

# Journal of Multi-Disciplinary Legal Research

## Constitutional Validity of Disturbed Areas Act

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## **Detailed Analysis of Disturbed Areas Act and its Constitutional Validity**

### **Abstract**

This research paper critically evaluates the Constitutional validity of the Disturbed Areas Act and does a detailed analysis of why the act was put into place. This paper does a study of the communal activities in Indian cities and how Disturbed Areas Act would act as a temporary deterrent.

### **Introduction**

The Gujarat High Court on January 20 restrained the state government from notifying any area as a "disturbed area" under Gujarat's Disturbed Area Act. The high court's decision came on a plea filed by the Jamiat Ulama-e-Hind. (JUeH) which alleged that the act—formally known as The Gujarat Prohibition of Transfer of Immovable Property and Provisions of Tenants from Eviction from Premises in Disturbed Areas Act, 2020—resulted in the ghettoization and "improper clustering of persons of one community."

### **What is the Disturbed Areas Act? <sup>1</sup>**

President Ram Nath Kovind in October 2020 gave his nod to the Bill—passed by the state legislative assembly in 2019—which included important amendments to the 1991 act. Under the amended 2020 act, a district collector (DC) can notify an area, a town or a city as a "disturbed area". This classification is usually done if that area/town/city has a history of communal violence. Once an area is notified as a "disturbed area", residents will be able to transfer their immovable property only after getting District Collector's approval. In the application, the seller must include an affidavit stating that they have got a fair market price for their property and that the sale is being done of their own free will. Any person in violation of this act will attract penal provisions upto three to five years and a fine amounting to Rs 1 lakh or 10% of the jantri rate of the property (ready reckoner of property prices in different parts of the state), whichever is higher. Jantri (Jantri of Gujarat Land Value Certificate) is a legal document that specifies the rate of building or land at regular intervals.

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<sup>1</sup> The Wire, Gujarats Amended Disturbed Areas Act Gets Presidents, 13/10/2020

### **What are the key provisions in the Amended Act?**

According to the 1991 act, only those areas that witnessed a history of communal violence could qualify as a 'disturbed area'. But, as per the amended act, the state may notify any area as a 'disturbed area' even if the state is of the opinion that there is a polarization of persons belonging to one community has taken place or is likely to take place leading to a disturbance in the demographic equilibrium of the area and where the mutual peaceful and coherence amongst the different communities may go haywire. Under the amended act, the word "transfer" now includes the sale, gift, exchange, lease including taking possession of the property by way of power of attorney, or in any way the property is transferred from one person to another. To this effect, the Registration Act has also been amended to include the provision that no property in a disturbed area will be registered without the Collector's nod. The Collector has more powers to ascertain the likelihood of "polarisation" or "improper clustering" of persons belonging to a particular community, in an area. He will be assisted by the Municipal Commissioner and Police Commissioner, on sale/transfer pleas and also while notifying an area as a disturbed area so as to maintain the demographic equilibrium of the area. The state government is now a supervisory authority and has the power to review a collector's decision even in the absence of an appeal. The supervisory authority will be formed when the rules of the act are framed. A Special Investigation Team (SIT) or committee will probe any complaints or alleged violations. A house owner may redevelop the property for himself. But if the owner decides to sell/lease/transfer/gift a part or whole of the redeveloped property then the Collector's permission must be taken. The amended act is not applicable to the state's rehabilitation schemes in a disturbed area. Presently Ahmedabad, Vadodara, Surat, Himmatnagar, Godhra, Kapadvanj and Bharuch are classified as disturbed areas.

### **Why did the government amend the Act?<sup>2</sup>**

According to the Gujarat government, the act aims to control communal polarisation of an area. "This Act will curb the illegal sale or transfer of properties in disturbed areas," Pradeepsinh Jadeja, Minister of State for Home, was quoted as saying. "The new Act would ensure peace, stop polarisation and keep a check on attempts to cause demographic imbalance," he added. The amendments to the original act were proposed after the state received a number of complaints about "unscrupulous persons who were getting ownership of properties while taking disadvantages of some legal loopholes". Complaints further alleged that sale/transfer of property was being done in contravention to the district collector's prior permission. As per the 1991 act, the DC had to ensure the sale and transfer of a property in the disturbed area was done at fair market price and of the seller's free will. The Bill was the state government's effort to pre-empt malafide intentions of certain people to polarise sensitive areas, Senior Cabinet Minister Bhupendrasinh Chudasama said when he introduced the bill in the state assembly in 2019. "It (the Act and proposed amendments) is a promissory note of permanent peace," he said. Welcoming the move, BJP MLA from Vadodara city, Manisha Vakil, stated that members of a particular community would forcefully snatch property from the people of another community or by paying them a price above the market price.

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<sup>2</sup> InsightIAS India, Gujarat Disturbed Areas Act, 14/10/2020

### **Why DDA was made in the first place?**

The primary reason DDA was made is to tackle communal violence.

### **Segregation**

An Indian Express report drew a lot of attention because it had mentioned that Ahmedabad Civil Hospital had made separate wards for Hindus and Muslims patients. The Medical Superintendent stated that the segregation was carried out as per the orders of the State Government. A staff member suggested that it was done for the comfort of the patients.<sup>3</sup>

Segregation means when communities live separately and use different resources. Segregation is very common in India. Segregation takes multiple forms. For example separate schools<sup>4</sup> and separate public facilities (e.g. water resources<sup>5</sup>). All these segregations originate when the communities live separately. News reports suggest that Muslims face difficulties when searching for a house<sup>6</sup> even in cosmopolitan cities like Mumbai.<sup>7</sup> Segregation has an economical, social and a political impact on our lives.

### **What role does segregated housing play in communal violence?**

To understand what role segregation plays in communal violence we'll compare two cities – Ahmedabad, which has witnessed several communal riots; and Lucknow, where the only major communal riot took place before independence in 1992.

Ahmedabad: Before Independence, Hindus and Muslims used to live together in Ahmedabad. Their houses were situated close by. But after the 1940s, the housing societies were demarcated. These societies were called 'pols'.<sup>8</sup> For example 'Jain pol' or 'Patel pol'. The segregation surged after the 1969 Ahmedabad riots. Around 600 were killed in the riot and it had been the deadliest riot till 1989 in Independent India. Following that, Hindus moved out of Muslim-dominated areas such as Shahpur. Similarly, Muslims moved out of Hindu-dominated areas such as Khadia and Teen Darwaza<sup>9</sup>. Many Muslims then relocated in Juhapura which is a faraway locality. The segregation escalated after the Babri Masjid Demolition in 1992 and the Gujarat riots in 2002. Juhapura is a prominent example of segregated housing in India. At first, only poor Muslims relocated to Juhapura. But after 2002 riots, even well-off Muslims started relocating there. For example, Rizwan Kadri, son

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<sup>3</sup> Indian Express, Ahmedabad Hospital Splits COVID Wards on Faith, 17/4/2020

<sup>4</sup> Outlook India, In Delhi School, Hindu And Muslim Students Allotted Separate Sections, NDMC Takes Note

<sup>5</sup> The Hindu, Even Water in India Had A Religion

<sup>6</sup> Betwa Sharma, 'No Vacancy' For Muslims in India's Capital, Huffpost

<sup>7</sup> Smruti Koppikar, How bias against Muslim flat seekers came to be entrenched in India's most cosmopolitan city, Scroll.in

<sup>8</sup> Nileena MS, The Gujarat government is enforcing communal segregation and criminalising property transfers Para 10, The Caravan

<sup>9</sup> Nileena MS, The Gujarat government is enforcing communal segregation and criminalising property transfers Para 11, The Caravan

of a revenue official, grew up in a Hindu-Muslim mixed locality but moved to Juhanpura after the 2002 communal riots.<sup>10</sup>

Government regulation also perpetuate this segregation. In Ahmedabad, it's almost impossible for a Muslim to sell his house to a Hindu and vice-versa. This was made sure by a government regulation known as Disturbed Areas Act. This act was implemented to prevent people living in disturbed areas from selling their houses in case of riots and violence. Permission was needed from the District Collector to sell your house to a person of another religion. 40% of Ahmedabad is covered under the Disturbed Areas Act<sup>11</sup> making it impossible for someone to sell their house to a person of another religion. This way the government maintains segregation in housing. The government's intentions were made clear by the Chief Minister of Gujarat Vijay Rupani in an interview by Indian Express said that it's not acceptable for a Hindu to sell his property to a Muslim and vice-versa.<sup>12</sup>

Lucknow: While Ahmedabad has become notorious for communal incidents, Lucknow has not witnessed serious bloodshed. Only two riots have taken place in Lucknow, one during 1992 and other in 2005. As compared to Ahmedabad, Lucknow has little segregation.

Raphael Susewind measured segregation for many Indian cities. According to Raphael Susewind, Jaipur is the least segregated while Ahmedabad was the most segregated.<sup>13</sup> The segregation seen in India is not only based on religion. Caste also plays a major factor too. There exist vegetarian-only societies in Mumbai where Muslims and Lower Caste Hindus are not welcome.<sup>14</sup> A survey tried to measure the hardships an upper-class Hindu, a Dalit, and a Muslim face while finding housing in Delhi. It was observed that 97% of the time the upper-class Hindus received a positive response from the landlord. The figure was 48% for Dalits and 29% for Muslims. Even if Dalits and Muslims found a house, they had to pay higher deposits and rent.<sup>15</sup> It's not because Dalits and Muslims don't have enough money to find a house in Delhi. It's based on identity as several rich and influential individuals have been rejected too.<sup>16</sup> Once people start to live in segregation it solidifies over time it becomes difficult for them to adjust to mixed communities. People living in segregated housing can't interact much with other communities. Thus, they might develop extremist thoughts against the other community. also witnessed higher instances of communal violence. Though there has been no causal analysis for the role of segregation in communal violence, we can observe through Raphael's data that cities that are extremely segregated, e.g., Delhi and Ahmedabad, have witnessed considerable communal violence. It's easy to understand how extreme segregation sparks violence. Because segregation leads to limitations in the interactions between individuals. This reduces the trust between the communities. And a hateful environment can be created.

<sup>10</sup> Soutik Biswas, Why segregated housing is thriving in India, BBC

<sup>11</sup> The Times of India, 74 localities added to Disturbed Areas list

<sup>12</sup> Prerna Katiyar, People are leaving Congress because its leadership is weak: Vijay Rupani, The Economics Times

<sup>13</sup> Raphael Susewind, Muslims in Indian cities: Degrees of segregation and the elusive ghetto, SAGE publications

<sup>14</sup> Free Press Journal, Mumbra's first vegetarian building, bars residents from selling flats to meat eaters

<sup>15</sup> Sukhadeo Thorat, Anuradha Banerjee, Vinod K Mishra, Firdaus Rizvi, Urban Rental Housing Market Caste and Religion Matters in Access, HRLN

<sup>16</sup> Bharti Dubey, Emraan Hashmi can't get a house in Pali Hill, The Times of India

There is substantive evidence of rioters targeting locations closer to home. Legal documents of attacks in Naroda Patiya state that the convicts were “born, brought up or have business places in the area of Naroda Patiya” and lived and worked “at a distance of 200 to 400 meters”.<sup>17</sup> The same trend was seen in 1969 riots in Ahmedabad in which neighbours participated in violence against each other.<sup>18</sup> Also the same trend was seen in Kashmir when Kashmiri pandits were attacked by Muslims living in the same neighbourhood.<sup>19</sup>

Studying this trend, the Disturbed Areas Act was made.

### **How DDA is fuelling political agenda?<sup>20</sup>**

Vishwa Hindu Parishad leader Pravin Togadia in a speech in 2014 at Bhavnagar, Gujarat, had suggested spitting on a Muslim man and throwing tomatoes at him. This, while attending to a complaint reportedly about a Muslim man who had bought a property in a ‘Hindu area’. Evoking the Disturbed Area Act in his speech, Togadia had stated, “This is a long-time conspiracy that Muslims have been executing in cities and villages of India. How can we stop this? There are two ways – one, to impose Disturbed Areas Act everywhere, two – consult a lawyer, barge into a house, occupy it forcefully and hang the board of Bajrang Dal. We can handle a case later.” His audience had cheered and clapped.

The Disturbed Areas Act was enacted in the year 1986 and replaced with a new Act in 1991. It empowers the government to declare riot-prone areas as ‘disturbed’. Property sale or transfer in areas where the Act has been imposed requires additional permission from the collector’s office affirming free consent. The motive of the Act was to prevent distress sales. It was also to prevent house owners of one community from selling to another in case of social distress.

However, for three decades, the implementation of the act has translated into a very different ground scenario. Evoking the Act to drive Muslim residents away from areas that have a mixed population is not uncommon in Gujarat.

### **Munir Sheikh and the flat that never became his**

Munir Sheikh was an employee of Life Insurance Corporation (LIC) when he bought a flat in Paldi, Ahmedabad in 1995 – a house where Sheikh and his family could never live in and eventually had to sell.

“I took a loan from LIC to buy a flat in Paldi in 1995, an area dominated by the Jain community. There were six families in the building, out of which two were Muslims, including ours. Four

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<sup>17</sup> Common Judgment (Special Court). 2012. The state of Gujarat versus Naresh Agarsinh Chhara (and others). Exhibit 2671, August 31. Accessed December 1, 2015. <http://www.cjponline.org/gujaratTrials/narodapatiya/NP%20Full%20Judgmnt/Naroda%20Patiya%20-%20Common%20Judgment.pdf>.

<sup>18</sup> A good memoir on the 1969 riots is Kureshi, H. (2018). Agnipariksha: an ordeal remembered.

<sup>19</sup> India Today, They killed him, fed his wife blood-soaked rice: Columnist on Kashmiri Pandit exodus

<sup>20</sup> Damayantee Dhar, Disturbed Areas Act in Gujarat: A Tool to Discriminate Against Muslims, The Wire

families were Hindus and weren't happy to have Muslim neighbours. Haren Pandya, an influential BJP leader of the area who used to be corporator then and was aspiring to fight assembly election from the constituency found an issue. At the behest of Pandya, a case was filed against me, evoking the Disturbed Areas Act. In the lower court, they stated that they fear if I buy the flat, more Muslims will come and eventually take over the area. They tried to prove that I was dangerous. The registrar who was also a Jain, gave a statement against me. I was asked by the lower court to vacate and move elsewhere. But I appealed in High Court," Munir Sheikh, now retired, told The Wire.

The case went on for four years. During this time, Sheikh could not live in the house he had bought and was constantly under pressure and threats. "They attacked my house and even tried to set it on fire once. All the Hindus and Jains of the area boycotted us. We could never go there and live, my family was scared. Besides, the police never took my complaint. The case lasted four years – all the while I was pressurised by men from BJP, RSS and even the police," added Sheikh.

The only respite for Sheikh came from Gujarat high court, which ruled that the flat doesn't fall under the Disturbed Areas Act and asked police to provide protection to his family.

"My family was too scared to step into that flat. We sold it as soon as I won the case," tells Sheikh.

### **The case of Varsha Apartments<sup>21</sup>**

In April this year, there were reportedly complaints from a local outfit called Nagrik Sewa Samiti in Paldi, Ahmedabad, which sought to reclaim a housing society – Varsha Apartments – allegedly 'taken over' by Muslims. Chief minister Vijay Rupani ordered to review the Act and plug the loopholes. The meeting was attended by Pradipsinh Jadeja, minister of state for home and other officials of state revenue and home departments.

Nagrik Sewa Samiti, that was formed about three years ago, is a part of Hindu Jagran Manch, a Hindu activist organisation affiliated to Vishwa Hindu Parishad (VHP).

"The society was built in the year 1969 under Jan Kalyan Cooperative Housing Society and Hindus used to live there. In 1991, one Muslim family bought a flat in the society. By 1995, out of 24 flats, 20 were sold to Muslims. They started redevelopment work of the flat in the year 2013. It used to be a two-storeyed building, but it is now a seven-storeyed building. They

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<sup>21</sup> Damayantee Dhar, Us and Them: The Misuse of Gujarat's Controversial Disturbed Areas Act, News Click

started redevelopment work again six months ago. There will be 125 flats that will be taken over by Muslims. We filed an RTI and found that the builder has sought permission under Disturbed Areas Act in one document. Another document stated that the building doesn't fall into an area where the Act is imposed. We went to concerned authorities and asked them to intervene," Jigar Upadhyay, one of the founders of Nagrik Sewa Samiti and member of Hindu Jagran Manch told The Wire.

"Just like love jihad, there is something Muslims also practice – land jihad. It is a well-planned conspiracy to take over the areas where non-Muslims reside. First, they buy one flat at a higher rate than market value and keep buying properties in the area/building. Before one knows, the last residential property owned by non-Muslim is devalued and sold for peanuts because it isn't safe for the family to live there anymore," continued Upadhyay. "Muslims should stay in certain restricted areas of the city and let non-Muslims live peacefully and safely elsewhere. The whole point of the Disturbed Areas Act is to ensure this safety."

Varsha Apartments, a cooperative society registered in 1969, originally had 24 flats. All the members of these flats were members of the cooperative society. After 35 years, the contract of redeveloping the dilapidated flats was given to two Muslim builders. Along with original 24 flats, an additional 38 were to be built as a part of redevelopment.

"Due to the lack of clarity about the inclusion of Varsha Apartments in the Disturbed Areas Act, we were initially given permission and documents were registered by the district sub-registrar without insisting for any pre-permission under the Act. Subsequently, the authorities realised that the flat does fall under the Act. Thereafter, permission was sought and granted under the Disturbed Areas Act. Later, two men named Apoorv Shashtri and Jigar Upadhyay identified themselves as social workers and raised objection. These people associated with Hindu Jagran Manch are in no way related to the property. They don't even live near Varsha Apartments. Yet they have expressed their concern about the flat before every concerned authority including the office of the chief minister. Everywhere, they are being heard and entertained. They keep repeating that we are indulging in land jihad and that Paldi shouldn't turn into Juhapura (an urban Muslim ghetto in Ahmedabad). They have been distributing pamphlets and instigating people who live near Varsha Apartment and pressuring officials of Ahmedabad Municipal Corporation and Collectors office," said Ruknuddin Sheikh, one of the builders of Varsha Apartments.

"For every society that is built for residing Muslims, there are at least 200 built for residing Hindus in Ahmedabad. In fact, Muslims have been selling off their properties in Paldi and settling in Muslims dominated areas like Juhapura and Jamalpur for safety. There are apartments like Liberty, Seven Heaven and Paradise in Paldi area which once used to be the abode of Muslim families who sold off houses gradually after riots of 1985, 1992 and 2002. Hindu families reside in those apartments now," added Ruknuddin.



The case of Varsha Apartment has been sub-judice for one and half years now. Despite no concern raised by either seller or buyer, regular protests have been organised under Nagrik Sewa Samiti, a third party. To add to that, various posters stating ‘Don’t let Paldi become Juhapura’, ‘Stop Land Jihad’, ‘Hindu Ekta Zindabad’, ‘Implement Disturbed Area Act Strictly’ etc have been put on public walls and gates of different societies several times.

Journal of Multi-Disciplinary Legal Research

## લેન્ડ જેહાદ થી પાલડી વિસ્તાર બચાવો

જાગો... હિન્દુ જાગો...

જય ભારત

આ સાથે નમ્ર અપિલ કરીને સમગ્ર હિન્દુ સમાજને એકજુટ થવા અને આપણાં શાંત અને સમૃદ્ધ પાલડી વિસ્તારને મુસ્લીમ બહુલક વિસ્તાર બનતા અટકાવવા માટેનું આહવાન.

કેટલાક સમયથી આપણાં પાલડી વિસ્તારમાં રી-ડેવલોપમેન્ટનાં નામે મુસ્લીમ જન સંખ્યા વધારવાનો એક સુનીયોજિત ષડયંત્ર ચાલી રહ્યું છે આ ષડયંત્રનાં ભાગરૂપે આપણાં વિસ્તાર વર્ષ ફેલેટને રી-ડેવલોપમેન્ટ નામ પર ૧૫૦ થી વધારે મુસ્લીમ કટુંબો વસાવવાની છુપી રીતે યોજનાં ચાલી રહે છે.

જો આપણે એકજુટ થઈને આ ગતીવિધિ નો વિરોધ નહીં કરીએ તો આપણાં પછીની પેઢીએ આ વિસ્તારમાંથી પલાયન થવા શીવાય કોઈ ઉકેલ નહીં રહે. પાલડીને બીજુ જુહાપુરા બનતું અટકાવો. આજે જો નહીં જાગશો તો કાલે હિન્દુ સમાજે પાલડી વિસ્તાર છોડવો જ પડશે. ક્યાં સુધી ભાગતા રહીશુ.

આવો સાથે મળીને એકજુટ થઈને આ સંજોગોનો પ્રતીકાર કરીએ અને પાલડી વિસ્તારને મુસ્લીમ બહુલક બનાવવાનાં ચાલતા ષડયંત્રને જડ મુળમાંથી ઉખેડીને ફેંકી દઈએ.

વંદે માતરમ્

A pamphlet distributed by Hindu Right Wing activists in Paldi area, Ahmedabad against redevelopment of Varsha Apartments.

The text from the pamphlet is translated as follows –

Save Paldi area from Land Jihad

Wake up Hindus! (Jago Hindu Jago)

Hail India (Jay Bharat)

This is an humble appeal to Hindu community to unite and make sure that our peaceful Paldi area does not turn into one populated (taken over) by Muslims. For sometime now, there has been a conspiratorial attempt to increase the number of Muslim families in our area through guise of redvelopment. There is an attempt to inject 150 Muslim families into Varsha Flats in our neighbourhood in a hidden manner through this redevelopment project. If we donot unite and protest now, our decendants will have no option but to leave this area. Stop Paldi from becoming another Juhapura. If we dont rise up now, Hindus will have to leave Paldi tomorrow. How long can we just run away? Come rise and let us stop Paldi from becoming a Muslim majority area. Let us destroy this conspiracy from its very roots.

Vande Mataram

### **The red tape nexus**

“Over the years, more and more Muslims have either been forced out or for the sake of safety moved to Muslim dominated areas like Juhapura or Jamalpur. If Muslims try to buy property in areas of mixed population, a problem crops up in most cases. There are elements in society who will create ruckus and reach every government office to evoke Disturbed Areas Act. The officials then inevitably find some loophole under the Act to harass the buyer,” shares Sharif Khan, a builder residing in Ahmedabad. “The buyer ends up paying bribe to settle the matter in such cases or settles for power of attorney instead of transfer of ownership.”

“I had bought a property in Jamalpur 20 years ago. In all these years, I haven’t been able to transfer the house in my name. Despite paying for the property I had to settle for power of attorney signed by the seller due to the Act,” says a Muslim resident of Ahmedabad, on condition of anonymity.

In many cases, right-wing elements have threatened the buyer and bought the property at meagre prices only to sell it themselves later.

“If a Hindu wants to sell his property to Muslim, the right-wing elements will first ask the Hindu to not sell. If the person doesn’t agree, the anti-social elements will file an application against the person in the office of the collector. The collectorate will then deny permission evoking the Disturbed Areas Act and a plethora of problems arise thereafter. After sometime, the same elements who moved application against the seller would force him to sell at a lower price and re-sell the property later. This has become an obnoxious nexus of right wing fringe elements and government officials,” shares Sharif Mallik, an activist who works for riot victims of 2002.

### **Act challenged in HC**

As of now, areas under 21 police stations in Ahmedabad alone are declared ‘disturbed’. The act was implemented in areas of Surat and Vadodara as recent as last year. In Surat it was implemented in Limbayat area at the behest of Sangeeta Patil, BJP MLA of the area.

In May 2018, Disturbed Areas Act was challenged in High Court by Danish Qureshi, an activist working for minority rights.

“It is a failure of the state government if there is no communal harmony in the state and such an Act is implemented. But NCRB data states that Gujarat hasn’t seen communal violence more than other states. The situation isn’t alarmingly disturbing in Gujarat. Besides, this Act violates the very rights guaranteed by the constitution and creates trouble for both Hindu and Muslim community in transaction deal of properties,” says Nishant Verma, the advocate who filed the petition.

“The state government has been bringing more areas under the Act not because it is necessary but because it serves the political agenda,” stated Qureshi.

“We have mentioned in our petition that a particular community has been targeted through these notifications imposing Disturbed Areas Act in certain areas. The conditions needed to impose the Act are clearly missing in these cases,” stated Kruti Shah, an Ahmedabad-based lawyer who has challenged the notification to impose Disturbed Areas Act in certain areas of Surat till the year 2021.

**What does the plea in the high court say?<sup>22</sup>**

According to the JUEH—an organization of Islamic scholars—the act violates fundamental rights on the grounds that the concept of "proper clustering of one community" "and its usage in Sections 3, 5, and 16A of the impugned Act leads to and effectuates segregation of citizens on grounds such as a religion, race or any other uncommon aspect of identity, thereby perpetuating creation of ghettos or enclaves in the State. By effectuating identity-based segregation in the State, the Impugned Act and its pivotal provisions violate the Constitutional value of 'Fraternity' being the basic feature of the Constitution. "Although the provisions of the Impugned Act are apparently neutral, it puts persons in minority, especially religious minority to a particular disadvantage compared to others. The effect of the provisions will be that person of religious minorities such as Muslims would not be permitted to purchase property in non-Muslim dominated areas and would not be permitted to sell property to a non-Muslim in a Muslim minority-dominated area, thereby perpetuating discrimination and ghettos," the plea said.

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<sup>22</sup> Ritik Jain, Explained: What is Gujarat's Disturbed Areas Act? , Boom Live

## Conclusion

Disturbed Areas Act violates the constitutional principle that allows an Indian citizen to reside anywhere in the country by violating their constitutional rights to property and freedom, as provisions under the said Act allows the state to bar persons to undertake sale and purchase of properties in a “disturbed area”. From studies done on communal activities in Indian cities, a trend was seen that people who live in mixed neighbourhoods faced violence from people living in the same neighbourhood. To avoid this the Disturbed Areas Act was put into place where a person of a particular faith cannot sell his/her property to a person of another faith. Although, segregation has an adverse impact on the mentality of people and breeds prejudice in their minds. The Disturbed Areas Act was seen as a necessary evil or a double-edged sword.

## References

The Wire, Gujarats Amended Disturbed Areas Act Gets Presidents, 13/10/2020

InsightIAS India, Gujarat Disturbed Areas Act, 14/10/2020

Indian Express, Ahmedabad Hospital Splits COVID Wards on Faith, 17/4/2020

OutLook India, In Delhi School, Hindu And Muslim Students Allotted Separate Sections, NDMC Takes Note

The Hindu, Even Water in India Had A Religion

Betwa Sharma, 'No Vacancy' For Muslims in India's Capital, Huffpost

Smruti Koppikar, How bias against Muslim flat seekers came to be entrenched in India's most cosmopolitan city, Scroll.in

Nileena MS, The Gujarat government is enforcing communal segregation and criminalising property transfers Para 10, The Caravan

Nileena MS, The Gujarat government is enforcing communal segregation and criminalising property transfers Para 11, The Caravan

Soutik Biswas, Why segregated housing is thriving in India, BBC

The Times of India, 74 localities added to Disturbed Areas list

Prerna Katiyar, People are leaving Congress because its leadership is weak: Vijay Rupani, The Economics Times

Raphael Susewind, Muslims in Indian cities: Degrees of segregation and the elusive ghetto, SAGE publications

Free Press Journal, Mumbra's first vegetarian building, bars residents from selling flats to meat eaters

Sukhadeo Thorat, Anuradha Banerjee, Vinod K Mishra, Firdaus Rizvi, Urban Rental Housing Market Caste and Religion Matters in Access, HRLN

Bharti Dubey, Emraan Hashmi can't get a house in Pali Hill, The Times of India

Common Judgment (Special Court). 2012. The state of Gujarat versus Naresh Agarsinh Chhara (and others). Exhibit 2671, August 31. Accessed December 1, 2015. <http://www.cjponline.org/gujaratTrials/narodapatiya/NP%20Full%20Judgmnt/Naroda%20Patiya%20-%20Common%20Judgment.pdf>.

A good memoir on the 1969 riots is Kureshi, H. (2018). Agnipariksha: an ordeal remembered.

India Today, They killed him, fed his wife blood-soaked rice: Columnist on Kashmiri Pandit exodus

Damayantee Dhar, Disturbed Areas Act in Gujarat: A Tool to Discriminate Against Muslims, The Wire

Damayantee Dhar, Us and Them: The Misuse of Gujarat's Controversial Disturbed Areas Act, News Click

Ritik Jain, Explained: What is Gujarat's Disturbed Areas Act?, Boom Live