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FINDING GOD IN LAW

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ABSTRACT

From the initial start of the Indian freedom struggle which we can trace from the revolt of 1857 and one of the major factor that played to bring revolution as religion and its scope to be a part of Indian politics but post-independence when we the people of India as per our respected preamble sign or frame the constitution it was based on scientific and logical temper and it doesn't allow any specific ideology to be a part of pan India influencers and thus today we all are living in the state of science, enrichment by which judiciary also become a part of research as its frame and reconstruct social engineering in our society but communal riots, conflict of laws within each other, fascism and an idea of a utopia ideal state which we can link it with Plato philosopher-king theory is quite a romanticist. Today in a population of more than 3 billion homo sapiens are tilted towards proving their ideology by taking the law into their hand or we can frame it as an anarchy point of view.

Until and unless judiciary, executive and scholars come altogether we couldn't reduce the violation of fundamental rights and reduce the writ petition of habeas corpus. The objective is to understand my readers to know where and how we are stuck so deeply like the electrical wires of some underdeveloped states and to come out we as future intellectuals, students of law and journal editorial team, judiciary shall come together to frame India as India which is known for its beautiful balancing of its secular law regionally as well as internationally.

So we can reduce the extreme point of view or perception in context to one identity, tradition, and linguistic culture.

INTRODUCTION

Today in the era of globalization where identity plays a pivotal role while framing regional, political, and foreign policy we are stuck somewhere while proving our respected faith, ideology, and identity in the eyes of law until and unless it is subjected to an internal threat, sovereignty, and integrity of the nation. The bloodshed liability and interpretation among judicial scholars and justice have also become a pivotal challenge to address faith in a balanced manner as it comes under the conflict of fundamental rights of one to another which we will analyze in the upcoming information.

BODY

As per the data of the national crime record bureau, communal violence in INDIA had The increased up to 96% and it became an issue for the judiciary itself to frame clear legality between conflict between two fundamental rights which is Article-19,14,23,25 of Part 4 of The Indian Constitution. As under article 25, there is a provision regarding freedom of conscience and free profession, practice, and propagation of one religion but the issue is that to counter-terrorism or we can say to safeguard or even the perception that is made by the developed ¹nation to promote their soft power which we can call as hegemony India is struck in its sense to prove majoritarianism and somewhere system is going uprooted in the view of procedure made by law. For example, in the case of a person convicted under the unlawful act, it may happen that his/her right is detained or misused and even evidence may be diluted as it is a non-bailable offense and the person doesn't have any right to consult an advocate. Thus many of us will find that it is the absolute reason for an accused to be a part of that but what if he hasn't provided a chance to prove his sound of the voice and that what comes under conflict between a democratic state where laws are framed in a representative structure but implemented in the view of fascism state where freedom is controlled under unreasonable roots or identity.

The Supreme court in Kesavananda Bharati case (1973) mentioned that an amendment can be challenged on the ground that it violates a fundamental right that forms a part of the basic structure but we need to think is a preamble in which secularism is mentioned is it a part of the basic structure or if it is vulnerable to amendment then why there is judicial activism supporting that we can reflect the idea of the preamble to showcase a judgment where there is too much confusion. Another law under Indian Penal Code is Sedition whose birth could be traced from British India formed to restrict Indian freedom struggle and there are committees and recommendations from the liberal approach that this should act as null and void but on the other hand, if we do how we can trace a subject that is really a threat to internal security where maybe identity does play a big role,

¹“data on communal violence.” <https://ncrb.gov.in/en>, 2020, <https://ncrb.gov.in/en>.

These laws are subjected to controversy and lapse with a right to life under article -21 of the Indian constitution. States have the authority to frame absolute restriction but the purpose and aim should be clarified under-representation of people act.

Let's take two big case studies in the case of conflict regarding providing one faith and that is we all know about the Ayodhya hearing. Why does it take too much time and so much anxiety among both stakeholders to prove their judgment as if this judgment would make them gain any economic interest or self-interest? It worked about because of scientific records provided during the hearing and thus it would be an easy task if judicial activism interprets its role in a big platform.

Supreme court in its recent judgment mentioned that right to protest and following one specific identity doesn't mean that specific person is vulnerable to come under the unlawful prevention act and sedition under Indian penal code under section 124-A in which it is mentioned that whomever by words, either spoken or written, or by signs, or representation attempt to bring hatred, satisfaction towards government may come under this provision but the point is if a person through sense mind or by spoken mode criticized government then as per human psychology it is reflecting its nerves reflection which may be a part of past trauma or may be unsound in nature and as per Indian penal code a crime is not proven crime until it is reflected in a realistic manner not in the belief or intention system thus it would also conflict article-25 of Indian constitution which aims to focus on one intuition so we can observe the loopholes and supreme court in Menaka case (1978) it mentioned that the personal liberty means only liberty relating to the person or a body and overruled its judgement in the gopalan case while taking wider interpretation of article 21 and said right to life and personal liberty of a person can be deprived by a law provided the procedure prescribed by that law if it is reasonable, just and fair but any law which take absolute right to be heard in the state of democracy should exist or it should be balanced.

Now let's talk about another issue which we quite observed during the lock-up trial and that we know it as a violation of human rights in the prison under trial or till the date he/she doesn't prove guilty in the eye of law. There are some exceptional laws which frame state to detain a person if he/she seems to dismantle national security and integrity of the nation, but it has many wider critics as per the report of national human rights commission almost 80% of cases have been increased under the sedition law which when analyzed in a rational manner they seem to become out in a

misuse manner. One of the other critics that we can find in framing an individual as a part of crime is not through by his intention and implements reflection. As in sedition laws like UAPA which is known as Unlawful Activities (Prevention) Act the scope of accuser is quite narrower and here we don't need to prove any intention to prove his/her crime as it is framed for wider interest but what if we take an example of an individual wearing a specific traditional uniform and he is just arrested for the same or it might happen that in some cases if we don't have to prove intention then misuse of this law will be wider and as a democratic liberal and secular state framing autocratic or totalitarian laws feel like running currency of two equal amount in the market but one has the liability under the law and other is being to misuse the fake currency to make self interest. We can also link this law to mob lynching practices thus there it might happen that intention is unclassified, fair, or no matter but the output analysis that which we get is violence and judiciary imbalances as the legitimacy of the judiciary in context to trust and trust goes within the wall of deficit . And in the other hand the concept of mens rea where the intention is taken to prove a person guilty or not it's may be a tool to defense someone or maybe misused but as we all know or it's my personal analysis that to counter such misuse Indian evidence act is framed and sections like 14 is included where factors like motive, circumstances is also taken into consideration. There is multiple overlapping of one fundamental to another as in the case of jail trials also. We still don't have wider clarity that how we can frame all provisions in a democratic manner that one right couldn't be reached to protect another. There are various recommendations of law commission, a parliamentary committee, judiciary, executive itself but the main point of debate was to reframing perception, identity and security of the nation, people trust and that's what is more important in the view of the law. If due to any cause trust deficit became wider then it might happen the overall law order stability would be downgraded thus the principle of social engineering might be dismantled and led to the violation of article-21 of the Indian constitution which is a basic structure of a democratic nation.

To reduce this national human rights commission had asked the union home ministry state, union territory to frame police authorities set up as per the judgment of Prakash Singh vs Union of India, 2006² but the point is we all think well speak well but is INDIAN judiciary and its masses have

² According to the data provided by home ministry to the loksabha only,16 states fulfilled the obligation.

the will power to accept the rational productivity of higher judgments if yes it quite good but if no let's make it in a balanced way out.

CONCLUSION

If personal faith has so much legitimacy in the working of governance then today we might all run in the state of nature or in an autonomous state where the provision of law is quite natural. So before being a part of the judiciary or responsible citizen rationality is important which is also given in our fundamental duties.