



## RELIGIOUS LAW AND CRIME IN INDIA

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### ABSTRACT

*The majority of people in India, as well as people all around the world, consider their religious beliefs to be an essential component of their identity. The preamble to the Indian Constitution states that the state shall not recognize any religion as its official faith, and that every person shall have the right to follow and promote his or her own religious views. This provision is enforced in line with the Indian Constitution. Since India gained its independence, there have been several instances of hate crimes and violence amongst members of the same community. Religious minorities in India, such as Christians, Muslims, and Sikhs, have been severely impacted by the sectarian violence that has been taking place inside the country. The most important targets of this sort of violence are the social, economic, and political goals that are under attack. Because it incorporates not just one's principles but also one's sentiments and past, religion is a sensitive topic that often generates controversy.*

**Keywords:** - Religious, crime, religious belief, Freedom of religion.

### INTRODUCTION

To provide a more precise explanation, the basis of the legal system that is associated with a certain faith is comprised of the ethics, values, and canons that are associated with that particular religion. Since the beginning of time, the cohabitation of law and religion has been harmonious and free of conflict. This has been the case every single time. Between the two, there has not been a single instance of dispute. Every single individual in India is considered to be a member of a certain caste, and each and every one of them follows to their very own unique set of religious standards. This belief is widespread across the whole country of India. There is a scale that has been established specifically for the goal of assessing the level of religious conviction that people have, and it has been made available to them. During the process of defining these standards, each and every one of the traditions and customs that are related with each and every culture are taken into great regard. The indigenous people of India have been steadfast in their adherence to these boundaries ever since the commencement of the colonial empire. In addition, they have repeated this behavior on a regular basis.

People who reside in India have the option of adhering to either the secular laws of the country or its vast collection of "personal laws" that are based on community and religion. Both sets of laws are considered to be equally valid. The nation's government is responsible for establishing both sets of legislation. In both cases, the establishment of the law is the responsibility of the government of the country. Throughout the course of human history, the laws that govern persons have been subjected to varied degrees of codification and modification.

There are many different kinds of laws that may be classified into this category. Some examples of these laws are Christian law, Muslim law, and Hindu law. As an example, there are a huge number of traditional social organizations all over the globe. The religious beliefs and practices of the society have a substantial impact on the extent to which these organizations are able to uphold the rule of law inside their ranks.

From the time when India attained its independence, there has been a steady stream of hate crimes and other types of violence that have been committed by various groups inside the nation. These organizations have been responsible for the bulk of the events that have occurred. In India, there is a long history of violence that has been committed for religious reasons. For a considerable amount of time, this violence has been going on. These acts of violence have been being committed for a very considerable amount of time. This violence has had a significant impact on the religious groups of Christians, Sikhs, and Muslims. All three of these faiths have been badly impacted equally. This specific kind of violence is often included in the process because the quest of power and influence is a common factor in both the business world and society as a whole. This is because the pursuit of power and influence is a common factor in both of these areas. It is very rare for government officials to be directly implicated in a crime. This is due to the fact that they either lessen the need of conducting a detailed investigation into the events that have taken place or they actively promote vigilantism by using terminology that is associated with hate speech. One of the reasons for this is that they either downplay the significance of conducting an inquiry or they do not carry it out at all. It is not unusual for local residents to engage in violent outbursts in the aftermath of instances of this sort; this is a natural consequence that occurs as a result of the situation.

### **Objective**

1. One, to research on India's religious laws and criminal codes
2. These regulations are rooted in Hindu religious beliefs and are intended to govern Hindu personal affairs.

### **RELIGIOUS CRIME**

Atrocities are often committed by persons in the name of a religion that the vast majority of people are not aware of. Any conduct that gravely offends someone based on their religious beliefs or that violates the religious liberty of another individual or group is considered to be an example of religious bigotry, which is specifically classified as a kind of hate crime. It is not uncommon for there to be a theological justification for the many types of violence that take place.

We may consider blasphemy, aggression, discrimination, and conflicts as instances of these types of behaviors.

Since the beginning of human history, the issue of crusades that were carried out in the name of a particular religion has been a problem on every continent.

### **Types of religious crime**

There are multiple types of violence, which include;

**Religious war:** There has never been a particular instance of religious discrimination that is more heinous than this one. Wars that started out as disagreements over religious beliefs have wreaked havoc on a number of countries. For instance, the Indo-Pakistani War, which lasted from 1947 to 1948, as well as Muslim and Spanish invasions, are all instances of international conflicts.

**Gender Violence:** To a disproportionate degree, women and children are the victims of violence that is driven by religious beliefs. Individuals who mistreat women are responsible for committing crimes against humanity, including rape, abduction, and enslavement, among other atrocities.

**Insulting holy places:** Many places of worship, including cathedrals, mosques, and temples, are often the targets of violent attacks. This is not an unusual occurrence. It is referred to as disrespecting places of religion when this action occurs. It is only via the use of such tactics that further instigate violence among religious groups that are already vulnerable.

### Causes of religious crimes

Religiously motivated violence may have a number of different possible causes; nevertheless, ideologies that are held by a group cannot be reconciled with the predominant component that contributes to religiously driven violence. Disagreement exists across religions due to the fact that their basic views about the purpose of life are fundamentally different from one another.

The support that governments and political parties provide to certain religions contributes to the promotion of religious intolerance. Because of this, the religious minority in the nation has feelings of insecurity, which in turn enhances the possibility that they would commit crimes.

The misuse of ideals that are secular: One of the most influential worldviews in many countries is secularism. Within the framework of the Indian Constitution<sup>1</sup>, one of the declared objectives of the Indian government is to ensure that the secular ideal is maintained. Religious law is elevated to the status of ultimate authority over secular law as a direct result of political interference, which in turn leads to periodic outbursts of violence.

Rules that are not effective in dealing with criminals are as follows: As a result of this, there is an unintended consequence of religious violence. The vast majority of violent acts that target religious groups either do not follow through with any repercussions or are simply not reported.

The prevalence of religious intolerance is surprising when one considers the reputation that nations like India have for being tolerant of differing religious beliefs.

Concerns Related to Money: When it comes to wealth, the majority of the world's religions couldn't be more different from one another. It is not uncommon for governments to enact laws that are directed against individuals who adhere to differing religious beliefs.

As a consequence of this, religious tensions increase, and they may even escalate into violent conflict between adherents of competing religions.

## **Evolution of religious crimes in india**

In spite of the fact that Indian law and custom are rather liberal, the country's traditional values continue to be quite strong. Indian civilization has been firmly rooted in religious beliefs and practices from the very beginning of its existence. According to the continuously growing population census of India, the biggest proportion of Indians consider themselves to be members of the Hindu religion. The religion of Islam is gaining popularity after Christianity. As for the number of people who follow the Christian faith, it comes in third place. At number four on the list of the world's largest religions is Sikhism.

There are a number of frameworks in contemporary India that have an influence owing to the proliferation of inflexible beliefs. These frameworks are in addition to the closeness of the people and the growth of local religion. Buddhism and Jainism are two more religions that indigenous people follow and practice. In ancient times, India was the birthplace of two significant intellectual currents: the Shramana and the Vedic religion, which flourished concurrently with one another. While Jainism and Buddhism both trace their roots back to the Shramana ritual and continue to follow it, Hinduism is the only religion that now maintains the Vedic practice. It is not unusual for the two traditions to become more powerful when joined. Zoroastrian and Jewish communities may be found in India, which has a long history of religious tolerance and is home to both of these faiths.

Even while operating under the most improbable of leadership styles, India's unwavering strength begins to weaken. It is specified in the constitution of India that there should be "unrestricted freedom of the people to openly revere and support any religion/minority or conviction." This right should be available to all citizens of India.

To add insult to injury, the right to worship is expressly protected in the constitution of India. In India, reports of serious religious violence are not only shared by local groups, but also by international human rights organizations like Human Rights Watch and Amnesty International. These organizations are concerned about the rights of their members. While the state of Maharashtra saw the highest number of deaths that could be directly attributed to violence between the years 2005 and 2009, the state of Madhya Pradesh experienced the highest annual mortality rate per 100,000 inhabitants as a result of mob lynchings during the same time period. There were 97 people who lost their lives in India in 2012 as a result of religious extremism and different types of violence.

Anti-change or possibly anti-bovine slaughter laws were maintained by one third of the state governments. These laws discriminated against non-Hindus, groups that were determined to brutally oppress Muslims or Dalits whose families had long been engaged in the dairy, cowhide, or burger trades, and groups that were hostile to Christians who desired to convert to Christianity.

## **Religious crimes and minority in india**

"The State as a whole is targeted when an individual perpetrates a hate crime, not merely a single innocent victim."

Nearly one billion people call India their home, and it is believed that around 200 million of those individuals identify as belonging to religious minorities. The Ministry of Social Justice and Empowerment is the bigger ministry that oversees the Indian government departments that deal with issues pertaining to minority groups. The National Commission for Minorities, which was founded in 1992 in accordance with section 2(c) of the National Minorities Act, is the body that is responsible for representing the many minority groups in India, including the Sikh, Muslim, Buddhist, Christian, Jains, and Zoroastrians members. Nevertheless, the constitution of India provides some essential rights to minority communities, which paves the road for their continuous survival and progress. These rights are guaranteed to minority groups. There is not a single instance in which the word "minority" appears anywhere in the Indian constitution.

**MUSLIMS:** After coming in India as immigrants, members of the Muslim religious minority encountered favorable conditions that allowed them to continue their growth and establish subcontinental dominance. Almost immediately after the spread of Islam in Arabia, this took place. Historical events, including religious strife and bloodshed, reshaped India during the period of a century.

### **Various Crimes Against Muslims**

- Implementing a policy that forbids conversion "Conversion" means "leaving one faith and embracing another" in the eyes of the law. Efforts have been undertaken to limit conversions driven by coercion, fraud, or other forms of enticement, while state-level laws safeguarding religious freedom have been enacted concurrently. In the 1980s, lawmakers passed anti-conversion legislation with a particular focus on Muslims who sought to convert non-Muslims. The Indian Constitution guarantees, under any and all situations, the right to religious and philosophical freedom. Execution of a hanging murder by a mob in the absence of official due process is what the phrase "mob lynching" describes. One kind of vigilantism is the practice of lynching, which is characterized as the independent enforcement of the law by a group of armed persons. This is the essence of it.

**SIKHS:** Although they are a tiny minority, Sikhs are quite influential in Indian culture. Despite living within a mostly Hindu community, Sikhs in India have long battled to establish their religious, political, and linguistic identities. As tensions rose between different religious groups in the Punjab state in 1980, violence broke out between Hindus and Sikhs. The official death toll is 3,350 globally and 2,800 Sikhs in Delhi, however other reports place the number between 8,000 and 17,000.<sup>13</sup> Because of the inherent religious bigotry against Sikhs, this act qualifies as a religious offense.

### **Religious freedom and secularism**

In addition, the basic and inalienable right to religious liberty is another characteristic that distinguishes a civilized society. By virtue of their divine connection, the individual is able to maintain a direct connection with many forms of supernatural energy. The liberty to behave in accordance with one's convictions paves the way for the voluntary worship of the divine. In the context of the religious opportunity, the freedom to announce, profess, practice, and grant any strict confidence based on one's views is included. At the current day, it is a fundamental right that is entirely guaranteed to all people or restricted groups in the majority of countries that

construct their government based on popularity. In addition, we are aware of the tremendous respect that secular countries have for the principles of religious liberty.

Alongside their official faith, religious governments provide their citizens the right to practice their religion. Individuals of any religion are permitted to practice their faith in whichever manner they see appropriate. In all other nations outside those that are industrialized, the potential is rather modest. Strict opportunity is not available in an infinite amount and is subject to limitations imposed by society as a whole. This opportunity must be given a reasonable amount of importance by each and every person. It is the responsibility of the state to intervene promptly in order to restore social harmony in the event that any person or organization is able to avoid the intense examination of those who have varied degrees of severe confidence. A separate function is played by contemporary governments, which are responsible for fostering a secularist worldview and ensuring that everyone has an equal opportunity.

## **LAW ON RELIGION**

Incitement to violence against any religion is prohibited by all three of these international treaties: the International Covenant on Civil and Political Rights of 1966, the Convention on the Prevention and Punishment of the Crime of Genocide of 1948, and the International Convention on the Elimination of All Forms of Discrimination Against Women. In accordance with Article 4 of the International Covenant of Economic, Social, and Religious Rights (ICERD), it is a criminal offense for any religion to declare its superiority in a way that might promote hostility against other religions, religious organizations, or individuals of other races. 2005 was the year when all heads of state took their oaths of office, and during that year, crimes against humanity, war crimes, crimes motivated by religious intolerance, and genocide were all sworn in.

India is described as a "sovereign socialist secular democratic republic" in the preamble of the constitution that was used to establish the country. The word "secular" was included in the Preamble of the 42nd Amendment, which was ratified in 1976. In it, it is demanded that practically every religion be treated with equality and respect. Despite the fact that India acknowledges and encourages the right to practice, preach, and transmit religion, the nation does not designate any one religion as the official state religion. The courses that are taught in schools that receive public funding do not include any discussion of religion. According to the decision that was handed down by the Supreme Court of India in the case of *S. R. Bommai v. Union of India*, secularism is an essential component of the constitution of the nation.

### **Religion (indian perspective)**

The legal system of India has its own distinct history and traditions. As well as the *Manu smriti*, the *Arthashastra* is held in very high esteem by the general public. In Indian culture, religious beliefs and practises have been an important factor in the formation of the legal system as well as the social standards that have been established. In the highest levels of governance, religious tolerance is shown by the Indian government.

However, despite the fact that "secularism" is recognized in India's constitution, which is the highest legal authority in the nation, people are still free to follow their religion in any way that they want.

Legal protections are in place to protect religious beliefs in India; yet, people who disregard these rules are subject to negative penalties. Even while many people see religion as a means to achieve freedom, there are significant problems that exist within the religious community that, if they are not addressed, might lead to crimes that are motivated by prejudice which are committed against other faiths.

### **Negative impact of the religion**

The most pressing issue for emerging nations is the correlation between criminal behavior and religious beliefs. In the last year, there has been a rise in the number of crimes involving religion. This kind of thinking has led to the rise of theocratic administrations in a number of nations, such as Iran, Afghanistan, Israel, Egypt, Turkey, and India. In the guise of religion, the nation is pushed by a twisted mentality, and this is the reason why. This remains true even in countries when heinous ideologies are in power. The technology of the 21st century both baffles and delights us. Consensual marriages and the practice of abortion Gender and religious intolerance, mob lynchings, and discrimination against people from lower-class and disadvantaged backgrounds are just a few of the crimes that are on the increase.

### **Religion and human rights**

The phrase "religion and law" has recently gained popularity to describe the larger area of contemporary society that is purportedly governed by safeguards for religious liberty in various legal documents, such as national constitutions and international treaties. The Western world's religious freedoms promised by the Enlightenment have fallen short in the face of growing demands to acknowledge and safeguard a more diverse array of religious practices from both long-standing faith groups and new religious movements, some of which refuse to acknowledge the legal consequences of secularization. The universalist assumptions underlying secular laws make it difficult to fulfill the common need for laws that acknowledge (or seem to acknowledge) the substantial impact religion has on people and communities.

### **Case law analysis**

The Khwaja Garib Nawaz Saheb Dargah, located in the Ajmer district of Rajasthan, is the site of the Dargah Khwaja Saheb Act. It has widespread popularity across all Indian religions. The uprightness and solidarity of the country are symbolized by it. The state legislature of Rajasthan passed this legislation to govern the common organization of Dargah. It was found to be authentic and long-standing, and the court ruled that while the government can step in on matters of religion, secularism is an essential part of India's constitution, and the government must safeguard it even if it means interfering with common Dargah ceremonies.

It is impossible to say if the Act breaches Article 26 of the Indian Constitution, according to the Supreme Court's ruling in Dargah Committee, Ajmer v. Syed Husain Ali, as its purpose is to control property, which is a common religious practice.

Protection of Devadasis in Andhra Pradesh Act of 1988: Performing sati for one's spouse was common practice or encouraged behavior among married women in the Andhra Pradesh area after the death of their spouses. This

custom was horrible. Earthlings held it in the highest esteem, considering it holy. A shrine is being built in the town where she passed away. As a fundamental part of Hinduism, everything was done. As an unconstitutional limitation on religious freedom, this law poses a test. Because it ensures women a dignified living and safeguards their health, the Act is legitimate and sacred, according to India's highest court. The legal executive ratified and maintained this statute.

In the case of *Ramji Lal Modi v. State of UP*<sup>8</sup>, the Supreme Court of India ruled that while the aforementioned provision is legally valid, it does not apply to insults to religion that are delivered carelessly or without malicious intent to shock a particular religious group. Consequently, only Section 295A applies to any attempt to insult religion or strict conviction to offend a religious group within India. Something malevolent or purposeful must be driving this.

Case of *Jayamala v. Kerala State* For some of these offenses, the statute of limitations is specified in Section 468 of the Code 10. In contrast to Section 295, which has a maximum punishment of two years in prison, Section 295A carries a maximum sentence of three years. Since it is alleged that conspiracy took place while the offense under Sec. 295A of the IPC was being committed, the penalty for the crime under Sec. 120B must be identical to the punishment for the main violation, which is Sec. 295A of the IPC. So, three years in prison is the highest punishment for breaking Section 120B.

### **Supreme court as guardian of religious freedom and secularism**

Among the three legitimate branches of government, the executive branch is usually considered the most powerful and influential. Since we implemented a system of equal governance, each and every state unit is crucial for effective administration. At the moment, the most basic issue with our judicial system is delay inequity. For matters of law and equity, the highest court in India is the legal executive. Additionally, this organization is seen as the ultimate arbiter of constitutional interpretation and the protector of the most powerful interest groups. "Religious freedom" and "secularism" are terms used in the Indian constitution to highlight the difference between the two. The fundamental responsibility of the judicial system is to preserve religious liberty and the country's secularism. In a number of different cases, the legal executive has to determine whether or not to safeguard religious freedom alongside individual liberty. This is one way the Constitution guarantees the state's neutrality. This is not an absolute right, just as all rights are relative. It is critical to comprehend the kind of feigned being used in certain situations, given the significance of this pretended by the legal executive.

### **CONCLUSION**

Secularism encompasses both an ideology and an approach to life. All believers of all faiths will be able to live together in harmony because of this. Belief in spiritual things is what religion is all about in India. Sikhism, Islam, and Hinduism are only a few of the many faiths that exist. Everyone has the autonomy to choose what's best for themselves. Any religion may be practiced or joined by anybody according to their own personal preferences and impulses. Religion and secularism, according to these people, are incompatible because religion teaches its adherents to be unconcerned with worldly matters. A lack of respect for religious beliefs may lead to

conversions, mob lynchings, and love jihad, all of which are considered religious crimes. Six distinct minority groups today call India home.

Even more devastating to them have been the religious atrocities. As opposed to establishing a specific crime, the Indian Penal Code (IPC), 1860 establishes a class of offences. It also goes against a number of rights, including the constitutional and legal rights of minorities. If the government is serious about preventing hate crimes, it must establish stringent regulations. The foundation of religious tolerance is India's secularism. All four major world religions—Islam, Christianity, Sikhism, and Buddhism—sought to promote brotherhood, equality, generosity, and tolerance.

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