

Understanding The Legal And Political Aspect Of Nupur Sharma Controversy

Authored By- 1. Shashank Singh

2. Ratnesh Sahu

3. Akanksha Singh

ICFAI University Dehradun

Abstract

This research paper is regarding the controversy of Nupur Sharma remark on Prophet Muhammad. Does she violate Section 295A? Does her remark offend reasonable, strong-minded, firm, and courageous people? The answer to this could be Yes or could be No. It is pending to the courts to decide. Whether she had done anything wrong or not. Where can the line be drawn between Hate Speech and Freedom of Speech? What are the roles of media in this controversy?

We will analyse the entire controversy very deeply. We will see its connection with Gyanwapi Mosque controversy. We will see the laws related to this. We will see the reactions of other countries to this controversy. We will also analyse its all legal and political aspect.

Introduction

The Nupur Sharma controversy shook the nation. It was the first time that a political party spokesperson's comments sparked a boycott of Indian goods abroad. In India, there were demonstrations everywhere. The demonstrations were violent in several instances. like in UP, West Bengal, and Jharkhand. There was throwing of stones. A police officer was hurt. Two persons were killed as a result of police shooting into the crowd. The controversy reached international level and India faced international pressure to take action against Nupur Sharma. The controversy started from media debates from the remarks made on Prophet Muhammad by Nupur Sharma, ex BJP Spokesperson. The entire controversy was actually linked to another controversy of Gyanwapi Mosque. Let's see the analysis of this entire controversy in detail.

What Is The Gyanwapi Mosque Controversy And How It Is Linked To Nupur Sharma Controversy?

Actually, it wasn't Nupur Sharma's remark that started the debate. Instead, the Gyanwapi Mosque controversy was where it all started. The Varanasi Court had ordered a video graphic inspection of the Kashi Vishwanath Temple and the Gyanwapi Mosque complexes in April. The true problem is extremely big. The court granted this request after receiving a petition. An item was found in this mosque following this survey. Another asserted that it is a fountain, while others stated that the item was a shivling. No inquiry was conducted to determine what it really is. But there was a lot of conversation about it online. According to the individuals who asserted that the object was a Shivling, the pillar is essentially the Lingam with the bent top, making it a Shivling. Many people on social media made fun of them for this, claiming that by applying that reasoning, anything may be referred to as a Shivling. By applying that reasoning, they posted pictures of road barriers with the claim that anyone can become a Shivling.

Some people felt upset by these jokes. They complained that their faith was being made fun of. Shiva, their god, was being made fun of. However, if you try to apply common sense, you'll notice that these jokes are intended for folks who find a Shivling in everything. Nobody was making fun of Shiva or the Shivling. However, at the same time, Ratan Lal, an associate

professor of history at Hindu College and a member of the DU faculty, published an offensive social media post. He raised the level of the humour. In addition to having a FIR filed against him, Dr. Ratan Lal was taken into custody. He was accused of violating Sections 135A and 295A, which prohibit intentionally inciting animosity between groups based on religion and insulting any faith, respectively.

No matter what you say in India, you will offend someone or damage their feelings, Dr. Ratan Lal claimed in defence of his article. That is not brand-new. Several people stood in his support saying that he has the right to freedom of speech, under the Article 19 of the Constitution of India. On the other hand, some people said that though he has Freedom of Speech, but as per Article 19(2), there are reasonable restrictions on a person's freedom of speech. Freedom of Speech doesn't mean that you can spread hate speech or you can hurt someone's religious feelings. That's where Section 295A comes in. But according to the Supreme Court, there are some conditions in this section. Supreme Court held that the words being used should be judged from the standards of reasonable, strong-minded, firm, and courageous people. This section shouldn't be judged from the perspective of weak-willed people, who take personal offence in every matter.

On May 27, BJP's spokesperson Nupur Sharma was on a debate show on Times Now. During the debate, she was putting across her party's views on the Gyanvapi Masjid issue. In her argument, Nupur Sharma mocked Islam and Prophet Mohammad She justifies her abuse by saying that it was a response to those Muslims who were making fun of Shivling. Very quickly, her clip goes viral on social media and a brouhaha followed. the anger against Nupur Sharma goes global. Indian products from stores in Gulf countries started being withdrawn. Some Middle East governments started releasing official statements and asked Indian ambassadors for an explanation In pressure, BJP sacks Nupur Sharma from the party This was not surprising given the importance of India's relationships with the Middle East countries There are several reasons for it- the most important being that many Indian citizens work and earn money in these countries Despite this decision by the BJP, the rage doesn't stop. Some people started demanding legal punishment for Nupur Sharma, some even calling for her being killed.

Analysing The Nupur Sharma Controversy

The ex-BJP Spokesperson Nupur Sharma. She made some contentious comments about Islam and the Prophet Mohammed on a News24 broadcast on May 26. Nupur is prevented from speaking further by news reporter Manak Gupta. But Nupur didn't like the rebuke. So she left the program in the middle. Later she tweeted that it is a terrible channel that she wouldn't go on again. She makes the same remarks on Islam and Prophet Mohammed when she appears on Republic Bharat later that day at 7 PM. Aishwarya, the anchor on Republic Bharat, cautioned her against making any personal comments and from offending anyone's religious sensibilities. But Nupur Sharma didn't stop. At 9PM, she went on Times Now, and repeated the same things.

One thing to be noted about the controversial statements by Nupur Sharma, this wasn't a slip of tongue¹. It wasn't as if she meant to say something else and said this by mistake. Nor was she so furious that she couldn't control herself. It wasn't so. Her remarks were premeditated. She made the same statement three times. She didn't make these statements because she wanted to become a part of a philosophical discussion, or that she wanted to put across her perspective on the history. She made these remarks because according to her own words, because she couldn't tolerate that some people were insulting the Shivling in her opinion. She wanted to offend people' religious feelings since her own were being offended.

Similar to Dr. Ratan Lal, who had a FIR filed against him, he was detained, and the courts determined whether or not there had been an offence. If the same had occurred, the situation would have been resolved immediately. She would have either been judged not guilty and spared punishment or proven guilty and exonerated. However, Nupur Sharma wasn't the target of any such action. You should pay attention to the police's actions and inactions about the same issues.

Mohammed Zubair, a fact-checker for Alt News, mentioned another individual. Sharafuddin Ilyas. a character who frequently appears in news disputes. He publicly criticised Hindus for worshipping idols and the Shivling during a debate on Zee News. Zubair and other people demanded action against Sharafuddin. Because he had clearly hurt religious sentiments mocked them. This debate lasted for around 20-30 minutes. Zee News' anchor didn't stop him either. **It begs the question, do these TV Channels knowingly place a Maulana on one side to insult**

¹ (Youtube.com, 2022) <<https://www.youtube.com/watch?v=-05P5FB4AJc>>

Hindus, and then place a Hindu on the other side, to insult the Muslims? So that the inflammatory speeches continue from both sides and it keeps creating controversies for them. So that people's attention is focused on these insignificant issues.

After Nupur Sharma, her party colleague, BJP Delhi Media head, Naveen Kumar Jindal. He made several tweets against Islam. Disrespected Prophet Mohammad and Aisha. But there was no action against him either.

Who's right? Who's wrong?

This entire controversy can be divided into 2 major issues²:

The First Issue Is As For What Nupur Sharma Said, Was It Right Or Wrong?

What Nupur Sharma said was it hate speech? Blasphemy? Should it be allowed, not allowed?

There should be no room for blasphemy laws in our country. Blasphemy is very important for any society because without it, no religion can be reformed For example, Babasaheb Ambedkar wrote harshly about Hinduism in his book, "Riddles of Hinduism" Imagine - without blasphemy, our society would still have Sati, Triple Talaq, or even dowry. BR Ambedkar was definitely someone who believed in criticizing a religion's. In my opinion, only the speech that instigates violence, should be banned. I am saying that Nupur Sharma shouldn't face legal proceedings because of the speech. But as a member of a political party that is running the government in the centre and many of the states, she should not be allowed to say such things. Because if this is the standard for a common man with regard to political speech, political representatives should have higher standards. Here, the intention of Nupur Sharma was to insult a religion. Now while I protect the right of a normal person to do so, it is unbecoming of a political party member to use the same language

The second issue is the reaction to Nupur's comment from Muslim community leaders and some opposition leaders.

² (Youtube.com, 2022) <<https://www.youtube.com/watch?v=-05P5FB4AJc>>

Now naturally, a lot of people would disagree with what Nupur said and wanted to protest against it. But the issue is that some comments had exceeded civil limits. As mentioned earlier, any speech that incites violence should be banned and legal proceedings should be carried out against that individual. Also, as aforementioned, the political leaders should bear the responsibility of talking with responsibility. Because they have supporters that are ready to accept whatever they say.

Reaction Of Other Countries And How India Responded To It

Nupur Sharma's clip and Naveen Jindal's tweet went viral on the internet. Even in Arab countries. 16 countries issued statements against India. Iraq, Iran, Kuwait, Qatar, Saudi Arabia, Oman, Malaysia, the UAE, Jordan, Afghanistan, Pakistan, Bahrain, the Maldives, Libya, Turkey, and Indonesia. These countries demanded an apology from the Indian government. Qatar, Iran, and Kuwait, summoned Indian ambassadors to protest against the remarks. And to condemn the remarks. In some places, there were slogans for Boycott Indian Products. At a supermarket in Kuwait City, some shelves of rice and spices were wrapped up in plastic sheets, and on it, it was written in Arabic "We have removed Indian products." The thing about Gulf Countries is that these countries are very valuable for India. According to the ORF, India imports 60% of its crude oil from these Persian Gulf Countries. Oman is India's closest gulf partner, and in 2018, they had given a port to India for better access. For India's military and logistical support. According to the MEA, 7.6 million Indians, live in the Middle East. In addition to it, there is a trade angle too. The UAE and Saudi Arabia are India's third and fourth-largest trading partners. In 2018, the Reserve Bank of India had also revealed that 50% of the remittance inflow to India is from these countries. Oil imports, the market for Indian exports, employment, foreign reserves, and these countries are very valuable to India. And the Indian government is trying quite hard to establish good relations with them.

There is another angle to this controversy. When the French magazine Charlie Hebdo published cartoons which lead to protests and uprisings in the Arab countries, French President Macron had actually supported the magazine. Macron had simply said that France stood for Freedom of Speech. And that Blasphemy was allowed. That it's allowed to insult religion. So that was their official position. But on the other hand, in India, there are laws like the Section 295A, that makes Blasphemy an offence in order to prevent it.

Looking at the reaction of these Islamic countries, the Modi government went into damage control mode. Indian embassy's spokespersons said that the tweets did not reflect the views of the Indian government. the tweets came from "Fringe Elements³,"

So the issue arose: Where can political organisations like the BJP get such fringe elements and stupid people to serve as their spokespersons in a nation of 1.4 billion? Naveen was kicked out of the party and Nupur Sharma was put on leave⁴. With a brief apology, Naveen Jindal removed his tweet. Nupur Sharma also expressed her sincere regrets. The Bhartiya Janta Party said in a news statement that it respects all religions. It strongly prohibits disparaging any religion.

Finally, two FIRs were filed by the Delhi Police. One was against Nupur Sharma, while the other was against 31 persons, including the notorious priest Yati Narsinghananda and AIMIM Chief Asaduddin Owaisi. They too are accused of inciting hatred and offending religious sensibilities. Nupur Sharma was backed by a sizable crowd. claiming that doing so was within her right to free speech. Also, there should be no FIR filed against her. In the same way that Dr. Ratan Lal had supporters.

How Indian Citizens Reacted To This Controversy

She may have broken Section 295A, which raises the question. Do rational, strong-minded, forceful, and bold individuals find her remark offensive? Either yes or no might be the response to this. The courts will make the decision. Whether or not she offended religious sensibilities.

There are three groups of persons that have an opinion on this matter⁵.

The group of sincere conservatives comes first. Any criticism of a religion will not be accepted. those who think it is improper to offend religious sensibilities. Furthermore, Dr. Ratan Lal and Nupur Sharma also offended religious sensibilities. Therefore, both of them should face legal action.

³ (Youtube.com, 2022) <<https://www.youtube.com/watch?v=-05P5FB4AJc>>

⁴ 'Nupur Sharma Withdraws Her Controversial Statement After Suspension From BJP' (Firstpost, 2022) <<https://www.firstpost.com/india/nupur-sharma-withdraws-her-controversial-statement-after-suspension-from-bjp-10762371.html>>

⁵ The Pioneer, 'Nupur Sharma Controversy: What Basic Facts Are' (The Pioneer, 2022) <<https://www.dailypioneer.com/2022/state-editions/nupur-sharma-controversy--what-basic-facts-are.html>>

Honest Liberals fall within the second type. They defend the right to express oneself. They contend that Section 295A ought to be removed. Additionally, blasphemy shouldn't be a crime.

Because the hypocrite falls under the third group, a person who cannot stand criticism of their faith but will criticise endlessly when it is directed towards other religions. When they make fun of other religions' religious institutions, they are using their right to free speech. But when something is stated that is offensive to their religion, they then bring up Section 295A. or if their feelings are wounded. Surprisingly, this third group contains the majority of individuals⁶.

Numerous instances of stone-pelting, vandalism, and violence followed Nupur Sharma's remarks. Imtiaz Jaleel, an AIMIM legislator, demanded that Nupur be hanged. that she should get a death-by-hanging verdict. This definitely falls under the heading of hate speech, in my opinion. Because they are threatening to kill a person rather than offending anyone's religious sensibilities. They are encouraging someone to engage in violence. Such individuals ought to face harsh punishment. including those who start acting violently when they are demonstrating. vs those police officers who kill individuals while they are in custody, flagrantly flouting the rules of civility. Additionally, oppose the "fringe elements" that are instigating the violence in this circumstance. The administration has employed bulldozers in some regions in reaction to the violent protests. Bulldozers destroyed the homes of those who the administration believed had been aggressive during the protests. This is another act of obvious contempt for the rule of law.

The problem is that, despite all that has occurred, there are still others who make remarks like these that just serve to exacerbate the issue. In defiance of party directives, BJP Nigam Parishad Radhika stood up for Nupur Sharma. and used more venomous rhetoric than Nupur Sharma. Will she be kicked out of the gathering? Will she be put in jail? We'll have to wait and watch if the Maulanas on the news channels are subject to any punishment. Will they still be given a platform by the News Channels? Or whether these actions—the FIRs, the arrests, the bulldozing of houses—are only appropriate for the common person. Politicians and members of the media make fun of us and the system in order to keep us interested and involved in their intramural conflict. Hindu-Muslim or pro- or anti-BJP debates have no place in this entire situation. It is as

⁶ Paper and others, 'Amid Global Outrage, BJP Acts Against Leaders For Hate Remarks' (*Thehindu.com*, 2022) <<https://www.thehindu.com/news/national/bjp-suspends-spokespersons-nupur-sharma-and-naveen-kumar-from-primary-membership/article65496840.ece>>

easy as taking action against everyone who engages in violent behaviour, makes hate speech, or attempts to instigate riots.

Laws Related To This Controversy: Blasphemy Law

In order to protect individual rights in another XV chapter was added to the Indian indictment code of 1927 as 'religious offenses'. These are the very laws of blasphemy against India. This chapter covers the following sections:

Article 295: If any person intentionally injures, destroys or defiles any religious object considered sacred by followers of any religion in India, including anything other than idols and books is punished under this section. You will be punished with imprisonment for up to two years or a fine, or both.

Section 295A: if a person by verbal or written words or symbols or by visual representation defames or attempts to insult the religious feelings of any class of Indian citizens may be punished under this section. A person can be imprisoned for up to 3 years or fined, or both if they are charged under Section 295A of the Indian Penal Code.

KEY SUPPLEMENTARY SECTIONS 295A:

To make a case for Section 295A, there are certain important ingredients that need to be completed:

The law itself must be made. It can be in the form of words, symbols or visual representations or otherwise.

It must be done cruelly, that is, the intent must be cruel.

It should irritate religious feelings.

A person who feels angry can be of any category of Indian citizens.

Lastly, even if someone tries to insult another person's religion or his or her religious feelings (cruelly), he or she will be prosecuted.

Article 296: If a person intentionally interrupts any formal religious meeting or ceremonial ordinance he or she shall be penalized under this section and shall be liable to imprisonment for a term of one year or to both.

Article 297: If a person deliberately omits any burial ground knowing that his or her action would be detrimental to the religious feelings of any citizen, he or she is liable under this section. This arrangement is said to protect religious rights even for the dead. The penalty under this section is imprisonment for up to one year or a fine or both.

Article 298: This is a strange provision in this chapter as all cases under this section of the Indian finance code are visible, boilable, cannot be covered, but a case under this section covers, is not, and is not boilable. Any person, who intentionally utters any words, makes any sound or gestures, visible or audible, as possible, to the victim, in order to harm the religious feelings of the person, possibly punished under this category. Now it might seem logical to why it is a closed and invisible case. It is covered only by a person who has been hurt by his or her religious feelings. The offender can be imprisoned for one year or a fine or both under this section.

Section 154 of the Indian Penal Code prohibits the promotion of hatred in the name of religion but this section does not protect any religion but protects the right of a person to practice his religion.

Non-Blasphemy: Defensive Against The Law Of Blasphemy

In the case of Mahendra Singh Dhoni v. Yerraguntla Shyamsundar, a case of alleged corruption in the religious fabric of the world when a portrait of Mahendra Singh Dhoni, portrayed as Lord Vishnu, was published in a magazine entitled "The Supreme Power of the Great Covenants". It simply punishes those who show contempt or those who attempt to undermine a religion or belief in a sect that kills with the intention of retaliating and defaming the religious sentiments of that sect. The same reason was given by the high court in The State of Haryana And Ors vs Ch. Bhajan Lal and Ors.

In the cases mentioned above, the courts have correctly interpreted and clarified the reason for Section 295 A.D.

There are many instances where the debate over the legitimacy of the Inquisition in accordance with the Indian constitution has arisen, some of which originated during the colonial period, and there is in the present era a debate on that issue.

Ramji Lal Modi V. State Of Uttar Pradesh:-

In the case of Ramji Lal Modi v. State of Uttar Pradesh, a five-judge panel of the Supreme Court upheld the constitutionality of Article 295 A.D.

Mr. Ramji Lal was the editor of "Gauraksha" magazine. His argument was that under Article 19 1 (a) of the Constitution which deals with freedom of speech and expression, he said that his work was protected under the above heading. Also, it was argued that Section 295A, spread its net extensively, criminalizing every speech that was intended to offend religious sentiment. But the court said- "Section 295A punishes only the most serious form of religious blasphemy when it is committed intentionally and cruelly to provoke the religious feeling of that section. The "calculated tendency" of this evil form of defamation is clearly to disrupt public order and the section, which punishes such activities, is within the protection of subsection (2) of Art. 19 as a law that imposes reasonable limits on the exercise of the right to freedom of speech and expression guaranteed by Art. 19 (1) (a). "

Constitutional Arguments Against The Blasphemy Law

Superintendent, Central Prison, **Fatehgarh v Ram Manohar Lohia**

In contrast to the previous ruling that issued a directive that if there is a limited link between free speech and public order and Section 295 A will be repealed, the current Superintendent, Central Prison, Fatehgarh v Ram. Manohar Lohia has laid the groundwork for now a fundamental test in modern times that illicit speech should have a connection to disrupt public order and should not simply be remote communication.

But it is unlikely that in previous years the above-mentioned trial did not prove to be significant in recent years, as Ramji Lal's case was a five-judge bench and one Ram Manohar Lohia also a five-judge bench, thus firing seven judges. A bench is required, but it is a difficult process. Firstly, a two-judge bench (before any complaint can be lodged) must believe that this two-judge bench will need to refer a question to a five-judge bench, which (if satisfied), must refer it. On a seven-judge panel, which will ultimately hear the case on its merits?

Sri Baragur Ramachandrappa & Ors Vs State Of
Karnataka & Ors

The case came up in 2007 and proved that the trial in Ram Manohar Lohia's case did not see the significance of the case and that the connection between Section 295 A and public order had gradually disappeared, since in this case the Supreme Court had last been banned. a fictional account of the life of Basaveshwara, recognizing that “no one has the right to interfere with the opinions of others when expressing that his or her right to free speech remains uninterrupted

and free. It cannot be overlooked that India is a country with a wide range of vernacular, cultural, and religious differences and a humorous and shameful response that disturbs the integrity of others cannot be tolerated”.

The measure that was imposed on Ram Ji Lal Case was therefore related to speech and social order but in the present context it is clear that speech and speech are related to anti-religious comments and when speech is against religion. Shall be dissolved as a result of Section 295 A.

Conclusion

First, this controversy is an example of the impact that news debates can have on our society. Since the last few years, we have been seeing how TV media is causing polarization. An analysis shows that in March April 2022, out of 40 TV debates conducted by Times Now, 24 were about Hindu Muslim issues. These debates are taking place in a country where the average middle class family earns merely 20K monthly

Secondly, I want to share my favourite quote on freedom of speech "Freedom of Speech means the right to tell people what they do not want to hear." You can tell me what I do not want to hear Unfortunately, we are extremely intolerant in our country Now being overly-sensitive about religion is not uncommon in many countries But we are all sensitive - lawyers, doctors, bodybuilders, and even CAs are sensitive. Forget about religion, we are sensitive even about our professions. Talking about religious violence- From Bhagalpur in 1989, to Gujarat in 2002, to Delhi in 2020. The people who try to polarize our society are never killed. Unfortunately, the common people, who neither have money nor the rule of law to protect them become victims to this.

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