

Living in Fear: The Never- Ending Peril of Hindu Persecution in Bangladesh

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ABSTRACT:

Hindu persecution in Bangladesh is not new. Secularism remained a constitutional mandate only. In reality the living condition of the Hindu community in this country is not that much satisfactory. Persecution has become a common phenomenon. That is the reason why most of the Hindus here lives in a constant fear of violence. Political unrest, election and now even any false statement in social media results in violation towards that community. Their constitutional position, the Vested Property Law and the long communal history made them vulnerable to violence. This paper will examine the recent violence that inflicted on them. As the same time the paper strives to find out the basic reasons for the communal clash by going deep into its history, examining the concept of secularism in the constitution, and by investigating the concept of Enemy/ Vested Property Law which is used to grab Hindu property. Quantitative methodology has been applied in this article. For conducting the study relevant articles, statistics, recent news, national and international documents, case laws, international data survey and other relevant literature covering the area has been examined. The finding will contribute to understand the forms and reasons of Hindu persecution in Bangladesh.

KEY WORDS: Hindu, violence, persecution, communalism, secularism.

INTRODUCTION:

Hindus are the largest religious minorities in Bangladesh. Since the Independence of Bangladesh, due to different kinds of violence against them results in turning down the population from 23% to 9%. Although the constitution of Bangladesh does not recognize any religious minority, it cannot be said to be an ideal secular constitution. Secularism is adopted as one of the fundamental state policies aiming that the state will ensure equal status and equal rights in the practice of the Hindu, Buddhist, Christian, and other religions(The Constitution of The People's Republic of Bangladesh, 1972, Article 2A) From this point of view, the state is bound to protect the rights of minorities. But the religious minorities have become vulnerable due to some conflicting provisions in the constitution itself, the shadow of its communal history, and the Vested Property law (applicable to the Properties of Hindus who left the country). The innate communal clash is still lingering in the country's constitution. Although the Hindu communities were not historically minority in this country, during the partition of 1947 and afterward most of the Hindu families migrated to India due to the fear of persecution. The process of migration is a continuous one and it is estimated in a study that if the migration continues at this rate there will be no Hindus left in this country in 30 years. The fear and never-ending persecution forced them to leave their beloved motherland behind. Their lands are encroached and made state property, houses are burnt, temples and idols are vandalized, raped and forced to convert and even lives are threatened. Every political party here did a little to improve their situation. The BNP and Jamat alliance never wanted to take any positive steps for Hindus amid their political ideology. On the other hand, some reforms in the constitution and Vested Property law have been brought by Bangladesh Awami League. But the same political party has also failed to revert the original secular nature of the constitution. For those legal, social, and political reasons communalism has become a complex problem to solve. Most of the Hindus here feel unsecured, remain isolated, and always in a fear of persecution.

Definition of Minority:

It is difficult to define the term minority as no internationally agreed upon and comprehensive definition is found yet. Minorities and their situation differ according to the territory and situation in which they live in. Usually, the minority is referred as

"A group of people who, because of their physical or cultural characteristics, are singled out from the others in the society in which they live for differential and unequal treatment and who therefore regard themselves as objects of collective discrimination"(Wirth, 1945, p. 347)

In democratic societies, it is based on the numerical ratio to the population as a whole in a particular area. (Jahan, 2014, p. 7) But in the international domain, it refers to a population within a country that differs from the dominant group in terms of religion, ethnicity, race, language, and origin(Jahan, 2014)

Violence towards Hindu Minority: (From 2013-2020)

The oppression of Hindus in Bangladesh has been a continuous feature in its history from the time of East Pakistan till now (Minority Rights Group International, 2016, p. 7). Tensions between Hindus and Muslims are not new in this subcontinent. It has its deep history rooted from the time of separation in 1947. Since then, the subcontinent has seen many bloodsheds in the name of religion and after 1947 the violence against Hindus in then Pakistan and now Bangladesh is a continuous phenomenon and followed religiously by the majority of Muslims irrespective of political parties. (Dr. Atanu Mahapatra, Dr, 2014) But large-scale violence took place during the Liberation War of 1971 which resulted in large-scale migration of Hindus. Notably, Bangladesh had 23% Hindus (Human Rights Council, 2016) after independence which has declined over the decades. This clearly indicates that the turmoil of persecution has not ended even after the independence. It seems that religious rioting has given this subcontinent a special feature. Bangladesh as a part of this subcontinent has also seen religious rioting even after its independence. The incidents following the demolition of Babri Masjid took 10 lives.¹ For the comprehensiveness of the paper in this segment the condition from 2013 to 2020 will be examined.

Every political ups and down here end up in Hindu persecution. For example after assuming office in 2009, the Bangladesh Awami League government, with the absolute mandate from the people of Bangladesh, decided to establish a Tribunal (International Crimes Tribunal, Bangladesh [ICTBD]) under the 1973 Act, to try and punish both the Principal and the local perpetrators who committed international crimes, e.g., crimes against humanity, genocide, etc. in 1971 during the period of war of the independence from 26 March to 16 December 1971. (Baul, 2019) The government officially re-established International Crimes Tribunal no.1 in 2010 and International Crimes Tribunal II in 2012 (not in operation). (Baul, 2019) Most of the offenders tried by the Tribunal are members of the opposition party of Bangladesh, basically from Jamat-E-Islami. But while the tribunal convicted Delwar Hossain Sayeedi, Vice President of Jamat-E-Islami on 28 February 2013, violence took over the country destroying more than 1,500 houses of Hindus and attacks on over 50 temples. (World Directory of Minorities and Indigenous Peoples, 2019) It is estimated that between February and April 2013 year at least 300 Hindu homes and shops and more than 60 Hindu temples were damaged or destroyed. (Faiz, 2014) Those attacks on the Hindu families although started in late February 2013 but continued around the year even after the national election that was held on 05th January 2014.

Each national election brings a turmoil of persecution to the Hindu community. There is hardly any national election resulted without violence to the Hindu community. As for oppositions Hindus are the vote banks of the Bangladesh AL, the community becomes prone to violence from the oppositions. In 2014 the nation has seen the most violent election ever. The 10th National Election was boycotted by the largest opposition party, Bangladesh Nationalist Party, and their alliance Jamat-E-Islami. The BNP-Jamat alliances called consecutive strikes and both the parties fought violently causing several deaths while the Hindu minorities were kept in constant fear, their homes and shops are destroyed and burnt, their belongings were looted and their temples vandalized. (Faiz, 2014) Following the election, mass violence took over the country. A couple of hours later the voting was ended the Jamat-E-Islami and BNP men created massive terror in Maloparha of Chapatola village at Abhoynagar Upazila in Jessore. (Star Report, 2014). And the terror of that day was reported in a national journal in the following words:

“Kalidasi Sarker jumped into the Bhairab River in the afternoon of the polling day with her 15-day-old baby. The 30-year-old mother must hold the baby above water while swimming across the 50m wide river, which too, she knew, she must. About 100 people had to jump into the river that afternoon as they were chased by activists of Jamaat-e-Islami and its student wing Islami Chhatra Shibir, all equipped with firearms, crude bombs, machetes, iron rods and sticks. Their only fault – they are Hindus and many of them had cast votes in the just concluded 10th national election” (Hossain, 2014)

It is reported in the same day more than 100 houses were looted and destroyed in Malopara out of the same incident. (Hossain, 2014) An estimated 500 Hindu families from Gopalpur village alone lost their homes in the violence. (World Directory of Minorities and Indigenous Peoples, 2019)

¹ The Babri Masjid was demolished in October 1990, following the incident the government declared a curfew on the country as some people tried to torch a temple in Dhaka. In 1992 the rioting became worse when India-Bangladesh a mob of 5,000 people tried to demolish the Dhaka stadium. Police fight back the mob. The rioting took over the country and thereby killed 10 people and many Hindu women are reported to be raped. For more details, please see UNHCR ‘Chronology for Hindus in Bangladesh’ (2006)
<<https://web.archive.org/web/20121018084907/http://www.unhcr.org/refworld/country%2C%2CMARP%2C%2CBGD%2C%2C469f3869c%2C0.html>>

Much Hindu minorities did not cast vote on that election amid threat of opposite party, they also contended that the government did not protect them from consecutive violence occurred on them (Star Report, 2014) few days before the national election since a senior hardline Islamist leader was sentenced to death by the International Crimes Tribunal in late February 2013. (Ethirajan, 2013) They also alleged that they felt helpless because they did not get any help from the administration and local Awami League leaders at the time of the attack. (Star Report, 2014) During and after the election attacks were made in southwestern and northern districts, including Jessore, Satkhira, Thakurgaon, Panchagarh, Chittagong, Nilphamari, Kurgram, Lalmonirhat, Satkhira, Gaibandha, and Dinajpur thereby affecting 5,000 families. (Humanitarian, 2014) The post-election scenario is described by UNCIRF in the following words

“Post-election violence occurred in 16 out of 64 districts in Bangladesh, with most attacks attributed to individuals and groups associated with the BNP and the main religious party Jamaat-e-Islami (Jamaat). The worst attacks occurred in minority-dominated villages. Dozens of Hindu properties were looted, vandalized, or set ablaze, and hundreds of Hindus fled their homes. Christian and Buddhist communities also were targeted”. (USCIRF, 2015, p. 193)

Both the political parties blame each other for the attacks on the minorities. But both parties are more or less involved in such violations. Among the suspects of the Nasirnagar violence, there were Awami League as well as BNP leaders.² This seems like every political party is seeking only a bare chance to impose violence towards the Hindu community. Even getting justice is a far cry for them. Masuk Hridoy, Rashidul Hasan, ‘4 Years of Nasirnagar Attack: Victims See No Hope for Justice’ The Daily Star (30 October 2020) <<https://www.thedailystar.net/country/news/4-years-nasirnagar-attack-victims-see-no-hope-justice-1986725>>. Although Bangladesh Awami League declares it as a Hindu-friendly party in reality, its leaders are also fueling that violence for land grabbing. It is not likely that the Hindus are targeted only on the political upsurges by the political parties, they have been subjected to violence even by the extremist militants. In late 2015 a bomb blasted near a Hindu temple instantly injuring 6 people. (Rubaiyat, 2015) In the same area, another attack took place on 11th December of the same year. Some militants with guns and bombs attacked injuring two people in a temple in Dinajpur ISKCON temple. (News Desk, 2015) In June 2016 a senior Hindu community member was brutally killed in Jhenaidah. (News Desk, 2016) The Middle East-based Islamic State militant group says it carried out the killing, but the government denied the claim and alleged that all the recent attacks were the work of domestic extremists. (News Desk, 2016) From the time of the Nasirnagar incident (News Desk, 2017) a different pattern is followed by the attackers to attack the Hindu community. In those cases, the assailants plan the assault and then tries to give it the name of communal rioting. For fulfilling their purpose, they use social media. In April 2014 at Baghsitarampur Village in the Homma Sub-district of Comilla, a school teacher created a false Facebook account in the name of this Hindu colleague, and thereby he made derogatory remarks about Islam, which resulted in the destruction of 28 Hindu homes. (News Desk, 2014) The same pattern has been followed in the Nasirnagar violence (News Desk, 2017) and in the very recent attack on 17th March 2021 of Sunamganj, Sylhet, which resulted in the destruction of 75 Hindu houses (the matter is still under investigation). (News Desk, 2021)

However, apart from the above massive violence, there is some single or scattered violence occurring around the years. The violence of different years has been cited in the table below: (2013-2020)

Year	Attacked and set fires on Houses	Attacked and set fires on Temples	Land and Property Grab Incidents	Attacks on Family	Injured	Death
2013	187	89 temples and 113 Idols				
2014	761	247			225	1
2015	104	213			60	
2016	192	197				7
2017	45	212			67	
2018	29	97			46	1

²The charge sheet was filed after 13 months of the incident in Nasirnagar and Upazila of Brahmanbaria. On 30th October 2016 some people attacked 15 temples and vandalized idols. The group also looted more than 100 houses and beaten up hundreds of Hindus. A few days later six more houses were vandalized. For more details see: (News Desk, 2017)

2019	37	72	0	7	51	
2020	11	66	9	8	70	

Source: The table has been made by examining yearly report of Ain O Salish Kendro (ADK)(Ain O Shalis Kendro (ASK), n.d.)

The Reasons behind the Communal Persecution in Bangladesh:

Communalism: A Living Parasite of the History: The reasons behind communal violence can be traced back from to the British colonial period. Before the British invasion in Bengal, there were three classes of people divided according to their labour given to the society. The three classes were (i) those who are directly engaged in the production or cultivation, (ii) those who were engaged in the profession, and (iii) those who extracted a tribute from the communities.(Rahim, 2017) But the communities then were never engaged in communal politics in the then Indian subcontinent. They were rather dependent on each other for the services in the community. As has been pointed out:

“The term ‘communalism’ (sectarianism) was used by British colonialists to describe the demographic composition of India and Malaysia, where religious minorities lived side by side Simply put, Muslims were not Hindus, as their different roles in a social hierarchy continually reminded them. But this valorization of communal division of labor and not political processes has its inherent weakness. Not taken into consideration among other things were traditional patterns of dependence between the communities.”(Rahim, 2017, p. 554)

Traditionally most of the Muslims of Bengal were cultivators and mostly living in rural areas. On the other hand, most of the elite Hindus in pursuance of their services lived in the urban areas and were closely associated with the rulers. And this traditional gap has further been enlarged by the British colonial system of education which allowed the elite solvent groups, who were elite Hindus, in the educational institutes.(Rahim, 2017, p. 558) The British rulers used the ‘Divide and Rule’ policy to strengthen their rules in the Indian subcontinent and thus nurtured the Hindu Muslim agitation. Especially in the last 50 years of its ruling in India (1902–1947) they used communalism as a strong weapon.(Panday, 2017) And it is that social insecurity that created political tensions between Hindus and Muslims in India.(Rahim, 2017, p. 563) This tension ultimately resulted in the division of two Bengals. In colonial India, religious identity was considered an important aspect. Muslim League and the ‘two nations’ theory are the byproducts of the growing distrust of Hindus and Muslims in the subcontinent. The strain of relationship became worse when East Bengal accepted the ‘two nation’ theory as their main political ideology. The Muslim League somehow convinced the Muslims of East Bengal that *“by virtue of one’s religious belief, a Punjabi or a Utter Pradesh Muslim is closer to him than his next-door neighbor who belonged to some other religion (Hinduism)”*(Barkat et al., 2008, p. 45)But before reaching the conclusion that the propaganda was the only reason for accepting the ‘two nation’ theory one must understand that the Bengali Muslims at that time wanted freedom from Hindu dominance and discrimination. As at that time most of the Hindus were ahead of the Bengali Muslims in many factors. (Ahmed, 2004, Chapter 1) But the Indian Congress was not happy with the ‘two nation’ theory and did not accept any division of the motherland. The distrust between the the Indian congress and Muslim League resulted in a holocaust on Calcutta in August 1946 following Mohammad Ali Jinnah’s (founder of two-nation theory) declaration of Direct Action day. The incident historically known as the ‘Great Calcutta Killing’ occurred from 16th to 19th August 1946. (Dinesh Chandra Sinha, 1946) The total number of deaths is yet a debated issue but the then official report confirms 3,500 deaths and 11,000 injuries. (Dinesh Chandra Sinha, 1946) Seven weeks later another tragic incident took place in the then East Bengal which was also influenced by the Great Calcutta Killing. Seven weeks later grave massacre arose in Noakhali a district of East Bengal which affected over 200 square miles. It all started on 10 October 1946 when some organized hooligans attacked the villagers with weapons. (Dinesh Chandra Sinha, 1946, Chapter VII) The hooligans forcibly converted Hindus, killed around 5,000 persons, and raped around 4,300 women.(Sinha, 1946, Chapter VII) The holocaust of the ‘Great Calcutta Killing’ and ‘Noakhali Carnage’ forced Congress and British Govt. to accept the ‘two nation’ theory. Finally, India got partitioned on the communal theory of ‘two nation’ and a new state ‘Pakistan’ emerged. The Pakistan period was a nightmare for Hindu community.

“During the whole Pakistan period series of grisly scenes of violence staged where people became dismembered or burned alive, women were brutally raped and had their breasts and genitals mutilated and the entire populations of villages were summarily executed. Many Hindu men and women committed suicide preferring an ‘honorable’ death to the shame of rape or conversion. During ‘47, families faced with the choice of life or death traded their young daughters in return for the safe transit of the rest of the family to India.”(Mandal, n.d., p. 111)

But soon after the partition, the Bengali realized that what they wanted was not Pakistan but a nation of their own. They realized that their culture, language, and way of life are different from Waste Pakistan.

Ethnically the Bengali Muslims inhabited Bengal with Bengali Hindus and shared the same culture. As a result, they were more tolerant towards non-Muslims and less conservative with their religious observance. (Ahmed, 2004) Different kinds of discrimination of the Pakistani government and the Anti-Bengali behavior of West Pakistan cluttered down the 'two nation' theory. The failure of the 'two nation' theory introduced the Bengali with their true nationalism. It was the language movement that clearly pointed out the distinct Bengali identity of the people of the then East Pakistan (Ahmed, 2004)

"There is no doubt that this new consciousness of Bengali-speaking people of this region irrespective of their religious faith was secular consciousness which deeply affected subsequent political developments." (Ahmed, 2004)

Subsequently, the Bengali political leaders of the Muslim League who fought for the freedom of Pakistan disagreed with Pakistan's sectarian views and strategies. Then in 1955 Awami Muslim League in Bengal opened the door of politics for the non-Muslims and changed its name from Awami Muslim League to Awami League thus became the first secular political party of then East Pakistan. (Rahim, 2017, p. 566) The political ideology of Muslims Bengalis began to change as the anti-Bengali views of Pakistani leaders led to suppression and discrimination of Bengalis. Although it was declared in the Lahore Resolution of 1940 that the two new states, East Pakistan and West Pakistan, will be two autonomous states, that status was never given to Bengal rather it became a colony of West Pakistan. From its formation till 1972 Pakistan was a total massacre. Within the timeframe of 1950 and 1971 Bengal was politically agitated.

Ultimately Bengali envisioned independence with the roaring voice of Sheikh Mujibur Rahman. Under the guidance and charismatic leadership of Sheikh Mujibur Rahman all Muslims, and non-Muslims united as one nation and fought for the liberation of that nation. (Ahmed, 2004) That rise of Bengali was in true sense secular. The scar of its communal history taught it a bitter truth and thus the country after independence adopts secularism as the fourth pillar of its state policy. But the story does not end here.

From balanced to a Contradictory Constitution:

Secularism was one of the sprites of our liberation war. The struggle of Bengali was not only for an independent Bangladesh but also for the liberation from all short of discrimination. People of all economic strata irrespective of race, caste, and creed fought for independence. As pointed out by Chief Justice Surendra Kumar Sinha:

.....one of the high ideals behind our liberation struggle was to establish a society in which communalism and segregation, based on religion, will have no place. The lifelong political struggle of Bangabandhu also essentially epitomised him as a gladiator for establishing equal rights and equal recognition of all faiths and their followers. This notion of non-segregation and non-communalism worked as momentum for our liberation struggle. In the preamble, it was clearly spelt out that the high ideals of nationalism, socialism, democracy and secularism shall be the fundamental principles of the constitution. (Government of Bangladesh and Ors. Vs. Advocate Asaduzzaman Siddiqui and Ors., 71 DLR(AD) (2019) 52, n.d.)

Although Bangladesh was only an infant state when it adopted its constitution and did not have the social standard to adopt secularism, it had the bitter experience of submerging religion into state affairs. (Rahim, 2017, p. 567) The framers of the constitution then thought it is better not to defuse religion with public affairs. (Rahim, 2017, p. 568) So, the Constitution of 1972, the original constitution of Bangladesh, adopted secularism as the fourth pillar of state policy. And the Constitution also under article 12 prohibited (a) communalism in all forms, (b) the granting of official status to any religion; (c) use of religion for political purposes, and (d) any discrimination against, or persecution of, persons practicing a particular religion. Undoubtedly it was a balance constitution of the world. Bangabandhu Sheikh Mujibur Rahman also believed that a secular nation is possible even within Islamic ideology. For him a secular nation does not necessarily mean an absence of religion, rather he insisted that it intends to prevent people from proliferating Islamists.

But things began to change after the assassination of the Bangabandhu Sheikh Mujibur Rahman. Every amendment that took place after his death thrived to change the secular nature of the constitution. The incorporation of "Bismillah-ar-Rahman-ar-Rahim" at the beginning and substitution of secularism with the principle of 'absolute trust and faith in the Almighty Allah' in Article 8(1) was the first strike against the secular nature of the constitution (Proclamations (Amendment) Order, 1977 (Proclamations Order No. I of 1977), n.d.). This amendment took place in 1977 after two years of the death of Bangabandhu Sheikh Mujibur Rahman. After the death of Bangabandhu Sheikh Mujibur Rahman martial law was declared all over the country. The constitution was not abrogated during the martial law regime (from 1975 to 1979). During this period the constitution was changed through different resolutions though our rigid constitution does not allow such a mode of amendment. However, the martial law ended when the general election was held in 1979 and the party of General Ziaur Rahman won the election by a two-third majority. After that, a constitutional Amendment Act

(5th Amendment) was passed which on 6th April legalised all the activities of the martial law government made and done during the period between 15th August 1975 and 9th April 1979. Again, in 1988 another military dictator H. M. Ershad made the 8th amendment in the constitution which again changed the whole concept of secularism in the constitution. A new clause was inserted Article 2A which made Islam the state religion of Bangladesh.(Act XXX of 1988, Article 2A). After that secularism literally vanished from the constitution. Every constitutional change has a large impact on society. These changes also made the same thing. The Hindus in this situation felt isolated and insecure in their own country. That is the reason why after independence most of the Hindu migration took place during the military regime.(Barkat et al., 2008)

In 2010 the HCD declared the 5th amendment void. The court ruled *that all Proclamations, Martial Law Regulations and Martial Law Orders made during the period from August 15, 1975 to April 9 1979 were illegal, void and non est.* (Khondker Delwar Hossain Secretary, BNP & another Vs. Bangladesh Italian Marble Works and others⁶² DLR(AD) (2010) 298, n.d.) This decision is considered as one of the landmark judgments of Bangladesh. Through this judgement any takeover of the parliament and substitution of the Constitution to any other body is made null and void.

There is no such law in Bangladesh as Martial Law and therein also no such authority as Martial Law Authority as such and if any person declares Martial Law, he will be liable for high treason against the Republic. Obedience to superior orders is itself no defence. (Khondker Delwar Hossain Secretary, BNP & another Vs. Bangladesh Italian Marble Works and others⁶² DLR(AD) (2010) 298, n.d.)

Thus, through this judgement the purity and supremacy of the constitution are upheld. Court also observed that by this amendment the basic features such as change of the secular character, the negation of Bengalis nationalism, negation of Rule of law, ouster of the jurisdiction of Court have been changed which according to the court amounts to seditious offence. (Khondker Delwar Hossain Secretary, BNP & another Vs. Bangladesh Italian Marble Works and others⁶² DLR(AD) (2010) 298, n.d.) Likewise, the 8th amendment has been set aside in 2008 for being violative to the Basic Structure of the Constitution.(Anwar Hossain Manju Vs. Government of Bangladesh and Ors., 12BLC(2007)792, n.d.)

Following the two judgements the Parliament made the 15th amendment of the constitution. Through the amendment, the parliament has tried to revive the original constitution. That amendment revived most of the provisions of the original constitution but secularism was not completely revived. In Article 2A the state religion remained Islam but equal status and right in the practice of the Hindu, Buddhist, Christian, and other religions has been granted(The Constitution of The People's Republic of Bangladesh, 1972, Article. 2A). This thing really sounds impractical. The Article first divided its citizens in the first sentence and then tried to fix this up with temporary glue. Noteworthy enough our constitution does not recognize any minority although it clearly indicates in its constitution that there are minorities whose religious beliefs are not state religion! It does not recognize any minority but recognizes the majority by granting a national character to their religious belief. The concept of recognizing any religion as a state religion is itself contradictory with the preamble and the fundamental principles of state policy. Article 8 declares that The principles of nationalism, socialism, democracy and secularism....shall constitute the fundamental principles of state policy.of the constitution. At the same time, it is a direct betrayal to the spirit of liberation war and the martyrs who sacrificed their lives for a secular Bangladesh.(Mandal, n.d., p. 116) In the presence of Article 2A some other provisions of the Constitution have become verbal condolence to the religious minorities. How could anyone imagine equality(The Constitution of The People's Republic of Bangladesh, 1972,Article 27) and equal protection of law(The Constitution of The People's Republic of Bangladesh, 1972, Article 31)when to some of its citizens a superior recognition has been granted by its supreme law? Regarding equal protection of law Justice A. T. M. Afzal observed that:

"The term 'equal protection of law' means persons similarly situated should be treated alike. Equal protection is the guarantee that similar people will be dealt with in a similar way"(Sheikh Abdus Sabur VS Returning Officer and Others, 41 DLR AD 30, n.d.)

And similarly, in the language of Justice R. Islam:

"The principle on which the doctrine of equal protection of laws is founded is that persons in similar circumstances must be governed by the same laws"(Dr. Nurul Islam Vs. Bangladesh, 33 DLR 201, n.d.)

The original Article 38 has also been avoided in the 15th amendment. The original Article states that:

"...no person shall have the right to form, or be a member or otherwise take part in the activities of, any communal or other association or union which in the name or on the basis of any religion has for its object, or purposes, a political purpose."(Mandal, n.d., p. 119)

This article was inserted by the framers of the constitution to avoid any kind of use of religion in state politics. That thought of the framers was driven by the secular spirit of the liberation war. That part of Article 38 has been omitted by General Ziaur Rahman by Second Proclamation Order No. III of 1976. And the said

proclamation was validated in 1979 through the 5th amendment. Sadly, the original article 38 was not reinforced rather a modified form has taken place for sheltering the religion-based political parties.

By the 15th amendment, the original Article 12 has been reinforced which declares the mechanism to realize the principle of secularism eliminating communalism, State patronization for any particular religion in politics, and discrimination or persecution for religious identity. The secularism in the constitution has now remained as a theory. But again, as it is one of the fundamental state policies, it will be a guiding principle for making legislation and interpreting laws as well as of constitution of Bangladesh (The Constitution of The People's Republic of Bangladesh, 1972, Article, 8B). So, now the secularism in the constitution stands like an Islamic secularism. Though protection has been granted to other religions their status has grossly encroached. No special legislation has still been made for irradiating violence towards religious minorities.

An Act Depriving Hindus from Claiming Their Land: Vested Property Act: Although the Act sounds like an innocent one it has snatched much Hindu properties. This Act has deprived many Hindus of their ancestral lands. It has a complex history in Bangladesh. The Act has its root in the Pakistani period named as Enemy Property Act. During partition and afterward many Hindus were compelled to migrate from East and West Pakistan to India. For the management of those left behind properties by Hindus, the then Pakistani government had to pass different regulations. Afterwards, in 1965 during the war between India and Pakistan, the Defense of Pakistan Ordinance 1965 was promulgated on 6 September, an emergency was also proclaimed on the same day. During the emergency, the Defense of Pakistan Rule was framed by the government under the Defense of Pakistan Ordinance. The government then issued an Order called "the Enemy Property (Custody and Registration) Order 1965" under Rule 182(1) of the Defense of Pakistan Rule. (Panday, p. 384.) Through this Order, India was declared as an "enemy" country, and provision was made for taking over of all interests of the enemy, *i.e.*, the nationals/citizens of India, residing in the territory occupied/ captured/controlled by the Custodian of Enemy Property. (Panday, 2017, p. 384) But the properties of the Muslims residing in India got exemption from the scope of the Act. Ultimately through this Act, the Hindus become enemies of the state. Subsequently, the Enemy Property (Continuance of Emergency Provisions) Ordinance, 1969 (Ord. 1 of 1969) was promulgated by the then President of Pakistan on 16th February 1969 which was in effect till the emergence of Bangladesh.

After Independence Bangladesh (Vesting of Property and Assets) Order, 1972 was promulgated through which all properties and assets which were vested in the Government of Pakistan or, any officer appointed by such Government or were vested in or managed by any Board constituted by or under any law or in the former Government of East Pakistan made vested in the Government of Bangladesh on and from the 26th day of March 1971. Ultimately all enemy properties then vested on the then Pakistan now vested on Bangladesh. Thus, it retained the Enemy Property Act although it had a distinctive communal bias and it was used as a means to appropriate lands from the minority, irrespective of the fact that it goes against the secular spirit of the nation. (PREETH, 2011) The government has however repealed the Act in 1974 through Enemy Property (Continuance of Emergency Provisions) (Repeal) Act 1974 without taking any further action of returning the properties to the legal claimants and hence the law was, and still is being, used by local and political elites to grab Hindu lands. (PREETH, 2011) This is probably the most potent example of to what extent a State can cause miseries to its citizens using a piece of legislation as an instrument of injustice. (Mandal, n.d., p. 121)

However, the repeal Act enabled the government to become the custodian of all enemy property firms that had been vested in the government of then East Pakistan, under the law of vested properties. Despite repealing the Ordinance of 1969, all the enemy properties and firms which were vested with the custodian of Enemy property of the then East Pakistan remained vested in the Government of Bangladesh under the banner of vested property. (Sajal, 2015) At the same time another Act was promulgated by the government namely Vested and Non-Resident Property (Administration) Act, 1974, the aim of this Act was to take over the properties of those residents who left Bangladesh during/immediately after liberation war and/or took foreign citizenship. This frustrating legislation ultimately put the Hindus in the same position as was in Pakistan because their properties still remained in the hands of the state. (Panday, 2017, p. 386) Thus even after independence the Hindus remained the 'Enemy' of the state and the constitutional protection of equality before law became a verbal condolence to them. At the same time the discrimination done to them is due to their religious identity which is also violative of Article 28 of the Constitution.

But the Hindus lost all the claims in their land when The Vested and Non-Resident Property (Administration) Act 1974 was repealed by the president in November 1976, by Ordinance XCII of 1976, with retrospective effect from the date of the amendment. (Panday, 2017, p. 386) By virtue of this Ordinance, the President was empowered to transfer besides managing and administering them. The property then unfetteredly vested on the Republic. The magnitude of the deprivation of the Vested Property Act can be understood in the work of Prof Barkat:

“direct consequence of enemy/vested property is among 2.7 million Hindu households- 1.2 million households dispossessed 2.6 million acres land. The estimated value of the 2.6 million acres of dispossessed land at current market price would be about Tk. 3,106,636 million. The average dispossession was 332 Decimals per household. Among them about 80% of affected households have dispossessed agricultural land, 62% dispossessed homestead land and 30% dispossessed other types of land”(Barkat, 2001)

During the military regime, no attempt was taken to change the nature of the Vested Properties or to return them to their owners since they wanted the continuance of the Act for their own benefit either to perpetuate their term or to grab Hindu lands.(Panday, 2017, p. 392) After three decades-long-continued protest and movement of minority Hindu community, civil societies, liberal politicians, educationists, and many others the government took initiative to restore the Vested Properties (in Government’s possession and control) to the rightful owner or his heirs. (Sajal, 2015) Later on, the Vested Property Return Act was passed in the National Parliament on 11 April 2001. That decision was taken by Bangladesh Awami League in 2001 for fulfilling the aspiration of Hindu voters on the eve of the 2001 election. But this Act was further amended in 2002 by the next ruling party BNP to the extent that the return of the properties was postponed for an unlimited time; the amendment also states that the properties are to remain under the control of Deputy Commissioners until a tribunal settles ownership. Till now the Act has been amended 6 times in different political regimes. (Sajal, 2015) Bangladesh Awami League returned to the Parliament in 2009 and placed the Vested Property Return (Amendment) Bill, 2011 on the floor of the Parliament in mid-November 2011, after having completed almost three years in office.(Panday, 2017, p. 388) The Act was finally passed on November 28 2011. However, the basic feature of the Act is that the Act has made a list of returnable properties. Those properties are then divided into two categories. In the Ka schedule there remained the properties that are returnable and the properties which are non-returnable are enlisted in the Kha schedule. A list of returnable properties is published in Official Gazette in 2012 after an amendment for extension of time. Even though preparing or updating the list of vested property (VP) with the inclusion of new VP case after 23rd March 1974 is totally illegal since the law of Enemy Property itself died with the repeal of Ordinance No. 1 of 1969, no further VP case can be started thereafter on the basis of the law which is already dead (*Aroti Rani Paul vs. Sudarshan Kumar Paul 56 DLR (AD)*) In 2012 the Act has amended again to repeal Ka, Kha, Kha Kha And Ga schedule. The original Act of 2001 also provides that one or more tribunals shall be established in each district. But the constitution of the tribunal is changed through the 1st amendment of 2013. (*Vested Property Return Act, 2001*, n.d., sec. 16)For the speedy disposal of the cases the 1st amendment of 2013 has made the order of the Appellate Tribunal final.(*Vested Property Return Act, 2001*, n.d., sec. 20) Although the Vested Property Return Act 2001 is a big milestone in this path but its implementation and success rate is frustrating. In 2016 Rana Dasgupta general secretary of Bangladesh Hindu-Bouddha-Christian Oikya Parishad claimed that

“Though Vested Property Return (Amendment) Act was adopted in the parliament in 2001 and several positive amendments were done between 2011 to 2013, no land has been returned to any victim so far. although 1.62 lakh petitions of returning vested properties were filed with the tribunal, only 10,000 cases were disposed in the tribunal and appellate tribunal so far. If the trend of disposing the petitions goes like this way, it may take 50 years more to dispose all,”(Report, 2018)

The frustrating truth is that only a few people have till now succeeded to drag out a judgment from the tribunal but the Deputy Commissioners were, however, not implementing the tribunals’ orders, as they think it’s a loss of government property(Sajal, 2015) It is noteworthy here that none of the parties in Bangladesh wanted to mass with the majority Muslim voters by annulling the Vested Property Act. The Act is working as the shadow of the Pakistani regime still after 50 years of the independence of the country.

The impact of the Act on the religious suppression of Hindus is immeasurable. The state practice of grabbing the property of the Hindus created an example for its citizens: remove or banish the Hindus from any locality and grab their lands! Not only that, the Act has made a feeling of insecurity among the Hindu community. This is in fact the harsh reality of why Hindu community in Bangladesh does not want any amendment regarding their personal property law!

CONCLUSION:

The condition of the Hindu community needs to be improved. For that their constitutional recognition needs to be strengthened. A constitution which gives equal right to all of its citizens does not need state religion as the constitution itself upholds the right to religion and freedom of religion to all. It is true that in the present social condition any attempt to remove the state religion from the constitution will hurt the religious sentiment of the Muslim community as it has already been incorporated there. Any attempt to remove it in this social condition could create a massive mass in the country. Social awareness and true religious teaching could improve the social condition. We must not forget that the concept of secularism is hidden in every Bengali heart, whatever the social condition may be deep inside there is secularism rooted deeply in most Bengali people. The properties of Hindus that are encroached under VPA should be reverted to their original owner’s heirs living in this

country. This should be done immediately. It seems that there are some technical problems in doing so. Because some of the properties have already been vested to some other person or the state is using the land for office. But the remaining properties should be restored immediately. Hindus and Muslims are the two inseparable portions of this land. Bengali is our nationalism. If we divide the nation some other parties or enemies of our liberation war will take its advantage. The contribution of both Hindus and Muslims to the independence of Bangladesh is undeniable. For the betterment of the nation, the contribution of all the citizens is necessary.

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