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VICTIMISATION OF ETHNIC/RELIGIOUS MINORITIES: INDIA vs. USA

AUTHORED BY: ATREYEE CHAKRABORTI

ABSTRACT

India is one of the countries with the widest range of religious practices. While religious minorities in India experience various levels of aggression and prejudice, Muslim communities have been particularly targeted by this violence, as have Christians and Sikhs to a lesser extent. The worst communal riots affecting Muslims in India since partition has occurred within this larger context; in many instances, public officials' failures or complicity have actively encouraged violence. Since 2014, attack on Muslims has been prevalent and uprising- be it discrepancy in the CAA (Citizenship Amendment Act) or the banning of reading out Namaaz in public. In the recent years, the violence against the Muslims has taken a hit with an unsettling wave of "bigotry and hostility". This paper will focus and compare India's and USA's religious indifferences, the attacks on Muslims, and the crimes against Asians to name a few.

INTRODUCTION

On March 15th, 2022, the High Court of Karnataka upheld a ruling banning wearing hijabs in schools and universities, thereby leaving Muslim women in chaos and causing major human rights violations. The Court stated that such wasn't "an essential religious practice" However, while the anti-hijab protests were on, the protestors wore saffron scarves and chanted "Jai shree ram" along with them.

Since 2014, attack on Muslims has been prevalent and uprising- be it discrepancy in the CAA (Citizenship Amendment Act) or the banning of reading out Namaaz in public. Can India still be considered as the world's largest democracy where Muslims face repeated attacks from Hindu mobs?

India has 200 million Muslims, but there lacks a proportional representation. It is not a new crisis that Muslims are underrepresented in electoral politics. Since the beginning of democracy, such

as existed- this trend has only been accelerated, and the marginalisation of Muslims in politics has worsened with the BJP's recent electoral rise.

Who is an ethnic minority?

193 out of every 1,000 people in India belong to a minority group. Muslims make up the largest minority community in India, making up about 142 out of every 1,000 people. Only six Indians out of 1,000 are Parsis. There are just six minority communities in India, according to the Union Minority Affairs Ministry¹.

In India, who is designated as the national government decides a minority. The National Commission for Minorities Act of 1992 governs such. Minority citizens are only those who belong to the communities notified per Section 2(c) of the 1992 law.

Only six communities have been officially designated as minorities at the national level by the national government. In October 1993, five of them were designated as minority communities- Parsis, Buddhists, Sikhs, Christians, Muslims, and Christians. Jains were put on the list by the Centre in January 2014.

State-specific listings of minority populations usually don't exist, even though there are a few exceptions. For instance, Maharashtra has designated Jews as a minority population in the state, which the Centre also highlighted before the Supreme Court. India is one of the countries with the widest range of religious practices. Despite having a 79.8% Hindu majority (according to official data), it also has a sizable Muslim minority (14.2%) as well as several other religions, including Christians (2.3%), Sikhs (1.7%), Buddhists (0.7%), and Jains (0.37%)². India, which has a population of over 1.25 billion people overall, is home to an estimated 172.2 million Muslims, making it the third-largest Muslim nation in the world after Indonesia and Pakistan.

Numerous additional overlapping identities, such as caste, dialect, race, and race, as well as varying degrees of religious faith, which defy traditional notions of identity creation and allegiance, all contribute to India's diversity. While religious minorities in India experience

¹ "Yamini Aiyar, and Meeto Malik. "Minority Rights, Secularism and Civil Society." *Economic and Political Weekly*, vol. 39, no. 43, 2004, pp. 4707–11."

² "MISRA, AMALENDU. "Hindu Nationalism and Muslim Minority Rights in India." *International Journal on Minority and Group Rights*, vol. 7, no. 1, 2000, pp. 1–18."

various levels of aggression and prejudice, Muslim communities have been particularly targeted by this violence, as have Christians and Sikhs to a lesser extent. These groups also experience various socio-economic, cultural, and legal discrimination levels.

In light of these distinctions, the Sachar Committee's investigations—created in 2005 to research the standard of living of Muslims throughout India—highlighted the overall effects of systemic bias against the nation's biggest religious minority. High levels of Muslim poverty and their underrepresentation in public and political life were highlighted by the Committee's 2006 report's conclusions. The “Post-Sachar Evaluation Committee's 2014”³ follow-up to this research found that Muslims disproportionately suffered from a lack of access to medical care, low educational achievement, and economic hardship, especially in metropolitan areas.

This coexists with enduring societal and cultural bias, such as restrictions on home ownership or rental opportunities or media or educational materials that portray Muslims as "terrorists" or betraying their faith. Basic services are still inaccessible to many Muslims, and efforts to change this are usually challenging to implement among those who tend to be excluded. This is because they are frequently the subject of "vote-bank" politics as a whole, in which political groups attempt to gain support by making a special appeal to a group's identity or communal concerns. People who encounter intersectional bias, such as women and Muslims from lower social strata, are particularly affected by these issues. Institutional prejudice towards Muslims, along with other minorities, persists in India, particularly when it involves the police.

According to NCRB data from 2015, more than 67% of inmates in Indian jails are accused in court cases, and 55% of this group is constituted of Muslims, who together make up just 39% of the nation's overall population.

Especially in Kashmir, where civil society organisations have recorded systematic and widespread police breaches of human rights by arbitrarily detaining and using force, torture, and extrajudicial murders, Muslims have also been victims of state aggression. The worst communal riots affecting Muslims in India since Partition has occurred within this larger context; in many instances, public officials' failures or complicity have actively encouraged violence. Most

³ “Reynolds, Nathelene. “Hindu Nationalism and the Muslim Minority in India.” *Corridors of Knowledge for Peace and Development*, edited by Sarah S. Aneel et al., Sustainable Development Policy Institute, 2020, pp. 279–303.”

communal violence in India focuses on Muslims, although during the 1990s, attacks on Christians have increased. 2008, 2009, and again in 2015 saw exceptionally high levels of violence against Christians. Four Northeastern states—Mizoram, Nagaland, Meghalaya, and Arunachal Pradesh—have a majority of Christians, while Kerala and Tamil Nadu really have the greatest Christian populations. According to reports, recent attacks on Christians have apparently been centered in the states of Chhattisgarh, Madhya Pradesh, Uttar Pradesh, and Telangana, all of which have a small Christian population. Threats, intimidation, and breaches of the right to freedom of religion or belief are experienced by Christians; they include the burning down of churches, assaults on pastors, and the wrongful arrest of church employees. The 1980s saw increased violence against India's religious minorities, with high-profile attacks on Sikhs in Delhi (1984), Bengali Muslims in Assam (1983), and Muslims in other areas of India in the late 1980s that were connected to the Babri Masjid demolition campaign. The Indian National Congress (INC) and the BJP, whose political prominence increased in the 1980s, were two political parties that used communal violence as a tool for politics in these occurrences⁴.

MAJOR INCIDENTS OF COMMUNAL VIOLENCE IN INDIA

The years 1921 through 1940 were a very challenging time period. For instance, the Muharram celebrations in Calcutta in 1926 were ruined by a conflict that claimed 28 lives. After the bloody division in 1947, the first significant riots between Hindus and Muslims occurred in 1961 in Jabalpur, Madhya Pradesh.

1983: Nellie massacre

In central Assam, close to Nellie, on February 18, 1983, tens of thousands of Muslims of Bengali descent were killed. More than 2,000 Muslims were classified as foreign victims of assassination. It was violent for six hours. Many people think that the massacre served as a vehicle for the Nogaon District's residents, particularly the tribals and other Assamese community, to express their anger at the Muslim population that originated in East Bengal. Additionally, it is asserted that the Muslim community has allegedly encroached on their territory.

Ahmedabad riots in 1969

Communal rioting between Muslims and Hindus broke out in Ahmedabad in 1969. A minimum of

⁴ “Chopra, Suneet. “Problems of the Muslim Minority in India.” *Social Scientist*, vol. 5, no. 2, 1976, pp. 67–77.

1000 individuals perished in this violence. At the time, Indira Gandhi and Morarji Desai were at odds about who should lead the Congress party. Rumours have been that the violence was planned to smear Mr Desai's supporter, the Gujarati chief minister.

Sikh Riot in 1984

After Prime leader Indira Gandhi was assassinated on October 31, unrest broke out for 15 days. After many investigation panels, eight persons were found guilty. The cops and politicians escaped. At around six o'clock that evening, a commotion broke out shortly after Indira Gandhi's passing had been announced in Delhi. A communal bloodbath like India hadn't exactly been seen since the news sparked Independence. Locality after locality in the city resonated with the screams of the dying and burning people as chaos ruled the streets. A fortnight of bloodshed saw almost 2,700 killed and many thousands injured.

1992 Mumbai Riots

Mumbai erupted hours after the Babri Masjid was destroyed. Unprecedented rioting rocked the city for five consecutive days in December 1992 and then again for a two-week period in January. Up to 1,788 persons have been killed, and lakhs of rupees worth of property were damaged.

Babri Masjid 1992- 1993

The Hindu people attached the Masjid, claiming that before the mosque, there was a Ram temple where the God Ram was born. Therefore, the whole riot broke out and which caused death and injuries to many people, and most of the victims were minorities.

The constitutional bench of the Supreme Court gave a unanimous judgment permitting the construction of the temple at the site where once stood the Babri Masjid. It gave the god Ram Lalla full ownership of the 2.77 acres of contentious property in Ayodhya. SC further said that Muslims should receive alternative land as compensation for the loss of a mosque.

Gujarat riots of 2002

On February 27, 2002, a suspected Muslim mob assaulted a train carrying Vishwa Hindu Parishad (VHP) supporters returning from the contentious Ayodhya holy site. In the assault, 58 Hindu activists passed away.

NRC-CAA of 2019

Through this CAA Bill, 2019⁵ where the minorities like Muslims were indirectly asked to leave the country, and their citizenship right was being taken away. Due to this bill, a riot occurred in Delhi, which caused more than 500 hundred people to die.⁶

REASONS WHY VIOLENCE AGAINST ETHNIC MINORITIES EXIST

1. ***Expression of Bias or Prejudice:*** It is not necessary for a perpetrator of a “hate crime” to harbour hatred towards their victim; rather, what more accurately defines such crimes as the manifestation of prejudice or bias towards the victim’s belonging to a group.
2. ***Impact of Social settings:*** Our interactions with others may also contribute to hate crimes. Where society is set up to favour some identity qualities over others, hate crimes are more likely to occur.
3. ***Influence of Perception:*** According to certain research in social psychology, criminals may be affected by their belief that particular groups are dangerous to them.

PROVISIONS FOR PROTECTING THE MINORITIES

Under Indian Constitution

India doesn’t have a great past when it comes to dealing with minorities especially dealing with religious minorities. When the past is looked upon, the religious differences and based on the minority, British India was divided into India and Pakistan⁷, and many people died because of the indifferences. Therefore, religious indifferences create many issues in multi-cultural, multi-religious countries, and that was most of the riots in the country occurred due to religious minorities. That is why the term “secularism” was added through the 42nd Amendment⁸ to the preamble of the Indian Constitution. The term means that the state is independent of the religion and

⁵ “The Citizenship (Amendment) Act, 2019”

⁶ “Chris Cameron, *These Are the People Who Died in Connection With the Capitol Riot*, THE NEW YORK TIMES, Jan. 5, 2022, <https://www.nytimes.com/2022/01/05/us/politics/jan-6-capitol-deaths.html> (last visited Apr 23, 2023).”

⁷ “The Washington Times <https://www.washingtontimes.com> & Nadeem Nusrat, *Partition of India and the Issue of Religious Minorities*, THE WASHINGTON TIMES, <https://www.washingtontimes.com/news/2018/aug/13/partition-india-and-issue-religious-minorities/> (last visited Apr 18, 2023).”

⁸ “The Constitution (Forty Second Amendment) Act, 1976”

doesn't have its own religion.⁹

India's understanding of the term secularism is very much different from the Western understanding of secularism. The country allows the open practice and display of the religion and its practices, while Western countries can display their religion only in the worship area. There are many rights and provisions given under Indian law, like part III of the Indian constitution¹⁰ holds the rights of these minority people. Article 14 of the Indian Constitution¹¹ states that everyone has equal protection of rights and will be protected before the law. This equality right has been derived from the rule of law, which is the basic structure of the Constitution.¹²

Articles 15(1)¹³ and 15(2)¹⁴ of the Indian constitution also states clearly that there should not there should be no discrimination based on religion, caste, sex, race and so on, and Article 16 (1)¹⁵ and 16(2) of the constitution¹⁶ also states that there will be no discrimination in regardsto the opportunity given to Indian citizen. Articles 25 to 28¹⁷ are the articles which are mostlyinclined towards religious equality. It specifically states that every person has the right to profess, propagate and practice the religion of their own, but they should do the same by keeping the public order, morality and health.¹⁸ For example, triple talaq¹⁹ was part of the Muslim culture, but it got banned because it violated the rights of women who come under another form of minorities.

The article also stated that nobody would be forced to pay tax for the religious institution²⁰, and nobody would be discriminated against based upon their religion in the education institution.²¹ Citizens can also have the right to establish and administer educational institutionsand should not be discriminated against based on religion, as stated in the case *TMA Pai Foundation & Ors v.*

⁹ "S. R. Bommai v. Union of India; [1994] 2 SCR 644"

¹⁰ "The Constitution Act, 1950; Part III"

¹¹ "The Constitution Act, 1950; Art 14"

¹² "Article 14 - Equality Before Law and Equality protection of the law, <https://articles.manupatra.com/article-details/Article-14-Equality-Before-Law-and-Equality-protection-of-the-law> (last visited Apr 22, 2023)."

¹³ "The Constitution Act, 1950; Art 15 cl 1"

¹⁴ "The Constitution Act, 1950; Art 15 cl 2"

¹⁵ "The Constitution Act, 1950; Art 16 cl 1"

¹⁶ "The Constitution Act, 1950; Art 16 cl 2"

¹⁷ "The Constitution Act, 1950; Art 25; Art 26; Art 27; Art 28"

¹⁸ "The Constitution Act, 1950; Art 25"

¹⁹ "Triple talaq: India criminalises Muslim "instant divorce," BBC NEWS, Jul. 30, 2019, <https://www.bbc.com/news/world-asia-india-49160818> (last visited Apr 23, 2023)."

²⁰ "The Constitution Act, 1950; Art 27"

²¹ "The Constitution Act, 1950; Art 29"

*State of Karnataka & Ors.*²²

Commission established by law

Not only the Indian Constitution but also statutory commissions are there to protect the religious minorities and give them the rights that these people deserve in the country. There is the National Commission for Minorities which was established under the National Commission for Minorities Act, 1992²³ where it states the function of the commission²⁴ in regards to securing the minorities against any discrimination faced by them and if there is any problem or issue, then this commission will help the minorities by approaching the appropriate authority.²⁵ There is one more that is also there for helping minorities, and it is based on both the national and state levels. The national and state human rights commission, which was established under the Protection of Human Rights Act, 1993²⁶ will help minorities when their human rights are being violated; there are NGOs at the ground level to help them, and they get interim relief too.

Schemes and Initiatives were taken to protect the minorities

Some schemes and initiatives have been taken to uplift these minority people and to help them share equal status in the country. These initiatives work at the ground level there are many sectors where these schemes and initiatives have taken place, like for education empowerment, there are schemes like *Naya Savera*,²⁷ which provides free coaching and education to the minorities, which will help them to have a stand in the society. There are schemes like *Maulana Azad Education Foundation*²⁸ and *Equity to National Minorities Development and Finance Corporation (NMDFC)*²⁹, which mostly focus on supporting the institutions established by minorities. Infrastructure development schemes will help develop the infrastructure and work upon the village of these minorities and so on. There are also schemes based upon skill development and employment generation, like those for educating school dropouts called *Nai Manzil*. There is a scheme only focussing on developing the skill, mainly economically based, and this scheme is

²² “TMA Pai Foundation & Ors v. State of Karnataka & Ors; (2002) 8 SCC 481”

²³ “The National Commission for Minorities Act, 1992”

²⁴ “The National Commission for Minorities Act, 1992; S 9 cl 1”

²⁵ “National Commission for Minorities, https://www.minorityaffairs.gov.in/show_content.php?lang=1&level=0&ls_id=216&lid=221 (last visited Apr 23, 2023).”

²⁶ “the Protection of Human Rights Act, 1993”

²⁷ “Naya Savera | National Government Services Portal, <https://services.india.gov.in/service/detail/naya-savera> (last visited Apr 23, 2023).”

²⁸ “Official Website of Maulana Azad Education Foundation, Ministry of Minority Affairs, Government of India, <https://www.maef.nic.in/> (last visited Apr 23, 2023).”

²⁹ “National Minorities Development & Finance Corporation, <https://www.nmdfc.org/> (last visited Apr 23, 2023).”

called *Seekho and Kamao*³⁰. Some schemes mostly focus on the special needs of minorities, like the *Hamari Dharohar*³¹ scheme is for protecting the culture of the minorities.

VICTIMISATION OF RELIGIOUS AND ETHNIC MINORITIES IN THE US

The minorities in this section have been divided into two groups that is Ethnic and religious sections. The victimization of these two sections happens through a term called “Hate Crime” which was first brought up in the US in the 1970s with the intention of collecting crime statistics. Their 14th Amendment clearly states that “*no one should be discriminated when it comes to the equal protection of laws*” which should also be extended to the minority groups. Unfortunately, there are as many different reasons for hatred as there are people who make up the US, an ethnic, religious, and mixed-gender melting pot. Despite recent advances in fostering a variety of religions and compassion, the victimisation of religious minorities persists as a major issue in the USA.

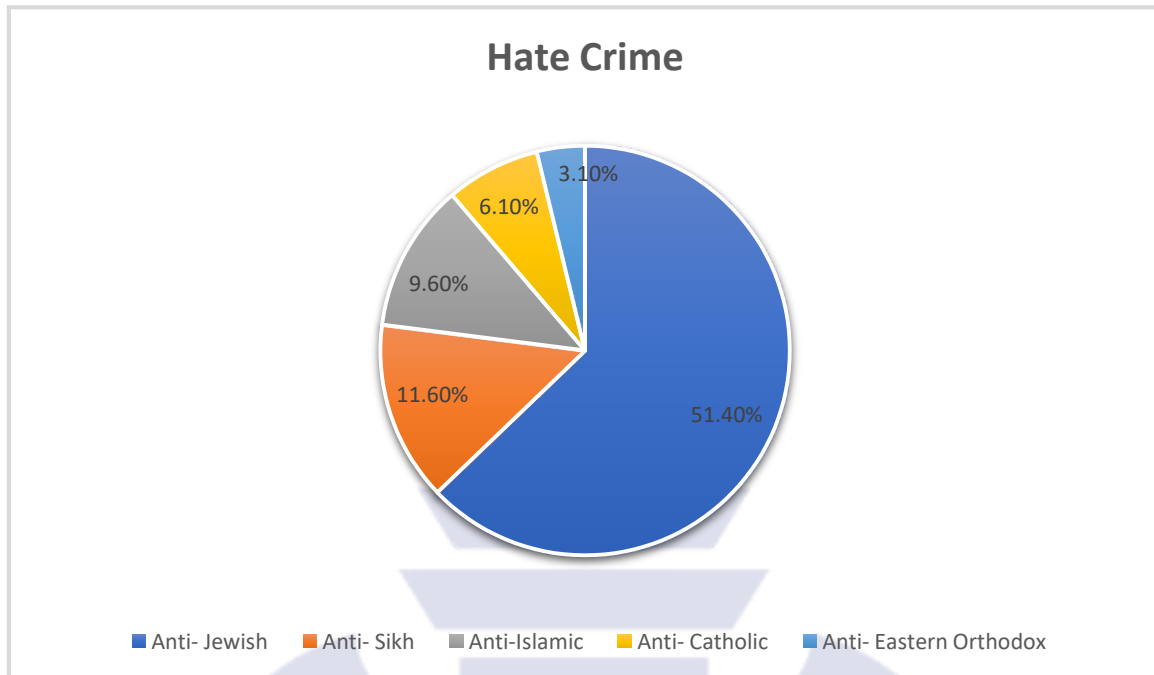
First dealing with the crimes against the religious minorities, there was a surge in the cases of religion-based violence against the Muslims after the 9/11 attacks for unjustifiable reasons. They were violently targeted and discriminated against like unnecessary suspicion, singled out my airport security, slander, etc. In the recent years though, the violence against the Jews and the Sikhs have taken a hit with an unsettling wave of “bigotry and hostility”. Minorities are being wrongfully singled out for practising their fundamental constitutional right to religious liberty, including through attacks on current and potential religious centers, discrimination driven by religion, and misleading congressional hearings.

Even in the minority groups we have a sub section of vulnerables that is the women and the elderly who are targeted in the forms of sexual assault and robbery or aggravated assault respectively which is known as violent victimisation.

³⁰ “सीखो और कमाओ, Ministry of Minority Affairs, <http://seekhoaurkamao-moma.gov.in/> (last visited Apr 23, 2023).”

³¹ “Hamari Dharohar, https://www.minorityaffairs.gov.in/show_content.php?lang=1&level=1&ls_id=747&lid=60 (last visited Apr 23, 2023).”

The attack on minorities is at its highest in 12 years in the US states the 2021 FBI Reports.³²



The pie here shows the percentage of victims in each religious minority group to hate crimes during the US during the year 2021.

The crimes against the Jews have peaked since the 2018 Synagogue Massacre where 11 Jews were killed by a gunman targeting them in their place of faith which screaming slurs at them. And most recently, in 2022 where within 7 hours a 27-year-old man, stole a car from a man and ran over 3 Jews with that same car only because of their appearance of being Orthodox Jews. There are only excuses in the name of reasons when such incidents happen because what other reasons could one human have to be so hateful towards another human.³³

A 19-year-old in 2022 attacked 3 Sikh men in Queens, NYC and ripped their turbans off which is a direct attack on their faith. Sometimes, the excuse behind attacking Sikhs is often times they are confused as Muslims.³⁴

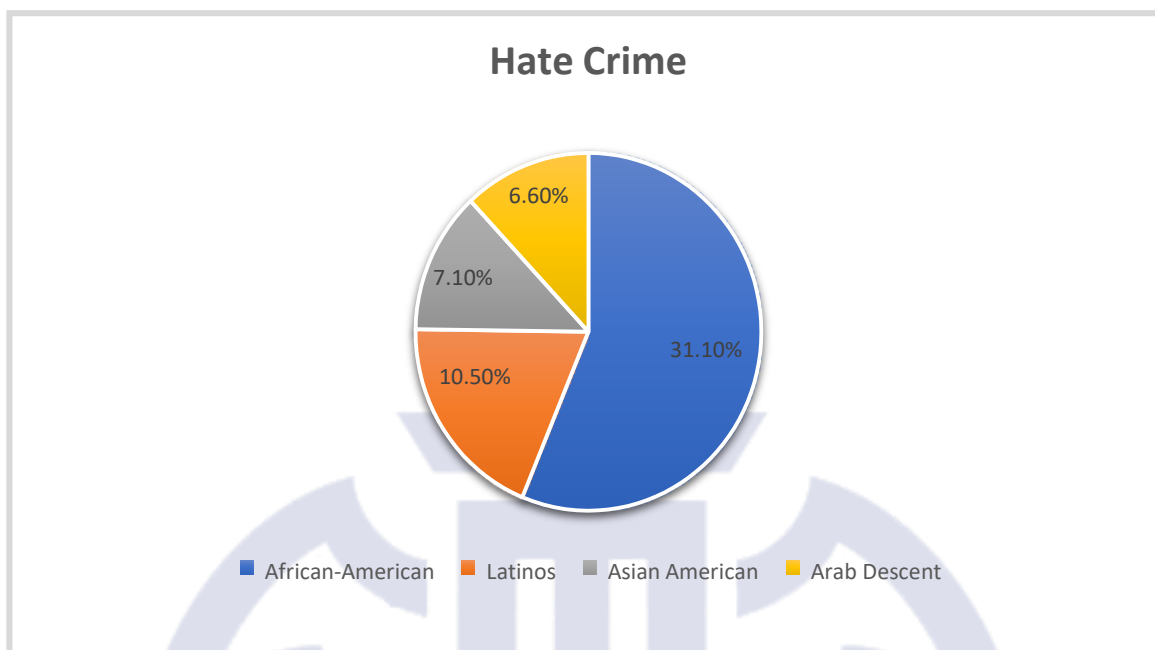
Now we are going to deal with the other minority group that is the ethnic minorities who are

³² <https://www.fbi.gov/news/press-releases/fbi-releases-supplemental-2021-hate-crime-statistics>

³³ <https://www.justice.gov/usao-nj/pr/ocean-county-man-charged-federal-hate-crimes-series-violent-assaults-members-orthodox>

³⁴ <https://abc7ny.com/queens-sikh-man-attacked-attack-rally-nirmal-singh/11747910/>

basically the Hispanics, Asians, African-Americans, etc. Everyone is aware of the George Floyd incident and how it created a hue and cry around the world but even after the mass movement such cases are still on the rise in the US. About 65% hate crimes according to the FBI reports are based on ethnicity.



The above pie shows that African-Americans are targeted the most and are victims of more than half the percentage of hate crimes. Very recently, a teenager was sentenced to life because he open-fired and killed ten people in Buffalo, NYC. He claimed to be a white supremacist who is worried about something called the “white replacement”, which he used as an excuse for his actions.

We see and hear news about anti-Asian hate crimes, and we see those getting reported, but the crimes against Latinos are never reported up to that extent even though they are victimised the second most according to the data. The worst incident would be that of the El Paso shooting in a supermarket, where 23 were killed and 22 injured.³⁵

Why are these minority groups victimised?

The reasons are simple but beyond comprehension that it can lead a human to kill another human.

³⁵ <https://www.nytimes.com/2023/02/08/us/texas-walmart-shooting-suspect-plea.html>

The reasons have been categorized by the National Crime Victimization Survey (NCVS).

- Inability to Defend- As mentioned previously, the examples of women and elderly being targeted and harmed as they are, in general, seen as the weaker section of society and then belonging to a minority group puts them in a spot of being victimised.
- Prejudiced Police- It has been seen time and again and not only in the US but also in our country, where government officials start acting with a bias in mind. The George Floyd case is the greatest example of the same. The Criminal Justice system cannot be flawed in its functioning but the fact that most police brutality statistics show the victims to be African Americans shows the sad state of affairs.³⁶
- Historical/Social Bias- In all the incidents mentioned above, we see most of the perpetrators being teenagers, and the fact that it is ingrained in them creates a mental block which leads them to take such drastic steps. The “white replacement” concept has been persisting for generations which is a major downfall.

There was an obvious surge in the number of hate crimes against Asians during the pandemic, for which the government came up with the Covid-19 Hate Crimes Act, which specifically deals with Asians. The has guidelines for creating state-run hotlines to support the victims and prevent such crimes by also raising awareness of the same. They are baby steps but steps nonetheless.

INTERNATIONAL CONVENTIONS

1. United Nations Minorities Declaration –
Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities(1992)
States are required by this statement to safeguard the very being and rights of minorities. Additionally, it exhorts governments to support minority groups' “*national, ethnic, cultural, religious, and linguistic identities*”. Minorities have the right to practice their religion, take part in their culture, and speak their own language in private as well as public places without fear of being disparaged, according to Article 2(1) of this charter. In a society that values inclusivity, this is crucial.
2. International Convention on the Elimination of All Forms of Racial Discrimination (UN 1965)

³⁶ “<https://www.washingtonpost.com/graphics/investigations/police-shootings-database/>”

Issues about hate speech and crimes against religious minorities, such as assaults on their houses of worship, holy places, or property, as well as proposals made about accessibility to education in minority languages, were all addressed under this Convention.

RECOMMENDATIONS

There are a few recommendations which are not exhaustive but will help improve the situation of the minorities and will help in living the same status of life as the majority. These recommendations are:

- Publicly condemn intolerance and hold to account public officials involved in perpetrating or inciting religious violence.
- Give survivors of communal violence and their families legal help, as well as other forms of assistance, and look into claims of hurdles to justice
- To take legal action against the vigilantes who are responsible for such issues.
- To have proper laws and bills for such discrimination and against any violence and regulation against the communal violence
- The Constitution's fundamental rights must be upheld, and legislation and policies that violate them and encourage violence against religious minorities must be repealed or changed.
- Take action to address the pervasive economic, social, and cultural prejudice against religious minorities.

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