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Is Punjab's Proposed Blasphemy Law Retrograde?

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The 'Yes, No, It's complicated' column of The Hindu for 7th September, 2018, traces the history and analyses the possible socio-political impacts of the proposed anti-blasphemy legislation.

The Legislation- Section 295AA of IPC: It states that whoever causes injury, damage or sacrilege to Sri Guru Granth Sahib, Srimad Bhagwad Gita, Holy Quran and Holy Bible with the intention to hurt the religious feelings of the people, shall be punishable with imprisonment for life.

Introduction

A 'retrograde' law or a backward-looking legislation reflects a particular society's inability to adapt to the changing times. It reflects the aspirations that have not evolved according to the demands of the time. The provisions of sedition and obscenity are the examples that can be seen as the existing retrograde legislation.

Constitutional Provisions and the Concept of Secularism in Indian Context

Secularism is one of the basic features of the Indian Constitution (upheld in S R Bommai case 1994). The country does not have a State religion. However, professing and following any religion is one of the fundamental rights conferred upon the citizens (Article 25). The proposed legislation was framed with a view to control religiously triggered violence and to assure the religious communities that their "sentiments" were going to be protected.

What makes the proposed legislation retrograde?

- There already exists a law (Section 295A of IPC) which penalises the deliberate and malicious acts intended to outrage religious feelings with three years of imprisonment. Another legislation with life imprisonment for the defacement of the 'religious texts' makes little sense considering the secular nature of the Indian society.
- To criminalise blasphemy and sacrilege has the potential of justifying mob violence and private vengeance against the accused.

- A legislation like this can deter even honest attempts to fight against superstition and prejudices, the broad ambit of the offense had sometimes even put the government and courts in difficult situations.

History of Section of 295A of Indian Penal Code

"The history of criminal blasphemy creeping into Indian law needs to be retold. Mahashay Rajpal, the publisher of a book, Rangila Rasul (The Colourful Prophet), was sought to be prosecuted under Section 153A, as the book allegedly caused disharmony between communities. Rajpal was granted leave to appeal to the Lahore High Court because Section 153A then did not cover criticism of religious figures. As the book did not specifically cause enmity or hatred between religious communities, it did not violate Section 153A was the logic that weighed with the court. Thereupon, the Indian Muslim community demanded a law against insult to religious feelings. The British government enacted Section 295(A) in 1927."

Why do we need such a legislation?

- The legislation was drafted as a response to, and not an expression of, religious intolerance.
- Freedom of expression should not outrage the freedom and sensitivities of others.
- The proposed legislation is a short term step to put a stop to the outrage of the legitimate religious sensitivities of every class of people. Punjab has felt the need for strong social and psychological initiatives to remove the very need for such a legislation in the long run.
- Religious sensitivities, once provoked, can immediately lead to conflagration and get out of hand in the sensitive border State of Punjab. A more stringent law implies that sacrilege and blasphemy are socially and culturally unacceptable. It is in line with the recent events of intolerance and outrage against diverse religious sentiments.
- The lack of a clear definition of 'sacrilege' can impact a citizen's fundamental rights to exercise freedom of speech and profess one's religion freely, conferred under Article 19 and 25 respectively.

Conclusion

Using state power to enforce the sacred reduces these texts from being luminous, potent and transcendent in nature to vulnerable literature that needs the protection from the state.

Every legislation is prone to its misuse and the proposed is not an exception to that, however, making religious sentiments the basis for law, is a recipe for competitive political mobilisation and conflict, not of peace.

Harsh blasphemy laws in other countries (like Pakistan) have been misused to settle

political scores and silence opponents of the ruling regime.

The subcontinent has witnessed the emergence and flourishing of various religious beliefs because of the constant debate and revitalisation by reformers. The state needs to balance between the protection of religious sentiments and making it one of the political agendas to lure the vote bank. It can derive a broader meaning of 'religious sentiments' by looking back at the various religious reforms in the country.