Chapter 2

Communal Violence and the Role of Police in India
CHAPTER-2

COMMUNAL VIOLENCE AND THE ROLE OF POLICE

IN INDIA

Concept of Communalism

To begin with, take the concept of Communalism as to what it exactly meant. The term communalism has in the context of an average Indian, was first used by the British to describe colonies such as India and Malaysia where substantial religious minorities existed alongside a religious majority. However, the word has both negative and positive connotations. In a relatively small society, marked by language, culture, ethnic and religious homogeneity, the word 'communalism' is used with a positive sense, implying a concern for the community, a feeling of belonging to one's own 'primordial group' or 'in-group solidarity'. Etymologically, the word communalism is derived from either 'communes' or 'communal' (the word 'communal' here shared by the members of a community; both responsibilities such as labour and resources such as food or property)\(^1\). Primitive or pre-industrial societies, most remarkably hunting and gathering societies, are considered communal in the sense that the work and resources are pooled and shared to a large extent by all the members of the community. Such societies may be contrasted with the modern industrial societies, which are generally larger, have formal social control (including governments); and have a complex system of stratification.
Community and religion came into existence with the process of human development. Common bond for helping and co-operating with each other was the motive behind this development. These common bonds create affinity, harmony, trust, confidence, progress, safety and defense. They are based on human touch, emotions, sentiments and community feeling of oneness. Distortion of common bonds of community and religion leads to aggressive communalism or religious fury, giving rise to communal violence and other forms of social and public disorders.

Communalism is the manifestation of an ideology or philosophy that promotes well being and interest of a particular community, including its religious, ethnic, caste, linguistic or regional affairs. It comes into being as no human being can afford to live in isolation; (s)he has to interact or mingle with some particular community. Development of individual reason, rationality and personality can be reflected only through community life. Conversely, when individuals or groups of individuals are not integrated into the community they live in, they find it difficult to identify with the community. Group solidarities and communities often develop because of a strong feeling of exclusiveness, which may be the root cause of communal tension and the attendant bloody violence that continue to darken the socio-political horizon of the country.

Law lexicon defines the word communal which is adjective of the word ‘community’, as “of or for the community”. As per the Concise Oxford Dictionary, the word communalism means ‘principle of communal
organization of society'. Webster defines the word as 'social organization on a communal basis' and also 'Loyalty to a socio-political grouping based on religious affiliations'. As per the random House Dictionary of English Language, Communalism', means "strong allegiance to one's own ethnic group rather than to society as a whole". According to the encyclopedia of Nationalism, the concepts of communalism refer to competition between groups based on membership in rival communities. Communities may be distinguished from one another based on one or more of a number of characteristics such as religion, language or place of origin.

However, in India, the word 'Communalism' has acquired a notorious meaning and has often been used with negative connotations. It has been defined as a process in which community or communities mobilise(s) itself or themselves to confront another community or communities. It conveys the sense of antagonistic communities formed on the basis of "caste, religion, ethnicity, etc". Communalism creates hatred and ill will on the part of one community or communities towards another community or communities and challenges the unity, peace and progress of multi-cultural or multi-religious societies such as in India.

In its common parlance, 'Communalism' refers to a condition of suspicion, fear and hostility between members of different communities, particularly religious. In the Indian context, it has been mainly used to describe communal tension prevailing between the Hindus and the Muslims. During the
Colonial rule, frequent occurrence of communal disturbances substantially damaged the delicate fabric of Indian society. In fact, their occurrence can be distinctly traced to the policy of ‘divide and rule’ followed at that time. Colonial rulers, in the blatant pursuit of their vested interests, encouraged such disturbances, although many other elements played their part.

Today we experience communalism in different forms in our daily life, which can be broadly categorized as implicit and explicit communalism. Implicit communalism has affected the minds of the educated people and mostly the student community. They exhibit communalism in an indirect manner. Such type of communalism also abounds in the political and administrative set up of the country. There are many occasions in the history of communal disturbances in India where the police and administration exhibited unmistakable bias in the form of implicit communalism. Rai who served as superintendent of Police in many communally sensitive districts of UP studied the perception of Police neutrality during Hindu-Muslim violence in India. About biased behaviour of Police during these riots, Rai has concluded that "perceptible discrimination was visible in the use of force, preventive arrest, enforcement of curfew, treating of detained persons at police stations, reporting of facts and investigation, detention and prosecution of cases registered during riots". He goes on to add on biasness factor that "an average policeman does not shed his prejudiced and predetermined beliefs at the time of his entry into the force, and this is reflected in his bias against Muslims during violence".

Implicit communalism is also prevalent in the matter of appointment,
promotion, transfer, etc. On the other hand, explicit communalism is a product of direct communalism exhibited by the communal individuals or groups, communal parties/organizations. Communal propaganda being carried on by such communal elements in the form of communal writings/publications and communal polarization. In the present scenario implicit communalism is more dangerous than the explicit communalism. Generally, implicit communalism leads to explicit communalism.

Bipin Chandra identifies three conditions for the rise of communalism, particularly the religious communalism.

- First, people who follow the same religion, have common secular interest;
- Second, the secular interests of different religions are dissimilar or divergent from the followers of other religions; and
- Third, interests of different religious are seen to be incompatible, antagonistic and hostile⁵.

Communalism, therefore, is the product of transformation of socio-economic causes into religious issues, whereby people show abnormally high loyalty to one's own religion, caste ethnic group or community.

Communalism is by definition a sense of fellowship and solidarity in a community bound together by the bond of religion. Religion is a unifying factor transcending national and racial boundaries. Communalism is defined by Prof Bipin Chandra⁶ is the belief that because a group of people follows a
particular religion, its members have, as a result, common social, political and economic interests. It is the belief that in India Hindus, Muslims, Christians or Sikhs form different and distinct communities which are independently and separately structured or consolidated and that the followers of a religion not only community of religious interests but also common secular interest that is common political, social and cultural interest. A corollary to this is that not only are the interests of a religious community common, but they are necessary opposed to the interest of other religious communities.

The following are the distinctive features of the above definition of the communalism

1) It negates the concept of Pluralism. In a society like India, where there are many distinct regional identities it takes the position that despite the multiplicity of language, food-habits, attires or diverse regional economic imbalance, a particular religious community possesses a common identity and common interests.

2) Communalism always require an enemy i.e. member of another community. The member of one community are made to believe that their interests–secular or spiritual –can be protected only by initiating the interest of other communities. The victims of communal ideology assume that it is possible to protect their socio-economic and political interests as member of a religious community.
Oommen has identified Six-type of communalism⁷- (i) Assimilationist, (ii) Welfarist, (iii) Retreatist, (iv) Retaliatory, (v) Seperatist and (vi) Secessionist.

(i) Assimilationist – It refers to the use of several devices (by the state, its institution and certain section of mainstream community) to define certain non-Hindus, such as the scheduled castes and scheduled tribes, who have not converted to other religions, as Hindus. The constitution of India defines “Hindus” to include not only the Hindu religious community but also the Jains, the Buddhist and the Sikhs. The same definition was adopted in the Hindu code bill.

(ii) Welfarist – It refers to communal actions that intend to organize welfare for a particular community.

(iii) Retreatist - In the case of retreatist communalism, religious groups that are numerically insignificant, and hence helpless, officially proscribes their members from participating in the political activities.

(iv) Retaliatory - Retaliatory communalism takes place when a particular group rejoices, celebrates or mourns because another group is injured or hurt or the particular group itself is hurt or injured by another group. It is generated through communal ill feelings and sentiments. Most of the communal riots in India are the result of retaliatory communalism.

(v) Separatist - It is the communalism mainly implies the cultural specificity of a particular religious group and it demands a measure of political autonomy. It is less intense variety of secessionist type of communalism. There has been a
tendency on the part of certain section of the mainstream community to identify itself essentially on cultural or national basis. Thus, "cultural nationalism" is based on communalism.

(vi) Secessionist – Conceptually, the secessionist variety of communalism is basically different from the separatist type in that it insist that a religious community is a political entity and, therefore, it should have a separate political roof, an independent sovereign polity. Very frequently, secessionist communalism as a notion and as ideology is invoked to formulate the slogan 'the nation is in danger', which is in fact, not true. Only a very small segment of people really attempt to destabilize the nation. Epicenters of all the cases of all the cases of secessionist communalism are states, regions or tribes on the international frontiers.

Communal Violence

The ugliest manifestation of Communalism in the society is the violence, which explodes in the shape of communal riots. Communal violence means violence against a group or an individual targeted on the basis of communal identity. The target identification, in most cases, is guided by a strong belief that the interest of a community having common religion could be protected and furthered by causing injuries to the members of other religious community. Necessarily communal violence need not to be physical but in many cases it may be more psychological rather than physical. Communal violence stems out of prejudice, hatred, deep-rooted passions and jealousies.
and negative attitudes against the opposite group, and violence occurs out of such hostile attitudes because they happen to be members of other religion. For example, if a cow innocently takes away vegetables or fruits from a vendor who happens to be a person belonging to the Muslim community and he assaulted the cow without any intention to harm the animal, but the other Hindu vendors who are also doing the same business collect other members of the public and attack the Muslim vendor and damage his goods for assaulting the cow simply because he is Muslim. Otherwise, to shove away a stray animal is normally not taken any notice by the people belonging to other community. Thus Communal Violence may commences after the occurrence of a minor, trivial or sometimes serious incident and the subsequent hostility against that group of persons continues simply because the opposite belong to a different religion or community. It is born out of primitive neural surcharge emotions. Communal violence does not include incidents borne out of a personal vendetta such as individual quarrels, ignored by both Hindus and Muslims, with no repercussion at all.

The communal violence should have the following characteristics:

a) The Action is instigated by one group.

b) A swift violent reaction by the opposite group simply because the other group belongs to other religion.

c) There is a chain reaction by both the groups and a large number of people are collected and moved in the affected areas.
d) In a short span of time, the news of violence spreads and other retaliatory physical assault and attacks on property follows in the areas unconnected with the incident.

Thus, communal violence is born out of emotions, hatred, hostility and prejudice. Communal violence may also be defined as oral and physical violence against one religious group by another with intention to physically harm or destroy the property or both as they belong to a particular religious group.

Theories of Violence

It is important to study reasons for violent behaviour to have a better appreciation of social violence. In a study of social violence relating to Hindu-Muslim conflict, the basic concept and reasons for individual violence, which transforms into group violence, depending upon the situation, are relevant. The various theories of violence are given below;

1). Biological Theory: - Individual derives aggression from the animal instinct. It is due to genetic abnormality and extra sex chromosome that the individual became aggressive. It is also reported that human beings, by nature during fight or flight situation, became aggressive. It may be due to parental influence, namely hereditary and lack of positive emotion. It is reported that the central nerve system is aroused and there is a brain dysfunction involving anterior brain region.
2). **Physiological Theory:** There are aggression centers in the brain, namely amygdala and hypothalamus, which produce aggressive reaction. Thus different stimulations can produce different reaction. Alcohol produces pharmacological effects on the brain and increases the level of aggression, after weakening the inhibition. The mental illnesses effect the mind and causes deprivation and neurosis. Physical pain causes frustration and violence.

3). **Psychological theory:** This theory centers around personality of the individual. If a person is bored, depressed and lacked interest in himself and others, he feels insecure and becomes violent. Such a feeling of insecurity is learnt during childhood, and due to parental reward and punishment practices.

4). **Sociological Theory:** Psychological factor leads to the sociological theory of violence. The individual who wants to move upwards identify with higher classes and want recognition and perceive threats from other groups. Such feelings of frustration, poverty and emotional deprivation lead to violence. The method adopted to control violence also encourages social violence, as they are not adequately punished. The differential opportunity, violent culture, social alienation and distress out of multiple deprivations are also responsible for violence. Thus discriminatory practices, prejudices, frustration and injustice are responsible for social violence.

5). **Social Learning Theory:** Albert bandura has studied various variables affecting acquisition and maintenance of violence. He emphasizes about observational learning and direct experience. The observational learning refers
to what one sees around and picks out as model behaviour and the remembers and practices. The three major sources of social learning are: Family, Subculture and Symbolic modeling. Direct experience with violence reinforces the activity. There are models, which motivate violence, through stimulus enhancing functions. The aversive experience and incentive inducement also encourage violence. The other two direct motivators are instructional control in which people are conditioned to obey orders and delusive belief or system.

Causes of Communal Violence

1) Political:

There is an intense political competition among the leaders of different political parties belonging to both the religious group i.e. Hindus-Muslims to obtain favour of one community against another for political gains. Also, many instances are observed when government policies scorn to appease one group especially Minorities to gain votes during election. It is reported that as result of appeasement policy, communal groups gain support from some political parties which result in the arousing the feeling of jealousy and hatred in the other group. During communal violence some group exhibit their importance and poor leadership qualities by supporting communal elements. Such cheap and opportunist leadership facilitates communal tension and violence.
2) **Religion:**

Religion, at best, is one factor, among many. Religion, it should also be noted, is an instrumental rather than fundamental cause. Religion is used as a powerful instrument to achieve political, economic and social purposes for its powerful mobilizatory power. Religion has powerful emotional appeal as it is known that ‘Religion is the opium of Masses’ and hence it is easy to exploit clouding real interests. What appears to be clash of religions is, really clash of interests.

3) **Personal Insecurity and Fear:**

Communal violence takes place as a member of one community perceive the threat of domination, harassment, fear and danger from member of other religious community. The response to threat is either fight or flight. The latter generates fear and terror and the former causes hatred and anger phobia. During perception of threat, amygdala, a part of limbic system of brain, along with the hypothalamus is active and emotional sensory system exhibit negative emotions and behaviour of hatred, anger and violence as a part of primitive survival instinct. After all brain can generate both hatred and self-hatred. There is lack of inter-personal trust and mutual understanding and subsequent fear and worry among the communities. It is widely believed that person staying outside localities, as compared to local resident of the areas, come and participate in the riots and run away. The assailants are unknown to the local residents. During the communal violence neighbours and acquaintance became
enemies to one another. Though they are staying nearby to each other, some people from the same locality participate in the riots. Thus fellow citizens who know each other over a period of time became assailants.

During violence time, there is a lack of rapport between the public and the police. People do not report to the police on many incidents as they are afraid of personal assault from the criminal who actively participates in the riots in the absence of the adequate protection from the police.

4) Economic:

This is another major reason of the communal violence across the under-developing economies. The inflation and deteriorating economic condition is responsible for communal violence as people are restless and frustrated to commit violence. Due to the business rivalry, the anti-social elements are encouraged to attack the opposite business establishment belonging to other community to settle their scores.

5) Administrative

In the past, communal violence took place during religious procession and it is felt by many person that the religious procession should not be allowed to pass through the locality of rival community, as violence invariably breaks out on such occasions. Police is not effective in curbing communal violence due to nexus among police and anti-social elements. As a result communal violence is prolonged and people’s faith in civic administration is adversely affected. The administration heavily depends on peace committee consisting of
local leaders to restore peace but the peace committees have not found useful to bring communal violence to normalcy as they generally consist of citizens who are ineffective due to poor leadership qualities.

**Communal violence bill**

The communal violence is a recurring phenomena in our country, in which life, property and dignity of people were brutally ruined, in both pre and post independence India. But in the last two–three decades we had witnessed them at rapid interval especially after the Ayodhya issue got momentum. Our country has passed through several barbaric violent episodes like Ayodhya, Aligarh, Ahmedabad, Bhagalpur, Coimbator, Mumbia, Nellie, Kanpur and whole Gujarat in 2002. The Gujarat carnage had shaken the country very badly and it was felt that there should be a separate law to prevent recurrence of such carnage resulting in the death of hundreds of innocent people and bring shame to our country in the comity of nations. Also since India has signed, accepted and ratified the Convention on the Prevention and Punishment of the Crime of Genocide, 1948. It is under obligation to enact the necessary legislation to give effect to the provisions of the convention. The convention, apart from defining the crime, makes all persons committing genocide, punishable, whether they are “constitutionally responsible rulers, public officials or private individuals”

The UPA Government also promised such a law in its Common Minimum Programme (CMP) initially it prepared a Communal violence (suppression) Bill, 2005, but that Bill have many provisions that was against the very spirit
for which it was made so it was amended and made into the Communal Violence (Prevention, Control and Rehabilitation of Victims) Bill, 2005 (hereafter referred to as the bill). Still that bill has many shortcomings, represented nothing less than a complete betrayal of the promise of the CMP. The Bill introduced in Parliament on December 5, 2005, was then sent to the Parliamentary Standing Committee on Home Affairs for its review and recommendations. The Standing Committee called in those experts it saw fit, but again did not open its doors wide in what should have been a public, transparent and inclusive process. The report of the Standing Committee tabled in Parliament on December 13, 2006 failed to make any significant corrective measures which would retrieve the Bill. The UPA government has now introduced an impressive-sounding 59 amendments into the communal violence bill, 2009. These have been cleared by cabinet and now the government plans to introduce it in Parliament in the coming session. These 59 amendments have merely tinkered with the bill. They do not make any structural changes and do not incorporate a single suggestion made by civil society.

The Preamble of the Communal Violence (Prevention, Control and Rehabilitation of Victims) Bill, 2005 makes it clear that the enactment is being done with a view to empower the government to take measures. The focus is not on how civil society is empowered to initiate and control prosecutions when communal crimes occur. Given that it is the government that is the principal wrongdoer, the thrust of the legislation is misplaced. The fatal flaw
in the draft Bill is that it cannot be invoked even when communal crimes take place unless the state or the central government decides to declare an area as communally disturbed. Therefore, if a state has the support of the Centre, it can engage in the most heinous communal crimes and get away with it. The Act can only be invoked in the most extreme circumstances where there is criminal violence resulting in death or destruction of property and there is danger to the unity of India. There are myriad kinds of serious communal crimes which may not result in death, such as rape, and which are not considered to result in danger to the unity of the country. All these crimes fall outside the ambit of this Draft. Even if such circumstances do exist, it only prescribes that the government 'may' act. On the face of it, the duty to act is not mandatory.

Chapter III has the most controversial provisions importing the provisions of the Armed Forces Special Protection Act in order to allow the army to intervene at will, even kill. Section 10 which grants immunity to the police and the army is particularly insensitive. Various Commissions of Inquiry have found the police and civil authorities either passive or partisan. Section 22 introduces the POTA provisions relating to bail and remand, doubling the maximum days of remand and making grant of bail impossible. These were some of the offensive provisions that led to the repeal of POTA.

Communal crimes are nowhere defined. Apart from the obvious crimes; gender violence including the insertion of objects in the genitals, social and economic boycotts, forcible evictions, restraint on access to public
spaces, residential segregation, deprivation of access to food and medicines, enforced disappearances, interference with the right to education, using religious weapons and ceremonies to intimidate, interference with police work, advocating the destruction of a religious structure, need to be specifically set out in the statute. A chapter is necessary to punish the police and members of the security forces for their involvement in communal crimes particularly when FIRs are not registered or registered improperly, when security is not provided to minorities under attack, when destruction of property is not prevented and when inadequate forces are deployed. Wherever the officers stand firm - and there were many such fine examples of bravery even in Gujarat - the rioters are quickly scattered. No communal riot can take place without the support of the police and the security forces. They must be severely punished for not doing their duty.

A chapter on preventive action to be taken by the authorities along the lines of the SC/ST Atrocities Act is also needed. Apart from section 21, which deals with the externment of persons, there is nothing else. Immediately on receiving information the officials should visit the area, establish a police outpost, begin patrolling with special police forces and form vigilance committees. The abject failure of the criminal justice system because of the undermining role of the police and the public prosecutor, who often side with the accused, needs special legislative attention.
Similarly, public prosecutors who side with the accused persons and enable them to be released on bail or are instrumental in their acquittal ought also to come under legislative scrutiny. A section is necessary to allow the trial judge, who finds the performance of the prosecutor unsatisfactory, to remove him from the case. Politicians must come in for special mention in the legislation. Any minister interfering with police work by shielding the accused, misdirecting police investigation or by preventing relief from reaching the victims should be treated as a common criminal.

There is no provision in the present Draft Bill relating to the duties of authorities after the riots takes place. A section is necessary requiring the authorities to provide immediate relief, protection from further acts of violence, to prepare a list of victims and their losses, to provide for legal aid and for allowances and facilities during legal proceedings. Likewise, provisions are required to enable the court to shift the investigation to the CBI in cases of involvement of the local police in the communal crime. Section 27 of the Bill deals with compensation to be paid to the victims but restricts the compensation to the amount of fine payable under the Code which is a few thousand rupees. In Chapter XIII of the Communal Crimes Bill, the suggested sections made it mandatory for government to set up relief camps, pay subsistence allowance, pay substantial compensation and provide reasonable rehabilitation including alternative sites and housing and reconstruct the destroyed places of worship at government's expense. All these victim's rights are missing from the government Bill.
There is, of course, a wishy-washy Section 31 in the Draft Bill requiring the government to plan and coordinate relief and rehabilitation measures but this section falls short of clearly enunciating a victim's rights enforceable in a court. Once again had government cared to look at the Atrocities Act, it would have noticed the provisions relating to the collective fine where the community harboring the aggressors could be substantially fined and the money used for the payment of compensation. A special section on communal crimes against women and children is solely needed covering sexual violence, penetrative assault, sexual slavery, enforced prostitution, forced pregnancies, enforces sterilisation and other forms of sexual violence. The rules of evidence need to be modified so that the victim is not further victimised during the trial.

The Bill should cover communal crimes such as hate speeches and mobilization; spreading ill-will and distrust between communities; communal literature and textbooks as well as classroom teaching; forced ghettoisation and expulsion and exclusion from mixed settlements; discrimination in employment, tenancy, admission to educational institutional, etc on communal grounds; discrimination on communal grounds by professionals like doctors and lawyers and so on. Many of these such as hate speeches are addressed by existing laws but the flaw is the same, that there are no binding duties on the state to act against these.
The Bill contain some welcome provisions for witness protection under section 32, which provides that for keeping the identity and address of the witness secret. These measures include “(a) the holding of the proceedings at a protected place; (b) the avoiding of the mention of name and addresses of the witness in its order and judgments or in any records of the case accessible to public; and (c) the issuing of any directions for securing that the identity and addresses of the witnesses are not disclosed”. Based on international experience, these measures for witness protection can be extended further.

See Appendices for more detail on Communal violence Bill.

Role of Police in managing communal violence

A participatory survey conducted in 47 countries in 1999 brought out very vividly the voices of the poor people, showing their fears, insecurities and vulnerabilities. These voices showed that poverty was not all about being hungry and shelter less, but also being voiceless and powerless. It is the lack of voice and power that makes it very difficult for the poor and disadvantaged people to access justice and easy for the state and its agencies like the police and the elite class to deny them the access. What do the people in poor countries think about the state and its agencies? The poor people’s interactions with state representatives are marred by rudeness, humiliation, harassment, stonewalling and corruption. The most prominent of the state agencies having this image are the police. The global as well as the national surveys of public opinion show the police in very unsavoury light. A global survey showed that
"at best, they are inactive; at worst they actively harass, oppress and brutalise"¹⁵.

Role of police is very crucial in handling of riot at every stage i.e Before the riot, during the riot and after the riot.

(1) ACTION BEFORE THE RIOT

(a) Early action on early symptoms

There has been a general feeling that the police or administration often reacts to a communal situation only when it stares them right in the face. The district administration would do well if it carefully observes the simplest and minutest details of an incident with communal violence overtones as a prelude to a communal riot. Small incidents, which initially appear to be insignificant in nature, may snowball slowly into grave tensions which may ultimately results in serious riots. Once it is apparent that sufficient grounds and reasons exist making for a situation explosive in nature, the administration should go lock, stock and barrel to nip the emerging communal situation in the bud by calling meetings of important leaders of rival groups/ communities and seek their help in defusing the situation and indicating the firm resolve of the administration to deal with the communal incident if it occurs, firmly and effectively.

(b) Updating the Contingency Plan and its Review

Every district should have a contingency plan ready to deal with communal problem and riots. This plan should invariably include the source of
supply and deployment of police force, availability of arms and ammunitions, including teargas, transport etc. Updated list of communal activities of both parties and of anti-social elements should also be kept ready. A peace committee with names of influential members of both communities would come in handy to defuse a situation of tension if and when it actually builds up.

Detailed action plans for specially identified communally sensitive pockets where police has had a lot to deal with tensions/riots on earlier occasions should be kept ready. The contingency plan should be periodically viewed at the level of the district magistrate and superintendent of police. Mock situation should be created to test the strengths and weaknesses of each contingency plan.

(c) Gearing up of Intelligence Machinery

The importance of collection and dissemination of intelligence particularly relating to communal tension/incidents needs to be appreciated by all administrative officers, including police specifically and the subordinates should also be motivated to remain vigilant. More often than not, it is this aspect of police working, which has been overlooked resulting in the administration being caught, unaware and unprepared to deal with communal tension. The intelligence machinery of districts, therefore, needs to be strengthened and geared up vis-à-vis communal information. Frequent discussion should be held at level of the DMs and the SPs pertaining to the intelligence with regard to communal matters. Officers posted in the district
special branch should be closely associated with these discussions. Revenue officers like sub divisional officers, tehsildars, patwaris, block development officers etc could also be associated with this task. Sometimes, school and college teachers in the affected areas can also provide useful information about the brewing trouble.

(d) Updating the List and Activities of known Anti-Social elements

A list of the potential communal troublemakers should be kept ready at every police station, sub division and district level together with their up-to-date activities. Complete addresses should include name and addresses of close friends and relatives with whom the troublemakers may seek shelter in the outbreak of any trouble. It is often seen that these lists are either not readily available or they are not up-to-date. A close watch needs to be kept on the activities of the communal organization, particularly with their finances and their utilisation and other social link ups.

(e) Role of Peace Committees

'Peace Committees' or 'Ekta Saminties' should invariably be formed at the district and police station levels. In the case of a communally sensitive area, these samities should be formed even at the sub-division/tehsil and the mohallah levels. The committees should consist of the leaders of the different communication who are non-political but progressive and possess a modern and broad outlook and command respect of both communities in the area. Elected public representatives may also be associated in such committees.
(f) **Manpower**

Working out the requirement of manpower in all areas and localities where communal tension exists, should be kept in mind. Adequate manpower with district resources should be immediately mobilised and if necessary, prompt requisition should be made for calling extra force from divisional or state headquarters. Home guards available in the district should be made full use of to assist the police in the law enforcement wherever the need for extra force arises.

(g) **Regulation of Procession**

Members of different communities take out religious procession on different occasions. The police should collect prior information about the mood and intention of processionists and the attitude and preparedness of those who may be opposing the taking out of such processions. Trouble spots should be identified and places of worship on the route of the procession should be cordoned off and protected.

A procession, which is likely to generate tension, should be properly regulated and controlled under the provision of Police Act 1861, and other existing laws in force. The size of procession may be restricted and display of weapons, use of loudspeakers, chanting of slogans and carrying of posters should be restricted or protected as per legal provision. Such conditions should be clearly noted on the licenses issued to the organizers of these religious processions. A liberal presence of police personnel including armed pickets,
positioning of wireless sets on roof-top alongside the route of procession, requisition of paramilitary forces where necessary, could also prove to be helpful in controlling such processions. Use of helicopters where necessary could also be resorted to depending upon the nature of processions.

(h) Close watch on communal Organizations

Activities of communal organization needs to be closely watched constantly needs to be closely watched constantly. Bigotry and fanaticism have come to be accepted as a real face of most of our religions. It only needs a small apart from somewhere to kindle even a minor incident pertaining to religion into a communal conflagration. Propagation of hatred on religion basis can go to any extent in fomenting communal trouble and it is the bounden duty of law enforcing agencies to be acquainted with the latest activities of such communal organization and fanatics for initiating prompt preventive action under the law against their nefarious activities.

(II) ACTION DURING THE RIOT

(a) Continuous flow of Information

The intelligence machinery should be geared up right from the precipitating stage for obtain support and prompt information about the conditions in each affected areas along with adequate amount of advance intelligence for forward administrative planning and preventive strategies. The continuous flow of information alone can enable the administration to
neutralize communal intentions, prevent their nasty designs and help in bringing about normalcy.

(b) **Role of Army, Paramilitary forces and Liaison Agencies**

If the district administration finds itself in a situation where they are not able to control a communal riot, there should be no hesitation in summoning help from paramilitary forces, including the army. The district administration should not delay the calling of such forces for the fear that this will be viewed as a failure of its own machinery. It should be understood well that paramilitary forces and army have a major to play when summoned to the aid of civil authorities. As the army moves from outside, maximum possible help should be extended to them by the district administration.

(c) **Impartiality of law enforcing agencies**

The police has to act impartially during the course of a communal riot. The police personnel should rise above caste and community considerations and act strictly according to the law. No consideration except due process of law should be the touchstone of the district administration while tackling a communal riot. Care should be taken to arrest active accused persons promptly and investigation entrusted to a special team. Offenders should be arrested as soon as cases are registered under the preventive law.

(d) **Close liaison with Peace Committees**

Peace committees, which have a crucial role to play before the actual commencement of a communal riot, have an equal or greater role to play while
the riots are actually on. These committees, as discussed earlier, should represent a cross-section of the society and the members should be carefully chosen for their standing and respect enjoyed amongst their communities. The district administration should share with the members of peace committees, information about the situation in the area.

(e) Dispatch of timely Information

Prompt information about the developing situation and the strategies being adopted to deal with it on a continuing basis should be regularly flashed to the state control room to inform government and senior officers.

(f) Communal responsibility of DM and SP

The district magistrate and superintendence of police have now been made directly and principally responsible for any outbreak of communal disturbance within their jurisdiction by the government. Failure, laxity or indecision in dealing with a communal situation is sure to be reflected in their confidential rolls. Timely information should be sent by the district administration to the police headquarters as well as to the government of the actual situation prevailing at the time of the riots. There should be no understatement of the activities or action taken or action proposed by the district administration at any time. Timely wireless message, detail of cases registered, those arrested, loss of property, number of injured, amount and type of force used, number of deaths etc, should be flashed immediately.
(III) ACTION AFTER THE RIOT

(a) Relief to affected People

The first effort of district administration after a communal riot should be to bring about peace and normalcy in their jurisdiction. The state government should issue detailed instructions to the DMs regarding monetary help to the injured, to the next of kin of those who have suffered loss of property or life.

(b) Expedition arrest and quick disposal of cases

All criminal cases, which have been registered during the course of a riot, should be investigated expeditiously and criminals arrested. It would be worthwhile to depute the best investigating staff of the district to investigate these cases. If should be remembered that prompt challenging and conviction of ringleaders in such cases act as the best deterrent to prevent further riots.

(c) Ordering of Administrative Enquiry

As soon as a communal riot is over, the district administration would do well in ordering an administrative / magisterial inquiry into incident to assess the circumstances leading to the riot and also to fix responsibility, if there have been any administrative failure. To find out who failed, why the trouble was not wiped out by those enforcing law, is of prime importance. There is lack of audit and appraisal of failures, irregularities and improprieties at different levels, and this continues to be a serious lacuna in the district administration.
Continuous vigil of affected area

Soon after the situation quietens down it may appear to the district administration that communal frenzy had died down. This may be due to inadequate intelligence reaching the senior officers, whereas numbers of discord and rivalry still might be hot in an otherwise placid and calm exterior. This is necessary to keep an adequate presence of force at the scene of communal spot for long period. This will help in two ways- firstly, in case of any fresh trouble erupting the police will be able to promptly deal situation on the spot. Secondly, presence of police force in the area where communal riot has just taken place helps in maintaining the confidence of the affected communities.

As far as riots are concerned the whole administrative machinery is responsible to curb it and deal with the situations. But in such situations of tensions management the role of police machinery seems to be quite important at its face value. The National Police Commission in its sixth report has widely discussed the role of police in communal riots. The report has enlisted certain police/civil administrative failures based on its analysis of various commission reports on riots. It provides an insight into the police weaknesses in its operational efficiency.

The role of Police in general, can be classified in two broad divisions; first, maintenance of public order and protection of life and property, and second, enforcement of Law. The communal riot situation falls in the first
category. The maintenance of public order is to be comprehended as maintenance of peace and tranquility in the society for an even tempo of life\textsuperscript{17}.

The outbreak of a communal riot is a mass-conflict situation. The tangible feature of a communal conflict situation is that the society at large gets affected, there is mass participation, and after the riot is over, the social structure is left with deep scar. The police should understand that they are expected to gauge the mood of the people so that the counter offensive measure can be adopted in time to check people from indulging in mad orgy. The communal riots in various cities of the country have proved that police remain helpless for a long time. The affected cities remain a sight of anarchy, chaos and lawlessness. The rioters are aware that their delay in police control is their only opportunity to attack their targets.

Police preparedness is essential, when riot broke out in Meerut in 1987, the SSP admitted that the police did not anticipate the breaking of the riot as the day was marked with the celebrations like the Baisakhi procession, the Nauchandi fair, Ambedkar birth anniversary, and the shab-e-barat of Muslims. The fact was that a great deal of polarization of population had already taken place among Hindus and Muslims due to Babri Masjid issue. The bi-polar population was already charged and only an ignition was needed to trigger off communal disturbance, as it happened when Hindus mistook the fireworks display on Shab-e-Barat by Muslims in their Areas as an attack of Muslims on their locality.
The role of Police in riots is two-fold: Prevention of riots and Control of riots. Eruption of a communal riot is a social disaster and it warrants disaster management to control and mitigate it and a curative treatment to the structure. The cluster of population in the riot prone cities should have different policing strategy. The police are normally taken to surprise by the layout of these areas, that is, cluster effects. The clusters of one social group or polarity-based population are not alike. A cluster can be predominantly of Fundamentalists, Liberals or Radicals or may be mixed. The clusters vary in their callings, behaviour patterns, followings and response to leadership. The analysis of the nature of clusters provides the police a clear idea of the various types of element residing in the area. This helps the police to anticipate the conduct and behavioural pattern of such people in advance. Even those individuals who provide leadership, or who are engaged in or can be employed for various illegal activities for societal disharmony can be identified. The list of such individuals who seek solace in communal extremism needs to be drawn and regularly updated.

If radicals dominate any polarity-based cluster, there are sudden violent outbursts as the radicals are exceedingly aggressive and their mobilisation is easy. The communal organization keep such people on their roll and communal leader arouse their feelings against the other community. The intelligence wings of the police need to keep greater vigil and surveillance on such people in particular clusters especially during tension-time and mostly, meetings of communal organization are held in such areas where increasing support of
radicals is envisaged. The layout of various clusters helps the police in identifying the clusters size and its proximity with other clusters. Such an identification enables the police locate sensitive zones, common meeting places, targets, insecure belts, hideouts and shelters. A structural analysis of this kind also helps the police in evolving new methods of policing and controlling the rioters.

Legal Provisions

There is no dearth of legal provisions, both preventive and punitive, but the problem is of its impartial, just and strict implementation, which is lacked in our country due to various political, economic, social, religious and other factors.

Preventive legislation

The success of laws enforcement agencies in controlling violence must ultimately be judged not by speed with which a riot is quelled, but by the manner in which explosions are recognized in embryo and averted. Prevention is better than cure. Since every communal riot is brought about by previously existing factors whatever the background, it should be apparent that the atmosphere that contribute to the riotous situation develop over a period of time and many factors are involved. Timely intelligence reports concerning possible communal conflicts or activities of the rioters will assist the law enforcement agencies in making decision and directing actions that will thwart, preventive or suppress a riot. Each bit of intelligences, however insignificant it may
appear, should be properly be analyzed and assessed and action taken without delay. Each bit of intelligence, however insignificant it may appear, should be properly analyzed and assessed and action taken without delay.

False rumours can often be the spark that sets off the explosion. They are circulated rapidly and through distortion. Rumours also become significant during actual rioting by helping to sustain the excitement. They may be complete fabrications that are entirely unfounded and deliberately concocted and spread by vicious person who intend to stir trouble.

**Code of Criminal Procedure, 1973**

*Section 151*[^1]

Under this section a police officers is empowered to arrest, without a warrant, a person designing to commit a cognizable offence. Before making arrest the police officers must be satisfied that the person is designing to commit a cognizable offence and that the commission of the offence cannot be otherwise prevented. Since Section 151 is bail able, proceedings under Sections 107/116 are required to be submitted before an executive magistrate for taking an interim bond for keeping the peace. In the case of Dr Ramkrishna Rawat Vs District Magistrate, Jabalpur[^2] it was held that an order of detention under section 3(i) (a) of the National Security Act (NSA) can be validly made and served upon a person who is sent to jail custody in security proceeding under Sections 151/107/116. Prompt arrest of anti-social and goondas under section 151 will have a salutary effect.
Normally, every police station maintains a list of anti-social elements and goondas, which is brought up-to date annually. In police station prone to communal conflicts, the activities of anti-social and goondas are kept on record on the basis of complaints received against them as well as from intelligence reports.

Section 144

This section deals with cases, urgent in their character of either nuisance value or apprehended danger. Only an executive magistrate and commissioners of police can pass an order under this section. The order may be directed to a particular individual or to persons residing in a particular area.

Section 145

An executive magistrate, on receipt of police report can take action under this section whenever disputes between parties regarding possession of land or right of its use as an easement or otherwise threatens to develop into riots e.g. communal riots have often taken place regarding disputed over graveyard, mosques, temples etc.

Section 129

(a) Any executive magistrate or office-in-charge of a police station or in the absence of such office-in-charge, any police officer, not below the rank of a sub-inspector may use this section to disperse upon communal and unlawful assembly of any assembly of five or more person likely to cause a disturbance.
of public peace, and it shall be the duty of the members of such assembly to disperse accordingly.

(b) If upon being so commanded, any such does not disperse, or if without being so commanded it conducts itself in such a manner as to show a determination not to disperse, any executive magistrate or police officer referred to in sub-section (a) may proceed to disperse such assembly by force, and if necessary by arresting and confining the persons who form part of it, and they may be punished according to law.

Section 130

(a) If such an assembly cannot be otherwise dispersed, and if it is necessary for the public security that it should be dispersed, the executive magistrate of the highest rank who is present may cause it to be dispersed by the armed forces.

(b) Such magistrate may require any officers in command of any group of persons belonging to the armed force to disperse the assembly with the help of armed forces under his command and to arrest and confine such person forming part of it as the magistrate may direct.

(c) Every such officer of the armed forces shall obey such requisition in such manner as he think fit, but in doing so he shall use as little force, and do as little injury to persons and property, as may be consistent with dispersing the assembly and arresting and detaining such person.
Section 132

No prosecution against any person for any act purporting to be done under section 129, section 130 or section 131 shall be instituted in any criminal court except;

(a) (i) With the sanction of the central government where such person is an officers or member of armed forces

(ii) With the sanction of state government in any other case.

(b) (i) No executive magistrate or police officers acting under any of the said section in good faith.

(ii) No person doing any act in good faith in compliance with a requisition under section 129 or 130.

(iii) No officer of the armed forces acting under section 131 in good faith.

(c) In this section and proceeding sections

(i) The expression ‘armed forces’ means military, naval and air forces, operating as land forces and include any other force of the union so operating.

(ii) ‘Officer’ in relation to the armed forces, mean a person commissioned, gazetted or in pay as an officer of the armed forces and includes a junior commissioned officers

(iii) Members in relation to the armed forces mean a person in the armed forces other than an officer.
The expression ‘gazetted officers’ has been used in section 131 to cover officers of CRPF and BSF, which are also included in expression ‘armed forces’.

**Section 106**

(a) When a court of session or court of a magistrate of the 1st class convicts a person of any of the offences specified in sub-section (2) or of abetting any such offence and is of the opinion that it is necessary to take security from such person for keeping the peace, the court may, at the time of passing sentence on such person, order him to execute a bond, with or without sureties for keeping the peace for such period, not exceeding three years, as the court thinks fit.

(b) The offences referred to in sub-section (1) are:

(i) Any offence punishable under VIII of the Indian penal code (45 of 1860), other than an offence punishable under Section 153-A or 153-B or Section 154 therefore;

(ii) Any offence which consists of, or includes, assault or using criminal force or committing mischief;

(iii) Any offence of criminal intimidation;

(iv) Any other offence which caused, or was intended or known to be likely to cause a breach of peace.

(c) An order under this section may also be made by an appellate court when exercising its powers of revision.
Curfew

Curfew order is imposed by an executive magistrate and commissioner of police under Section 144 of the Code of Criminal Procedure to prevent stabbing, looting, arson, particularly when a more stringent application of section 144 becomes a necessity. Prompt imposition of curfew and its strict enforcement help the law enforcement agencies to localize the trouble. The proper timing for imposition of curfew should be before rumour and panic drive citizens out of their minds and the disturbance spreads.

Imposition of curfew does not require the prior approval of government. The decision to impose curfew order rest with District Magistrate or Sub Divisional Magistrate in consultation with the local police officer after proper assessment of the situation. The main object of it to prevent the disturbances breaking out. It also makes the task of the police easier for making preventive arrest of anti-social and gonad elements, who find it difficult to escape.

The imposition of curfew is a recognized and effective method of preventive and suppression of riots. Violation of curfew is a cognizable offence and punishable under Section 188 IPC.

Preventive Detention

Primarily an intricate network of voluntary controls and standards among the people themselves does not keep public peace of cities, towns and countryside. Before an offence is committed it may give warning of its approach in many ways. It passes through a chain of preparation, which often
allow it to be arrested before it reaches catastrophe. This part of the police functions are assigned to all individuals alike or by special powers entrusted to authorized person. Relevant sections are; Section 43 IPC (arrest by private persons and procedure on such arrest), Section 37 (public when to assist magistrates and police), and Section 39 (public to furnish information on the commission of, or of intention of any other person to commit following offences forthwith reported to the nearest magistrate or police officer).

**Law of Preventive Detention**

Section 3(1) (a) (b) of the national security Act, 1980 empowers the central and state Governments to arrest and detain a person without trial with a view to preventing him from acting in any manner prejudicial to the defense of India, the relation of India, the security of state, maintenance of public order, supplies and service of essential to the community. It also provides the power to detain a foreigner with a view to regulating his continued presence in India or with a view to making arrangements for his expulsion from India. For preventive detention, action can be taken on reasonable suspicion and a detention order is generally passed in the light of the evidence about the past activities of the person concerned. In the case of Raibuddin alias BabuTanchi Vs State of UP²⁰ a detention order on ground tat the detenu was fomenting communal hatred in the town at a time when grave communal disturbance were prevailing and there was the possibility of the disturbance s were prevailing and
there was the possibility of the detenu being released on bail in criminal cases pending against him and continuing to indulge in such activities, was justified.

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<th>Section of IPC</th>
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<td>143-145,147-148</td>
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<td>161-165-A</td>
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<td>382,392-399</td>
<td>Robbery, Dacoity, etc.</td>
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<td>409</td>
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<td>449-450</td>
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<td>Lurking, house trespass.</td>
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<tr>
<td>489A-489-E</td>
<td>Currency note, bank.</td>
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Section 40 refers to the duty of officers employed in connection with the affairs of a village to make certain reports. Section 128 empowers the officers-in-charge of a police station or, in the absence of such officers not below the rank of a sub-inspector, to require the assistance of any male person, for the purpose of dispersing an unlawful assembly or any assembly of five or more persons who forms a part of it. Intentional omission to assist or furnish information is punishable under IPC. The above provisions of the code of criminal procedure are adequate enough to get public cooperation. But by and
large public are not aware of these provisions. It is necessary that these provisions should be translated in all regional language and be widely circulated in the educational institution, government and semi-government officers and private establishments to make the public aware.

**Indian Penal Code**

*Private Defence*

While dealing with communal riots, all policemen and citizens should be fully conversant with the law of private defence. Crimes committed during communal riots are: murder, grievous hurt, house trespass, rape, kidnapping, abduction, looting, arson etc. Against these crimes the right of defence is absolutely necessary. The vigilance of law enforcement agencies can never make up for vigilance of each individual on his own behalf. The fear of law can never restrain bad men so effectively as the fear of sum total of individual restraint. Every person has a right to defend his own body, and the body of other person against any offence affecting human body, and his own property or any other movable or immovable, against any act which is an offence failing under the definition of theft, robbery mischief or criminal trespass or which is an attempt to commit the above offences.

The right of private defence, as defined by law, must be fostered in policemen and public. They need not run away, but pose a counter attack on the rioters provided that the injury, which they inflict, is not out of proportion to the injury with which they were threatened.
Mayne$^{21}$ points out that whole of self-defense (Section 96-106 IPC) rests on these proportions, namely, (a) that society undertakes and in great majority of cases is able to protect private persons against unlawful attacks upon their person or property, (b) that when its aid can be obtained it must be resorted to, and (c) when its aid cannot be obtained, the individual can do every thing that is necessary to protect himself, but that the violence inflicted must be in proportion to the injury to be averted and must not be employed for gratification of vindictive feeling.

So these are some legal and administrative means and methods at the disposal of police in India to face the communal violence situation.
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