals – an idea embedded in the Article 14, 15, 16 and 17 of the Constitution. Hate speech is not just speech which shocks, offends or disturbs but is rather speech which denigrates, humiliates and ostracizes persons, making it impossible for them to enjoy the constitutionally guaranteed rights including rights as basic as the right to movement, the right to freedom of religion, the right to expression and the right to make choices about their intimate lives.³³ In some instances, we also see cases of hate speech cases being registered against members of the PFI and SDPI, rather easily.

Given the deep-rooted communal divide and social apartheid in place in the region, hate speech must be seen an indication of the visible

33 The Wages of Hate: Journalism in Dark Times, Campaign Against Hate Speech, September, 2020, <https://hatespeechbeda.wordpress.com/2020/09/08/report-wages-of-hate-journalism-in-dark-times/>

impunity with which Hindutva leaders and certain elected officials act. It is also a reflection of the breakdown of the constitutional and public order within which right to freedom of speech must function.

The consistent statements attacking beliefs of members from a particularly vulnerable group, dehumanizing them as well effectively limiting their access to equal citizenship denies them their fundamental rights as a group. As Waldron puts it, the purpose of hate speech is not simply to vent out but in fact,

*“the expressions of hate specifically target the social sense of assurance on which members of vulnerable minorities rely. Their point is to negate the implicit assurance that a society offers to the members of vulnerable groups—that they are accepted in society...along with everyone else.”*³⁴

Hate speech of the sort highlighted above has a grave effect on individual members of a targeted group, including the denial of access to housing, employment opportunities, education, etc. Hate speech begins by creating an environment which denies individuals the Constitutional right to equal citizenship; and if allowed to continue unchecked, can lead to social and economic boycott, culminating finally in the ‘crime of crimes’, genocide. Therefore, it is important to see hate speech as an assault on formal equality itself³⁵.

Hate speech has saturated public discourse in the region and has become commonplace. The ability to respond against these forms of speech is also limited, raising questions about the substantive nature of democracy in the region.

34 Waldron, J (2012). The harm in hate speech, Harvard University Press, Cambridge

35 The Wages of Hate: Journalism in Dark Times, Campaign Against Hate Speech, September, 2020, <https://hatespeechbeda.wordpress.com/2020/09/08/report-wages-of-hate-journalism-in-dark-times/>

THE ROLE OF THE POLICE AND THE DISTRICT ADMINISTRATION

All members of civil society we spoke to said that who is at the helm of the police and the administration in many ways determines the number and extent of communal incidents. When immediate and stringent action is taken in regard to communal incidents, the number of such instances reduce.

3.1 Response of the Commissioner of Police and the Deputy Commissioner of Police (Law and Order) to the Team

The Team met the Commissioner of Police, Mr. N. Shashi Kumar and the Deputy Commissioner of Police (Law and Order) Mr. Hariram Shankar. Both, the Commissioner and the Deputy Commissioner informed us that any instance of communal violence would be dealt with the strictest hand possible by the Mangaluru Police Department and an FIR with all the necessary provisions would be immediately registered.

The Commissioner informed us that the Police was keeping a close watch on the political parties, organisations and individuals that are trying to cause untoward incidents and affect the communal health of his jurisdiction. He said that they are in touch with the organisations and have taken them in confidence and informed them that if there are incidents where inter-faith persons were fraternizing, they should inform the police, so that they can handle it without escalating the same. He said that they would intervene to see if there is anything wrong underway, if not they would inform parents in the know-how, so that they can ensure the safety of the individuals.

The Deputy Commissioner of Police said that they have informed all organisations that if there are suspect cases of inter-faith relationships,

they should inform the police station instead of taking matters in their own hands. He said they would then intervene and manage the situation to see if there is anything wrong underway if not then just inform parents to keep them in the know. He said that they inform the parents to ensure the safety of their sons and daughters.

The Deputy Commissioner of Police said that in regard to instances of “moral policing”, if there is confinement or blocking of any person during transit and the person comes forward to file FIR, the police would support them in the process. However, the question that arises is why the police requires a specific complaint, when the commission of a cognizable offence has come to their knowledge. Pertinently, there exists a mandatory duty on the police to ensure the registration of an FIR when they receive information in regard to a cognizable offence, as mandated by the Supreme Court in *Lalita Kumari vs Government of Uttar Pradesh*¹.

We were informed that instructions had been issued to all the police officers that in cases where adults of different religions were interacting, nobody must be brought to the police station and nobody must be stopped in transit. He said that he would look into the issue of victim compensation under Section 357A as mandated by the Supreme Court in *Tehseen Poonawalla*².

There can be no doubt that the police plays a crucial role in not only ensuring action in regard to communal hate crimes, but, importantly, in containing such crimes and preventing the continuing spread of hatred.

3.2 Duty of the Administration and Police to prevent communal policing and Hate crimes

The duty of the state to prevent hate crimes, remedy the survivors of the violence - family of the deceased as well as initiate serious action against the vigilante groups has been spelt out by the Supreme Court in its judgment in *Tehseen Poonawala vs. Union of India* [AIR 2018 SC 3354]. The Court holds that “*Hate crimes as a product of intolerance, ideological dominance and prejudice ought not to be tolerated; lest it results*

1 [(2014) 2 SCC 1]

2 AIR 2018 SC 3354

in a reign of terror. Extra judicial elements and non-State actors cannot be allowed to take the place of law or the law enforcing agency. A fabricated identity with bigoted approach sans acceptance of plurality and diversity results in provocative sentiments and display of reactionary retributive attitude transforming itself into dehumanisation of human beings. Such an atmosphere is one in which rational debate, logical discussion and sound administration of law eludes thereby manifesting clear danger to various freedoms including freedom of speech and expression.”

“We may emphatically note that it is axiomatic that it is the duty of the State to ensure that the machinery of law and order functions efficiently and effectively in maintaining peace so as to preserve our quintessentially secular ethos and pluralistic social fabric in a democratic set-up governed by rule of law. In times of chaos and anarchy, the State has to act positively and responsibly to safeguard and secure the constitutional promises to its citizens. The horrendous acts of mobocracy cannot be permitted to inundate the law of the land. Earnest action and concrete steps have to be taken to protect the citizens from the recurrent pattern of violence which cannot be allowed to become “the new normal”. The State cannot turn a deaf ear to the growing rumblings of its People, since its concern, to quote Woodrow Wilson, “must ring with the voices of the people.” The exigencies of the situation require us to sound a clarion call for earnest action to strengthen our inclusive and all-embracing social order which would, in turn, reaffirm the constitutional faith. We expect nothing more and nothing less.”

In Tehseen Poonawalla

The role of the State can be seen as three-fold in the cases of hate crimes: taking action to prevent the occurrence, ensuring that punitive measure are taken in the event of such occurrence and taking remedial steps for victims of such crimes.

The duty of the State and its preventive role is reflected in a limited sense in the Chapter X(A) Unlawful Assemblies coupled with the Chapter XI Preventive Action of Police in the Code of Criminal Procedure 1973 i.e. to prevent and proactively address unlawful assemblies. These Hindutva vigilante mobs that regularly take law in their own hands fall under this category.

The Supreme Court in *Nandini Sundar and others v. State of Chhattisgarh* [AIR 2011 SC 2839], emphasised on the duty of the State by recognising “*to strive, incessantly and consistently, to promote fraternity amongst all citizens so that the dignity of every citizen is protected, nourished and promoted.*”

In its role in ensuring punishment is meted out, a crucial step is that of mandatory registration of FIR. The law mandates that in the event of a cognizable offence, the police can in fact register an FIR *suo-moto*. In this context the Supreme Court has held that “burking of crime³” leads to dilution of the rule of law in the short run; and also has a very negative impact on the rule of law in the long run since people stop having respect for rule of law. Thus, non-registration of such a large number of FIRs leads to a definite lawlessness in the society, and in many ways perpetuates the continuance of such incidents.

As we have seen above in a large number of cases of inter-faith interactions or relationships, an FIR has not been registered and in fact it is the inter-faith friends or couple who are called to the police station. The police justify the failure to register such FIRs stating that the people involved did not want to file a complaint. However, the tenability of this justification is questionable. The Supreme Court has directed the administration/police authorities throughout the country to see to it that if any boy or girl who is a major undergoes inter-caste or inter religious marriage with a woman or man who is a major, the couple is not harassed by anyone or subjected to threats or acts of violence, and anyone who gives such threats or harasses or commits acts of violence either himself or at his instigation, is taken to task by instituting criminal proceedings by the police against such persons and further stern action is taken against such persons as provided by law. In *Lata Singh v. State of U .P. and Anr.* [(2006) 5 SCC 475], the Supreme Court held that:

“16... We, therefore, direct that the administration/police authorities throughout the country will see to it that if any boy or girl who is a major undergoes inter-caste or inter religious marriage with a woman or man who is a major, the couple is not harassed by anyone nor subjected to threats or acts of

3 A term for diluting the severity of offence, underreporting and suppression of crimes

violence, and anyone who gives such threats or harasses or commits acts of violence either himself or at his instigation, is taken to task by instituting criminal proceedings by the police against such persons and further stern action is taken against such persons as provided by law.”

The police thus, more often than not, fails to ensure the registration of an FIR, allowing those who have indulged in violence to go scot-free. While on the one hand, no action is taken against these perpetrators of violence, the police go one step forward and treat the victims as wrongdoers by taking them to the police station and questioning them. Every failure to register criminal cases, prosecute without fear and ensure punishment to the perpetrators of such crimes, emboldens them to act with greater impunity.

In this way, the police cannot but been seen as effective allies in the process of enforced segregation. One of the human rights activist shared with us, *“While the incidents occur at the whims and fancies of the Sangh Parivar, they have been able to execute them because they have got the backing of the police. Police back them up to a very large extent.”*

Another human rights activist who has been working against communal policing and hate crimes stated, *“Many police get hired in a crowd with no training on secularism and many come from the same ideological background. Police do need a sensitisation training by civil society organisations.”*

Questioning the action of the police in situations of communal policing, he continues, *“When a Bajrang Dal volunteer catches an inter-religious couple and hands them over to the police station, the response of the police is to get the information about their respective parents and release those couples by calling their parents to the station and giving them some advice. This is absolutely not their role. In fact, the police should be ensuring that action is taken against the fundamentalist who are violating the rights of two adults and harassing persons in the name of religion.”*

When the local police function in a manner complicit with communal groups, the latter is able to function without any fear of the consequences of their criminal activities as they know that they have

complete impunity for their lawless acts. There is no deterrent for these groups when the most basic criminal law tool to maintain law and order of filing FIRs is not proactively used by the police. Let us also recall here that even the most publicised crimes of communal harmony, the Pub attack, ended in an acquittal. Criminal law, in the manner in which it is enforced, is of no consequence to these communal organisations.

What compounds the situation is the underlying Islamophobia that is prevalent in sections of the police. While, some of the police officials we met at the police station level said that it is necessary to immediately respond to incidents of communal violence that take place and that it was through quick intervention that things could remain under control. Other police officials we met felt that love jihad was taking place, even though they had no substantive evidence to back their 'feeling'. The underlying biases of the police dictate their inaction against the vigilante groups.

The composition of the police force is also an aspect to be addressed. In *Prakash Singh v. Union of India* reported in (2006) 8 SCC 1, noting the growing partisan nature of the police, directed the establishment of a police complaints authority to enquire into complaints against officers. In fact, the Guidelines on Communal Harmony, 2008 issued by the Ministry of Home Affairs which has been cited with approval by the Hon'ble Supreme Court in *Pravasi Bhalai Sanghatan v. Union of India*⁴ state at clause 4.1 that the composition of the police force, especially those deployed in communally sensitive areas, should be representative of the social structure of the region so as to ensure credibility and help in creating a feeling of confidence among all sections of the people. Clause 4.2 (c) states that review of the training program of the police force must be conducted to inculcate attitudes of secularism and communal harmony in the police force, including conducting special training and orientation. Clause 4.4 states that in communally sensitive and riot prone areas police and administrative officials of proven integrity, efficiency, impartiality and non-partisan outlook must be posted.

One incident from the recent past that is of grave concern is that of what happened at Kaup Police Station, Udupi District in October, 2021

4 AIR 2014 SC 1591

when the police officials publicly donned saffron religious clothing⁵ under the garb of celebrating a Hindu festival, in complete violation of the fundamental principles of secularism. Importantly, other police officials in various other districts as well acted similarly. It is not possible for such incidents to take place without the covert knowledge and support of the senior police officials.



Image sourced from The News Minute⁶

The above action is in complete violation of the Constitution. The Constitution of India is underpinned with the principles of equality, fraternity, justice, and secularism. Secularism is a core aspect of the Constitution. The institutions of our democracy, including the police force, are required to carry forward these values in their functioning to ensure that they provide their unbiased service to society.

5 Photos of Vijayapura policemen in saffron attire kick up a political storm, 17th October, 2021 <https://www.thehindu.com/news/national/karnataka/vijayapura-police-in-saffron-rakes-up-controversy-on-social-media/article37035235.ece>

6 <https://www.thenewsminute.com/article/karnataka-police-dress-saffron-dasara-siddaramaiah-hits-out-govt-156640>

AN ATTACK ON FRATERNITY AND THE FURTHERING OF SOCIAL APARTHEID

All the aforementioned incidents are not stand-alone incidents of violence against individuals but operate within an ecosystem of right-wing Hindutva hate that portrays Muslims as the enemy and works on polarisation. It rests on the violent crimes of a section of radicalised, predominantly young men; and the silence of the remaining Hindu majority caused by either support for this divisive ideology or sheer apathy or fear.

As noted above, we have seen a pattern emerge in the manner in which the attacks take place on members of the minority community with the intent of subordinating them.

Through the process of enforcing social segregation and dictating intimacies, a clear attack is launched against the Constitutional principle of fraternity, where persons from different religions are effectively prohibited from inter-mingling in any manner whatsoever.

Through the process of economic boycott and attacks in the name of Cattle, the attack on the religious minorities is social, economic and cultural. By determining what food can be eaten and prohibiting the eating of food that is inherently part of the culture, there is a clear attack on the social and cultural lives of minorities. Calls for economic boycott and the prohibition on slaughter has a direct impact on their economic lives.

Steps taken towards curbing religious freedom result in the religious minorities facing danger for merely practicing their faith, where symbols of their faith become objects of assault. Through hate speech, the entire community is dehumanized and open calls for violence

against them are made. Through these means a process of communal subordination takes place.

The attack against the minority community is on all fronts – social, economic and political. The economic condition of the minority community also is required to be highlighted. The Sachar Committee, constituted in 2005, to examine the socio-economic and educational conditions of the Muslim community of India highlighted the economic backwardness of Muslim community. The literacy rate among Muslims in 2001 was 59.1%, far below the national average (65.1 %). It found that Muslims generally work as casual labourers and the participation of Muslim workers in salaried jobs is quite low. One of the means of communal subordination used is that of economic boycott. This has the effect of further making vulnerable members of the Muslim community.

4.1 Modus Operandi

It is seen that there is formed a network of informers who police social interactions and pass on information in regard to inter-faith social interactions to the right-wing groups, who then look to attack them. In the incident of attack on students at Ermai Falls, Mittabagilu village, it appears that it was a local member of the Bajrang Dal who spotted the students and then approached the person at the ticketing counter at the waterfalls. Similarly, in the incident at Mulki in regard to two students studying at Pompei College, it was a local shopkeeper who informed the VHP members. In the attack on inter-faith friends on the bus at Surathkal bus stand, it was a person travelling on the bus who informed the Bajrang Dal of the two friends who were travelling on the bus. Inter-faith social interactions becomes a crime to be vigilant about and ordinary people become the police. In a report¹ on the web of informers, a senior police official is quoted as saying that *“In other cases, we have seen shopkeepers, bus conductors and auto drivers inform groups like the Bajrang Dal or Vishwa Hindu Parishad (VHP) about the movement of interfaith groups or couples. The fact that couples or groups are hanging out is enough to raise the suspicion of people, including bystanders”*. In fact, the same report quotes a police officer who provides the modus operandi involved and states *“When there is a*

1 In Mangaluru, Hindutva groups wield a web of informers to target interfaith friends, The Newsmminute, 6th July, 2021 <https://www.thenewsminute.com/article/mangaluru-hindutva-groups-wield-web-informers-target-interfaith-friends-151860>

suspicion that an interfaith couple is travelling together, the local Bajrang Dal leader is informed. The organisation is divided geographically by units and the information is passed on to the concerned unit. We have seen in cases that bus drivers, conductors, people selling items in tourist spots, shopkeepers in towns, tip off these groups about the movement of students and young people. Sometimes, these informants are not a part of such organisations.”

The entrenching of norms of social apartheid views any form of inter-community interactions as something that needs to be curtailed. This results in persons who may not even be part of the Hindutva organization who take it upon themselves to provide such information. Persons, and especially members of the minority community are thus subject to continuous surveillance, in every social interaction.

4.2 The Communal Continuum

Although Hindutva organisations function as though they were above the law, they use existing provisions of the law as well to further their communal agenda. For instance, they file criminal complaints against persons who are actually victims of the crimes committed by these organisations.

Over the years, the communalization in the region has seeped deep into most people's lives in the region, including Muslims and Christians who are at the receiving end of this kind of communalization. According to the human rights activists we spoke to, such communalization started slowly in the post 1992 period and since then, it has only grown bigger. Now, even the smallest, mundane and quotidian activities of everyday life are communalized in every sector. More specifically, religious identities have started determining the places where people shop, which schools they are sent to, and who they play sports with. Religious identities being the driving force of decision making of daily life is not a mere unconnected consequence but in fact a result of a carefully crafted ideological position of the RSS. While the RSS claims to be a cultural organisation, their cultural project of reforming the Hindu self is a deeply political one. It formulates the Hindu identity as exclusionary based on a sense of grievance and operates through

the subordination of other religious minorities. All of this has grave constitutional implications for all individuals.

Insofar as coastal Karnataka is concerned the State Government ensures its full support to the agenda of communal polarisation and radicalization of the Hindus. In June 2021², the release of '*tasthik*' (honorary) allowance by the Endowment Department to 764 non-Hindu shrines was apparently withdrawn. Earlier, Vishwa Hindu Parishad (VHP) opposed the decision of the Karnataka Hindu Religious Institutions and Charitable Endowment Department to provide financial assistance or *tasthik* to maulvis of masjids in Dakshina Kannada district. Following an outcry from Hindu religious leaders and other organisations, Minister Kota Srinivas Poojary said that he had ordered stalling the release of funds from Karnataka Hindu Religious Institutions and Charitable Endowment Department to shrines of different faiths. In the same month, MLA Raghupati Bhat issued a press statement³, stating that notification was issued to cancel allotment of 0.67 cents on survey no 53/6 of Kodavoor village of the taluk to Kalmat Mosque, Palli Jidda, of Kodavoor due to opposition by the Hindutva organisations.

The State Government also withdrew cases relating to communal incidents.⁴ As many as 21 cases relating to communal violence and violence that had taken place during the course of 'cow protection' were dropped in Karnataka by various trial courts between October and December 2020.

4.3 Enforcement of Social Apartheid

This process of segregation, discrimination and subordination results in a situation where social norms dictate the activities of persons,

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- 2 Karnataka govt to withdraw 'tasthik' allowance to 764 non-Hindu shrines, Deccan Herald, 11th June, 2021 <https://www.deccanherald.com/state/karnataka-districts/karnataka-govt-to-withdraw-tasthik-allowance-to-764-non-hindu-shrines-995895.html>
 - 3 Udupi: Revenue dept to take back govt land given to Kalmat Mosque – MLA Raghupati Bhat, Daiji World, 25th June, 2021 <https://www.daijiworld.com/news/newsDisplay?newsID=847100>
 - 4 Karnataka Courts Drop 21 Communal Violence Cases Involving Gau Rakshaks Based on State Govt 'Order', The Wire, 29th January, 2021 <https://thewire.in/communalism/karnataka-courts-drop-21-communal-violence-cases-involving-gau-rakshaks-based-on-state-govt-order>

despite the fact that it stands in stark violation of the Constitution. This process of communal subordination results in the production of a religious minority which is segregated and denied equal citizenship rights, through the actions of social vigilante groups and the complicit behaviour of State. This can be understood as an enforcement of a form of social apartheid.

The report, *“Cultural Policing in Dakshina Kannada: Vigilante Attacks on Women and Minorities, 2008-09”* by the PUCL-K looked at the manner in which cultural policing brings forward the phenomenon of social apartheid.

The conventional understanding of apartheid as practiced in South Africa refers to a structure of discrimination and segregation through law. The 2009 PUCL-K Report understands social apartheid as a practice of segregating communities on the basis of religion and gender by self-styled vigilante groups as well as prescribing appropriate behaviour and conduct for the separate communities.

PUCL-K in the 2009 Report found that Cultural policing leads to forms of ‘social apartheid’ by insisting on monolithic self-enclosed communities with no form of social interaction between them, and that social apartheid is successful only because it has the implicit support of the state, and hence enjoys immunity for its patently lawless actions.

In the 11 years from the 2009 Report, it is seen that the idea of segregation and discrimination clubbed with the subordination of minority communities has become far more deeply rooted. It can also be argued that the impunity with which the Hindu right functions has increased manifold over the years. After an incident of communal violence perpetrated by the members of any of these groups, they openly claim responsibility for the incident with immense pride (See Page 18). Despite this, police are conspicuous by their silence and their failure to act. The wilful, conscious silence of the police, especially of police officers in the local police station, speaks volumes of their implicit support to mob groups and their undemocratic actions. Even the comments made in police stations by the officials donning uniforms claiming to be protectors of the law, are visibly dictated by majoritarian morality as opposed to the notions of constitutional morality. This is

demonstrated by the incident in Mulki, where the VHP members not only gave a complaint to the police stating that the students were loitering outside college but the police followed up this complaint by submitting a letter to the college authorities asking them to initiate action against the students for “loitering”. Supported by laws such as the Karnataka Prevention of Slaughter and Preservation of Cattle Act, 2020 which effectively bolster self-styled vigilante groups protecting them from repercussions for their acts of violence, there is a concerted attack on minority communities socially, economically and culturally. The discussions to bring in laws against inter-religious relationships in the name of love jihad is another example of the manner in which the law is now being used to enforce a system of segregation.

Incidentally, apartheid is said to be the phenomenon that converts voluntary segregation or a segregation enforced by dominant sections of society into a segregation mandated by law. In Dakshina Kannada, as in certain other parts of the country, it is the diktats laid down by these Hindu supremacist groups that is creating this apartheid. The repeated violence being perpetrated is aimed at subordinating the religious minorities and to make the point that the religious minorities do not enjoy equal citizenship.

In some senses this social apartheid is already in place. In a majority of instances of communal hate crimes and communal policing, there is an active involvement of on-lookers such as conductors, shop keepers etc. that inform the Hindutva organizations of fraternal relationships/exchanges. This behaviour of the on-lookers to actively enforce social segregation is a reflection of the seeping in of the norms of social apartheid. This is the social apartheid in place. This role of members of the society as informers and staunch believers of social segregation points to a larger challenge before us - the challenge of normalisation of this social apartheid.

The Indian Constitution is premised upon a rejection of both the idea of a segregation authored by law and a segregation sanctioned by society. It expressly takes on the mandate of ensuring that people can freely interact with each other in a spirit of fraternity. Fraternity, which finds a privileged place in the Preamble of the Constitution, according to Babasaheb Ambedkar “*means a sense of common brotherhood of all*

Indians, of Indians being one people. It is the principle which gives unity and solidarity to social life.” Here, we may recall Ambedkar's speech on the 'Voice of America' radio (May 20, 1956) where he said; *'The roots of democracy lie not in the form of Government, Parliamentary or otherwise. A democracy is more than a form of Government. It is primarily a mode of associated living. The roots of democracy are to be searched in the social relationship, in the terms of associated life between the people who form a society.'*

By its concerted attack on fraternity, what is under attack is therefore, democracy itself.

SHAPING A CONSTITUTIONAL RESPONSE

Undoubtedly, Karnataka is witnessing a dangerous time, where the core values of the Constitution are on trial day after day. What is particularly alarming is that no one is spared – Muslims, Christians, Dalits, women, children, by these Hindutva organizations. Even while writing this report, every week the instances of such attacks kept surfacing, most horrifically, the gruesome decapitation of Arbaaz Mulla in Belagavi.¹

The dangers posed by the different outfits of the Sangh Parivar – Bajrang Dal, Vishwa Hindu Parishad, Sri Ram Sene — encompasses hate crimes as well as more everyday acts of communal policing of the freedoms; of all those who seek to exercise their constitutional rights to speech, association and freedom of movement. The members of the minority community in particular bear the brunt of this assault on their daily existence by Hindutva organizations.

The Hindutva organizations behind these attacks enjoy the overt and covert support from the constitutional State government – in fact, the Chief Minister of the State made a statement practically condoning acts of violence in case of inter-faith fraternizing on grounds of morality.

We need to understand the current regime as having two faces. The torchbearers of hate crimes are the Hindutva vigilante groups which have risen in tandem with the rise of the seemingly constitutional political party – the BJP over the last two decades. As articulated in “*Khaki Shorts Saffron Flags: Tracts for the Times, 1993*”²,

- 1 Arbaaz was killed, girlfriend’s family hired contract killers: Karnataka cops confirm, The Newsmminute, 8th October, 2021, <https://www.thenewsminute.com/article/arbaaz-was-killed-girlfriend-s-family-hired-contract-killers-karnataka-cops-confirm-156254>
- 2 *Khaki Shorts and Saffron Flags: A Critique of the Hindu Right (Tracts for the Times)*, by Tapan Basu, Sumit Sarkar, Pradip Dijtta, Tanika Sarkar, Sambuddha Sen

“The Hindu right talks in two languages: the language of democracy and that of authoritarianism, the language of law and that of force. While BJP (the ruling government party in both the State and the Centre) claims to function within a constitutional, democratic, legal framework; but the activities of the RSS, the VHP, and the Bajrang Dal mocks this framework.”

With the BJP in power, it is a classic case of, what was once the fringe, now coming to occupy the whole stage.

Both groups support each other as part of the wider RSS family and have the singular ambition of not just capturing state power but also altering the plural and diverse characteristics of Indian society. This description of the current regime as interested in altering societal ways of thinking calls to mind Juan Linz's description of totalitarianism, distinct from authoritarian rule by 'dictators', 'military juntas' and 'Caesaristic leaders', as he writes in *Totalitarian and Authoritarian Regimes*. Under totalitarian rule, 'power is exercised in the name of an ideology', there is 'some form of mass organization' and there is the 'participation of members of the society' in the legitimisation of the regime. Totalitarian rule is not based solely on the power of the 'armed forces' and 'police' but also on the support of 'mass organisations'. It has the ambition of remaking society in its image.³ It is undoubtedly true that the Modi regime has all the hallmarks of an authoritarian regime founded on the absolute power of the leader around whom a personality cult has been manufactured. However, Modi's reign goes beyond these and is a regime with clear totalitarian ambitions. This distinction is important to understand because an authoritarian regime, being founded on an individual leader's cult, may eventually flounder. But a totalitarian State, based as it is on popular support with an ideological objective, with the mob as an actor will not collapse so easily. It seems that the Karnataka government is following in the footsteps of the Modi regime in seeking to control society as well.

What we are seeing is a fascist offensive, that is heightening, especially in Karnataka with the BJP enjoying power at the Centre and State. The

3 Juan Linz, *Totalitarian and Authoritarian Regime* (Lynne Rienner Publishers, London: 2000), p. 92.

State has become increasingly intrusive and the recent statements of the Chief Minister shows the patronage that the State is providing to the Hindutva organizations, practically sanctioning such violence.

Once you stigmatize a minority and encourage violence against them, the next step is either continued second-class citizenship or the elimination of the minority. All of this presages a more dangerous phase where the intentional destruction of an ethnic or religious grouping which international law classifies as genocide is something which one needs to watch out for. This is particularly a concern if we see Gregory Stanton's idea of the ten stages of genocide. The early stages include classification, symbolization, discrimination and dehumanization. All of this finally culminates in elimination or what Stanton calls genocide.

This concern of where a fascist government with totalitarian ambitions would head, demands that we keep a close watch over the symbolization used in the region, discrimination through calls of economic and social boycotts and the targeted violence against Muslims. Critically, the coverage of the media of communal incidents must be dissected carefully to evaluate its role in the social apartheid in the region.

There exists a consensual understanding that communal incidents are 'engineered' at the whims and fancies of the political parties and their allied outfits, especially the Sangh Parivar, to suit their political agendas. They have been able to do so not only because the police have failed to discharge their duties, but have also, on many occasions been complicit in the same.

And given this worrying nexus and deteriorating communal health of the state, there is an imminent need to respond to the increasing communal engineering in the State and by the State, collectively, and especially in the realm of social morality.

In fact, it is constitutional morality that must take the place of the misplaced and abhorrent morality of the Hindutva organizations and the fascist majoritarian government. Hate crimes and acts of communal policing is an attack on the very spirit of our constitution and its morality i.e., constitutional morality. Undeniably, constitutional morality is starkly different from societal and popular morality. In the Constituent Assembly, Ambedkar famously said, "*Constitutional morality is not a*

natural sentiment. It has to be cultivated. We must realize that our people have yet to learn it.”

Our country is governed not by popular morality, but by constitutional morality. The Supreme Court has stated that in *Navtej Singh Johar and Ors. v. Union of India*⁴ that “Constitutional morality cannot be martyred at the altar of social morality, and it is only constitutional morality that can be allowed to permeate into the rule of law. The veil of social morality cannot be used to violate fundamental rights of even a single individual, for the foundation of constitutional morality rests upon the recognition of diversity that pervades the society.”

The Courts have held that the concept of constitutional morality is not limited to the mere observance of the core principles of constitutionalism in the literal text, but one that embraces within itself virtues of a wide magnitude such as that of ushering a pluralistic and inclusive society. The Supreme Court in the same case of *Navtej Singh Johar* has in fact held that “Constitutional morality cannot, however, be nurtured unless, as recognised by the Preamble, there exists fraternity, which assures and maintains the dignity of each individual.”

It is critical to note that the six patterns of enforcing social segregation, economic boycott, attacks in the name of cattle, dictating intimacies, curbing religious freedom and hate speech that emerge in the region of Dakshina Kannada, are wholly an attack on the preambular value of fraternity. In the words of Dr. Ambedkar, fraternity “means a sense of common brotherhood of all Indians, of Indians being one people. It is the principle which gives unity and solidarity to social life.” Linking it squarely to democracy, he said ‘The roots of democracy lie not in the form of Government, Parliamentary or otherwise. A democracy is more than a form of Government. It is primarily a mode of associated living. The roots of democracy are to be searched in the social relationship, in the terms of associated life between the people who form a society.’ We continue to argue that such a consistent attack on the value of fraternity leads to social apartheid.

4 (2018) 10 SCC 1

The nature of violence inflicted on minorities has the effect of spreading terror not just among minorities, but every person in society. The impunity adds to the dominant status of these right wing organisations and creates fear among Hindu sections as well. This terror that is spread and it's chilling effect has meant that there is no voice against these communal hatred organisations, except from those belonging to the minority community and a few individuals. Communal hate crimes and communal policing are acts of violence not only against the minority community but against society at large. They seek to institutionalize segregation in the social fabric, bringing about social apartheid. Social apartheid destroys the fabric of society at large and the notions of liberty, equality and fraternity that form the foundation of our Constitution. There is an urgent need for members of the majority community to raise its voice against such communal hate crimes as well the normalisation of social apartheid. There is a need to fight social segregation and to practice associated living as Babasaheb envisaged and form solidarities across communal and caste divides. It is through constitutional morality and the preambular principle of fraternity that a response must necessarily be shaped.

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RECOMMENDATIONS

A. To the State Government:

I. Ensure Strict Compliance with the orders of the Supreme Court

1. Ensure that the order of the Supreme Court in *Tehseen S. Poonawalla v Union of India* [AIR 2018 SC 3354] is strictly enforced and all preventive, remedial and punitive measures required thereunder immediately enforced. The preventive, remedial and punitive measures are produced in the Appendix.
2. Ensure that the directions issued by the Supreme Court in *Shakti Vahini vs Union of India* [AIR 2018 SC 1601] are strictly enforced.
3. Ensure that the Right to Choose, including the Right to Love as elaborated by the Supreme Court in *Navtej Singh Johar vs Union of India* [(2018) 10 SCC 1] and *Shafin Jahan vs. Asokan K.M. and Ors.* [AIR 2018 SC 357]

“Intimacies of marriage, including the choices which individuals make on whether or not to marry and on whom to marry, lie outside the control of the state. Courts as upholders of constitutional freedoms must safeguard these freedoms. The cohesion and stability of our society depend on our syncretic culture. The Constitution protects it. Courts are duty bound not to swerve from the path of upholding our pluralism and diversity as a nation.”

4. Ensure that the order of the Supreme Court in *Lata Singh v. State of U.P and Anr.* [(2006) 5 SCC 475] is strictly complied with and ensure that an inter-caste or inter religious couple

is not harassed by anyone nor subjected to threats or acts of violence. It should also be ensured that anyone who gives such threats or harasses or commits acts of violence is taken to task by instituting criminal proceedings by the police against such persons and stern action is taken against such persons as provided by law.

5. Ensure compliance with the order of the Supreme Court in *Arumugam Servai vs. State of Tamil Nadu* [AIR 2011 SC 1859] and if any such incidents happen, apart from instituting criminal proceedings against those responsible for such atrocities, the State Government is directed to immediately suspend the District Magistrate/Collector and Police Officials of the district as well as other officials concerned and charge sheet them and proceed against them departmentally if they do not (1) prevent the incident if it has not already occurred but they have knowledge of it in advance, or (2) if it has occurred, they do not promptly apprehend the culprits and others involved and institute criminal proceedings against them, as in our opinion they will be deemed to be directly or indirectly accountable in this connection.
6. Ensure that the Guidelines on Communal Harmony, 2008 issued by the Ministry of Home Affairs are strictly enforced
7. Ensure that the police force is representative of the social structure of the region and further that the police and administrative officials are of proven integrity, efficiency, impartiality and non-partisan outlook. It is necessary to further ensure that review of the training program of the police force is conducted to inculcate attitudes of secularism and communal harmony in the police force, including conducting special training and orientation as mandated by the Guidelines on Communal Harmony, 2008 issued by the Ministry of Home Affairs cited with approval by the Hon'ble Supreme Court in *Pravasi Bhalai Sanghatan v. Union of India* AIR 2014 SC 1591.

II. Ensure maintenance of law and order

1. Ensure that there is no parallel administration to the Government of Karnataka and in particular take stern action as per the provisions of the Indian Penal Code against members of all Hindutva organizations engaged in communal violence.
2. Issue directions to the Police and the District Administration to ensure that in all cases of hate crimes and communal policing, an FIR is immediately registered, and where necessary a Suo-moto complaint is registered.
3. Ensure that all citizens are able to exercise their fundamental rights without fear and take effective action to dispel the climate of fear that has gripped Dakshina Kannada and is preventing its citizens from exercising their fundamental rights.
4. Ensure that all citizens are ensures a conducive environment to enjoy their right to live with dignity
5. Protect citizens' right to engage in interactions, loving or romantic relationships which cut across barriers of religion.
6. Protect citizens' rights to occupy the public space with other people of their choice, regardless of religion or sex.

B. To the District Administration:

1. Take effective preventive action against all those who disturb the communal peace in Dakshina Kannada district.
2. In particular, ensure that those who have committed or are threatening to commit criminal and illegal acts of hate crimes or communal policing are asked to execute a rigorous bond of good behaviour with stern action taken against those who violate the bond.
3. Carry out a public education campaign that it is illegal to produce people before the police station for enforcement of a so-called morality and that the police will not hesitate to take action against these vigilante elements.

4. The Deputy Collector should initiate confidence building measures through regular interactions with members of the minority community and set aside specific days to listen to and redress grievances.

C. *To the District Police Administration*

1. Ensure that an FIR is registered in every single case of hate crime or communal violence, and in cases where the victims are in fear to file a complaint, register a suo-moto complaint in that regard. A circular to this effect should be issued.
2. An FIR must be also registered in all cases of hate crime and communal policing that have occurred so far, including all cases of cultural policing, wherever such FIRs have not been registered.
3. Ensure that investigation is conducted in regard to all cases of hate crime and communal policing expeditiously.
4. Ensure that the police are trained and sensitized to safeguard Constitutional governance in the State with particular reference to concerns of hate crimes and communal policing.

D. *To Civil Society*

1. Respond and deal with communal hate crimes and social segregation and stand in defense of the Constitution.
2. Practice associated living and form solidarities across communal and caste divides
3. Organize programmes that promote inter community interactions and thereby promote fraternal relations among various communities.
4. Educate the public on the need for intervention when acts of communal policing and communal hate crimes occur so that the Constitutional rights are safeguarded

APPENDIX

Tehseen S. Poonawala v. Union of India and Ors, AIR 2018 SC 3354

A. Preventive Measures

- (i) *The State Governments shall designate, a senior police officer, not below the rank of Superintendent of Police, as Nodal Officer in each district. Such Nodal Officer shall be assisted by one of the DSP rank officers in the district for taking measures to prevent incidents of mob violence and lynching. They shall constitute a special task force so as to procure intelligence reports about the people who are likely to commit such crimes or who are involved in spreading hate speeches, provocative statements and fake news.*
- (ii) *The State Governments shall forthwith identify Districts, Sub-Divisions and/or Villages where instances of lynching and mob violence have been reported in the recent past, say, in the last five years. The process of identification should be done within a period of three weeks from the date of this judgment, as such time period is sufficient to get the task done in today's fast world of data collection.*
- (iii) *The Secretary, Home Department of the concerned States shall issue directives/advisories to the Nodal Officers of the concerned districts for ensuring that the Officer In-charge of the Police Stations of the identified areas are extra cautious if any instance of mob violence within their jurisdiction comes to their notice.*
- (iv) *The Nodal Officer, so designated, shall hold regular meetings (at least once a month) with the local intelligence units in the district along with all Station House Officers of the district so as to identify the existence of the tendencies of vigilantism, mob violence or lynching in the district and take steps to prohibit instances of dissemination of offensive material through different social media platforms or any other means for inciting such tendencies.*

The Nodal Officer shall also make efforts to eradicate hostile environment against any community or caste which is targeted in such incidents.

- (v) *The Director General of Police/the Secretary, Home Department of the concerned States shall take regular review meetings (at least once a quarter) with all the Nodal Officers and State Police Intelligence heads. The Nodal Officers shall bring to the notice of the DGP any inter-district co-ordination issues for devising a strategy to tackle lynching and mob violence related issues at the State level.*
- (vi) *It shall be the duty of every police officer to cause a mob to disperse, by exercising his power Under Section 129 of Code of Criminal Procedure, which, in his opinion, has a tendency to cause violence or wreak the havoc of lynching in the disguise of vigilantism or otherwise.*
- (vii) *The Home Department of the Government of India must take initiative and work in co-ordination with the State Governments for sensitising the law enforcement agencies and by involving all the stake holders to identify the measures for prevention of mob violence and lynching against any caste or community and to implement the constitutional goal of social justice and the Rule of Law.*
- (viii) *The Director General of Police shall issue a circular to the Superintendents of Police with regard to police patrolling in the sensitive areas keeping in view the incidents of the past and the intelligence obtained by the office of the Director General. It singularly means that there should be seriousness in patrolling so that the anti-social elements involved in such crimes are discouraged and remain within the boundaries of law thus fearing to even think of taking the law into their own hands.*
- (ix) *The Central and the State Governments should broadcast on radio and television and other media platforms including the official websites of the Home Department and Police of the States that lynching and mob violence of any kind shall invite serious consequence under the law.*

- (x) *It shall be the duty of the Central Government as well as the State Governments to take steps to curb and stop dissemination of irresponsible and explosive messages, videos and other material on various social media platforms which have a tendency to incite mob violence and lynching of any kind.*
- (xi) *The police shall cause to register FIR Under Section 153A of Indian Penal Code and/or other relevant provisions of law against persons who disseminate irresponsible and explosive messages and videos having content which is likely to incite mob violence and lynching of any kind. (xii) The Central Government shall also issue appropriate directions/advisories to the State Governments which would reflect the gravity and seriousness of the situation and the measures to be taken.*

B. Remedial Measures

- (xii) *Despite the preventive measures taken by the State Police, if it comes to the notice of the local police that an incident of lynching or mob violence has taken place, the jurisdictional police station shall immediately cause to lodge an FIR, without any undue delay, under the relevant provisions of Indian Penal Code and/or other provisions of law.*
- (xiii) *It shall be the duty of the Station House Officer, in whose police station such FIR is registered, to forthwith intimate the Nodal Officer in the district who shall, in turn, ensure that there is no further harassment of the family members of the victim(s).*
- (xiv) *Investigation in such offences shall be personally monitored by the Nodal Officer who shall be duty bound to ensure that the investigation is carried out effectively and the charge-sheet in such cases is filed within the statutory period from the date of registration of the FIR or arrest of the Accused, as the case may be.*
- (xv) *The State Governments shall prepare a lynching/mob violence victim compensation scheme in the light of the provisions of Section 357A of Code of Criminal Procedure within one month from the date of this judgment. In the said scheme for computation of*

compensation, the State Governments shall give due regard to the nature of bodily injury, psychological injury and loss of earnings including loss of opportunities of employment and education and expenses incurred on account of legal and medical expenses. The said compensation scheme must also have a provision for interim relief to be paid to the victim(s) or to the next of kin of the deceased within a period of thirty days of the incident of mob violence/ lynching

- (xvi) *The cases of lynching and mob violence shall be specifically tried by designated court/Fast Track Courts earmarked for that purpose in each district. Such courts shall hold trial of the case on a day to day basis. The trial shall preferably be concluded within six months from the date of taking cognizance. We may hasten to add that this direction shall apply to even pending cases. The District Judge shall assign those cases as far as possible to one jurisdictional court so as to ensure expeditious disposal thereof. It shall be the duty of the State Governments and the Nodal Officers in particular to see that the prosecuting agency strictly carries out its role in appropriate furtherance of the trial.*
- (xvii) *To set a stern example in cases of mob violence and lynching, upon conviction of the Accused person(s), the trial court must ordinarily award maximum sentence as provided for various offences under the provisions of the Indian Penal Code.*
- (xviii) *The courts trying the cases of mob violence and lynching may, on application by a witness or by the public prosecutor in relation to such witness or on its own motion, take such measures, as it deems fit, for protection and for concealing the identity and address of the witness.*
- (xix) *The victim(s) or the next of kin of the deceased in cases of mob violence and lynching shall be given timely notice of any court proceedings and he/she shall be entitled to be heard at the trial in respect of applications such as bail, discharge, release and parole filed by the Accused persons. They shall also have the right to file written submissions on conviction, acquittal or sentencing.*

- (xx) *The victim(s) or the next of kin of the deceased in cases of mob violence and lynching shall receive free legal aid if he or she so chooses and engage any advocate of his/her choice from amongst those enrolled in the legal aid panel under the Legal Services Authorities Act, 1987.*

C. Punitive Measures

- (xxi) *Wherever it is found that a police officer or an officer of the district administration has failed to comply with the aforesaid directions in order to prevent and/or investigate and/or facilitate expeditious trial of any crime of mob violence and lynching, the same shall be considered as an act of deliberate negligence and/or misconduct for which appropriate action must be taken against him/her and not limited to departmental action under the service rules. The departmental action shall be taken to its logical conclusion preferably within six months by the authority of the first instance.*
- (xxii) *In terms of the ruling of this Court in Arumugam Servai v. State of Tamil Nadu MANU/SC/0434/2011 : (2011) 6 SCC 405, the States are directed to take disciplinary action against the concerned officials if it is found that (i) such official(s) did not prevent the incident, despite having prior knowledge of it, or (ii) where the incident has already occurred, such official(s) did not promptly apprehend and institute criminal proceedings against the culprits”*

This report traces the communal continuum at play in Dakshina Kannada in light of the incidents of communal policing and communal hate crimes from January – September 2021.

Six distinct patterns emerge from the manner that these attacks are carried out by the Hindutva organizations namely, enforcing social segregation, dictating intimacies, economic and social boycott, attacks in the name of cattle, curbing religious freedom and spewing hate speech. We view these attacks as an open attack on the preambular value of fraternity and fundamental rights of dignity, equality, freedom of choice.

This engineering of communal polarization is not merely a distraction – it is an agenda; it is not a ploy for securing electoral gains – it is the politics; it is not the activities of fringe organisations – it enjoys political patronage and the support of the administration, overtly or otherwise. These everyday acts of terror are inevitably by male mobs of Hindutva organisations, perpetrated on ordinary citizens of the country, who are more often than not, minorities. Decades of such communal polarization that seeks to institutionalize segregation in the social fabric has led to a situation of social apartheid in Dakshina Kannada.