

## **RELIGIOUS FREEDOM AND HUMAN RIGHTS IN INDIA: A CRITICAL REVIEW**

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### **Abstract:**

*This essay critically analyzes India's situation regarding religious freedom and how it relates to human rights. India is a multicultural nation with a rich tapestry of faiths that have coexisted for many years. However, this diverse environment has been damaged by religious conflicts and violent incidents. In-depth discussions of India's historical setting, legal system, and current obstacles to religious freedom are provided in this review. The consequences for human rights are also discussed, and possible ways to promote better religious peace and human rights protection are explored.*

**Keywords:-** Religious Freedom, Human Rights, Religions Coexisting

### **Introduction**

India is known for its peaceful blending of many religions that have coexisted for centuries, as well as its cultural and religious diversity. India has been a melting pot of religious practices and beliefs from the ancient civilizations of the Indus Valley to the present. The country's character has been created by its distinctive variety, which has also made religious freedom an essential component of its social fabric.(Deepa,2013)

The Universal Declaration of Human Rights and other international agreements also uphold religious freedom as a basic human right. It includes the freedom for people and groups to hold, express, and exhibit their religious views without worrying about being persecuted or subjected to prejudice. As a signatory to these accords, India has incorporated religious freedom into its Constitution and other legislation, providing all of its people with safeguards and guarantees.

India has a history of religious tolerance, but it has also struggled to preserve complete peace among its many religious sects. Religious disputes, rioting, and discrimination have all endangered the nation's principles of religious freedom and human rights throughout history.(Agamben,2011) Extremist ideologies, polarizing political agendas, and a failure to effectively apply existing legal protections have all threatened to upset the delicate balance between religious freedom and social order.

This critical review article seeks to investigate India's present situation with regard to religious freedom and how it intersects with human rights. We want to get a thorough awareness of the complexity surrounding this crucial subject by diving into historical viewpoints, the legal system, and current difficulties. We will examine how different human rights are impacted by religious freedom, take into account the function of civil society and international organizations, and look at viable remedies to promote better religious peace and the defense of human rights in India. (Hussein Ali,2012)

To give a fair appraisal of the complex situation involving religious freedom and human rights in India, it is crucial to approach this examination through an impartial lens, free of

preconceptions or prejudices. We wish to contribute to the continuing discussion on how to uphold everyone's freedom to freely practice their religion and preserve human rights for everyone in this varied and dynamic country by throwing light on the system's advantages and disadvantages.

### **Historical Perspective on Religious Freedom in India**

A difficult path, characterized by eras of great religious concord as well as incidents of religious conflict and prejudice, is reflected in the historical viewpoint on religious freedom in India. The history of India's religious variety may be traced to a period when several indigenous faiths, including Hinduism, Buddhism, Jainism, and Sikhism, coexisted peacefully. (Barras, Amelie, (2007) India has also served as a destination for several religious groups from throughout the globe over the years, including followers of Islam, Christianity, Judaism, and Zoroastrianism.

1. **Ancient Period:** In the past, India's society was distinguished by its religious variety. The acceptance and respect of one another served as the foundation for the coexistence of different faiths. Indian philosophies, which supported the peaceful coexistence of many belief systems, were fundamentally based on the ideas of religious tolerance and nonviolence.

2. **Medieval Period:** In India's religious landscape, Islam and Hinduism came to the fore throughout the medieval era with the development of mighty kingdoms like the Mughals and other Hindu empires. While some kings encouraged religious coexistence and cultural synthesis, others adopted more restrictive policies, which sometimes sparked clashes between religious groups.

3. **British Colonial Rule:** Religious freedom in India was greatly damaged by the establishment of British colonial control. Initially, the British government followed a non-interference in religious affairs policy, allowing religious organizations to handle their own affairs. But as time went on, they passed several rules and regulations that divided communities, such the codification of personal laws based on religion.

4. **Partition and Independence:** A turning point in Indian history was the separation of the country in 1947 along religious lines into India and Pakistan. Large-scale Hindu and Muslim migrations occurred between the two newly established nations as a consequence of the horrific sectarian riots that occurred during the partition, which resulted in significant loss of life and property. India's post-independence attitude to religious freedom and communal peace was greatly affected by the tragic events of partition. (Beaman, Lori G., 2017)

5. **Constitutional Provisions:** India enacted a secular and democratic constitution after obtaining its independence in 1947, granting all of its inhabitants basic rights, including the right to freedom of religion. The Constitution protects people's right to preach, practice, and spread their religion while also guaranteeing that everyone is treated equally under the law regardless of their faith.

6. **Religious Tensions and Conflicts:** Despite constitutional provisions, India has faced several instances of religious tensions and conflicts in its post-independence history. Communal riots, religiously motivated violence, and attacks on places of worship have challenged the ideals of religious freedom and pluralism.

7. **Legal Landmarks:** The Indian judiciary has played a crucial role in upholding religious freedom. Landmark judgments, such as the Kesavananda Bharati case and the

Ayodhya dispute verdict, have shaped the interpretation of secularism and the protection of religious rights.

8. **Contemporary Challenges:** In recent times, India has grappled with issues like religious conversions, hate speech, and vigilantism, which have strained religious harmony and human rights. Furthermore, the use of laws that restrict religious practices, particularly for religious minorities, has been a subject of concern.

Despite the challenges, India's long history of religious coexistence and pluralism continues to be a source of strength. The nation's commitment to upholding religious freedom and human rights is an ongoing process that requires addressing historical grievances, fostering interfaith dialogue, and ensuring that constitutional principles are upheld in practice.

### **Legal Framework for Religious Freedom and Human Rights**

The legal framework for religious freedom and human rights in India is primarily based on the country's Constitution and various laws enacted to protect the rights and liberties of its citizens. These legal provisions aim to safeguard religious freedom as a fundamental human right and ensure that all individuals can practice and propagate their religion without discrimination. Here are the key components of the legal framework:

1. **The Constitution of India:** The Constitution of India, adopted on January 26, 1950, is the supreme law of the land. It enshrines the principles of justice, liberty, equality, and fraternity. The Preamble of the Constitution declares India to be a sovereign, socialist, secular, and democratic republic. Secularism is one of the basic features of the Constitution, which means that the state is equidistant from all religions and does not promote or discriminate against any particular religion.

2. **Fundamental Rights:** The Constitution guarantees fundamental rights to all Indian citizens, and these rights are justiciable, meaning they can be enforced through the courts. Relevant provisions that protect religious freedom and human rights include:

- **Article 25:** Right to freedom of religion, which includes the right to profess, practice, and propagate one's religion.
- **Article 26:** Right of religious denominations or groups to manage their own affairs, including religious institutions.
- **Article 27:** Prohibits the state from levying taxes for the promotion or maintenance of any particular religion.
- **Article 28:** Provides for freedom as to attendance at religious instruction or religious worship in educational institutions funded or recognized by the state.

3. **Freedom of Religion Acts:** Several states in India have enacted "Freedom of Religion Acts," commonly known as anti-conversion laws. These laws aim to regulate religious conversions and, in some cases, require prior permission from authorities for conversion. The implementation of these laws has been controversial, with concerns raised about potential misuse and infringement on the right to religious freedom.

4. **Special Provisions for Minorities:** The Constitution includes various provisions to protect the interests of religious and linguistic minorities. For instance, Article 29 and Article 30 protect the right of minorities to conserve their distinct language, script, or culture and to establish and administer educational institutions of their choice, respectively.

5. **Supreme Court Judgments:** The Supreme Court of India has delivered several landmark judgments that interpret and uphold religious freedom and human rights. The

court's decisions have clarified the scope and limitations of religious freedom and have often aimed to balance religious practices with the broader principles of public order and morality. The effective application of safeguards for human rights and religious freedom faces obstacles even in the face of these legislative requirements. There are still instances of racial and religious discrimination, as well as the abuse of the law, in various regions of the nation. It takes ongoing attention, knowledge, and a dedication to respecting the secularism and plurality ingrained in the Constitution to ensure that religious freedom and human rights are fully realized in India. A more inclusive and peaceful society may also be fostered by tackling socioeconomic inequalities and developing interreligious dialogue.

### **Intersection of Religion and Politics**

The country's social structure, government, and public discourse have all been significantly impacted by the complex and varied phenomena that is the junction of religion and politics in India. India, a secular democracy, strives to keep politics and religion well apart from one another. However, a recurring topic throughout its history has been the impact of religion on politics and vice versa. In India, the convergence of politics and religion is influenced by a number of factors:

1. **Identity Politics:** Religion plays a significant role in shaping individual and group identities in India. Political parties often use religious identities as a means to mobilize voters and consolidate support from particular religious communities. This phenomenon is commonly referred to as identity politics.
2. **Vote Bank Politics:** Religious communities often form crucial vote banks for political parties. Parties may try to appease specific religious groups through promises of policies or concessions that align with their beliefs and interests. This approach aims to secure electoral support and gain a competitive advantage.
3. **Electoral Demographics:** India's diverse religious composition directly impacts electoral dynamics. Different regions have varying religious majorities, and political parties often tailor their messages and policies to appeal to the religious sentiments prevailing in those regions.
4. **Communalism and Religious Polarization:** Communalism, or the promotion of religious differences for political gain, is a contentious issue in Indian politics. In some instances, politicians exploit religious fault lines to garner support, leading to religious polarization and tensions between communities.
5. **Religious Institutions and Endorsement:** Religious leaders and institutions sometimes endorse or actively participate in politics, either to support specific political parties or to advocate for particular policies aligned with their religious doctrines. This involvement can impact public opinion and influence political outcomes.
6. **Legal and Policy Decisions:** Certain legal and policy decisions may have religious implications, and political debates surrounding these issues can be influenced by religious perspectives. Matters such as religious conversion laws, religious symbols in public spaces, and personal laws based on religious communities are examples of such issues.
7. **Regulation of Religious Practices:** Governments may intervene in religious matters to address social issues, maintain public order, or promote gender equality. However, such interventions can be perceived as interference in religious affairs and may lead to tensions between religious communities and the state.

8. **Religion as a Moral Compass:** Religion often provides a moral compass for individuals and societies, and politicians may use religious rhetoric to appeal to voters' ethical sensibilities or to advocate for specific policy positions.

While the blending of religion and politics may have advantageous outcomes, such as promoting inclusion and providing voice to underrepresented groups, it also runs the danger of escalating conflicts within communities and eroding secularism's guiding ideals. India's political system continues to struggle with how to strike a balance between honoring religious sensitivities and preserving the ideals of a secular democracy.

It is vital for political leaders, religious organizations, civil society, and individuals to encourage interfaith dialogue, mutual tolerance, and the larger benefit of the country above specific sectarian interests in order to guarantee a healthy junction of religion and politics. To sustain the secular nature of the Indian state and defend the rights of all individuals, regardless of their religious affiliations, strong legal frameworks and impartial institutions are also necessary.

### **Implications for Human Rights**

The intersection of religion and politics in India can have significant implications for human rights, particularly the right to religious freedom and other fundamental rights. While the Constitution of India guarantees certain human rights, the influence of religion on politics and vice versa can both support and challenge the realization of these rights. Here are some of the key implications for human rights:

1. **Right to Religious Freedom:** The most direct implication is on the right to religious freedom, enshrined in Article 25 of the Constitution. When religion and politics intersect positively, it can foster an environment where individuals can freely practice and propagate their faith without fear of persecution or discrimination. However, negative intersections, such as identity politics or communalism, can lead to restrictions on religious freedom, including instances of violence, forced conversions, and attacks on religious minorities.

2. **Right to Equality and Non-Discrimination:** The Constitution guarantees the right to equality (Article 14) and prohibits discrimination on grounds of religion (Article 15). However, the intersection of religion and politics can sometimes lead to preferential treatment or discrimination based on religious affiliations. Communalism and identity politics can perpetuate a sense of "us versus them," leading to marginalization and unequal treatment of certain religious groups.

3. **Right to Life and Security:** When religion and politics are used to fuel communal tensions and violence, the right to life and security (Article 21) of individuals is put at risk. Communal riots and conflicts can result in loss of lives, displacement, and destruction of property, affecting the security and well-being of vulnerable communities.

4. **Freedom of Expression and Speech:** Religious sentiments can sometimes be used as a pretext to curtail freedom of expression (Article 19) and speech. Blasphemy laws or laws against religious insult may be misused to suppress dissenting voices and stifle freedom of expression.

5. **Right to Education:** Religious interference in educational institutions, especially those affiliated with specific religious denominations, can impact the right to education (Article 21A). It may lead to the promotion of certain religious ideologies at the expense of a secular and inclusive education system.



6. **Gender Equality and Women's Rights:** The intersection of religion and politics can also impact gender equality and women's rights. Some religious practices or personal laws may discriminate against women, and political expediency can hinder necessary legal reforms to ensure gender justice.

7. **Minority Rights:** Religious minorities may face challenges in the enjoyment of their rights due to the influence of majoritarian politics. The right to protect and preserve one's distinct language, script, and culture (Article 29) for minority communities can be threatened in such circumstances.

8. **Impartiality of Institutions:** The intersection of religion and politics can influence the impartiality of institutions responsible for upholding human rights. State institutions might face pressure to take positions aligned with religious interests rather than ensuring equal protection for all citizens.

It is crucial to defend the secular foundations of the Indian Constitution, guarantee the impartiality and independence of institutions, and foster an inclusive and diverse society in order to protect human rights in the face of the convergence of religion and politics. In addition to developing interfaith communication and advocating for a climate of respect and understanding among all religious groups, it is crucial to strengthen the systems in place to deal with hate speech, religious violence, and discrimination. In addition, strong legal protections and vigorous civil society participation are essential to defend everyone's human rights, regardless of their religious views.

### **Conclusion**

In India, the problem of religious freedom and how it relates to human rights is complicated and urgent, need ongoing consideration and strategic solutions. India has a long history of religious variety, which has been a source of strength, but it has also had difficulties in maintaining religious concord.

The Indian Constitution created a legal system that offers robust safeguards for basic rights and religious freedom. The fusion of politics and religion, however, may both promote and undermine the implementation of these rights. While negative intersections, such as those caused by identity politics and communalism, may breed prejudice, violence, and marginalization, positive intersections can promote inclusion. Religious freedom is a basic human right that supports other fundamental freedoms including equality, security, freedom of speech, and gender justice. It is not simply about having the freedom to practice one's religion. A concerted effort including the participation of the government, civic society, religious organizations, and people is required to protect religious freedom.

India must respect the secular ideals established in its Constitution in order to adequately handle the consequences for human rights. This entails encouraging an environment of toleration and mutual respect among many religious groups, encouraging interfaith conversation, and making sure that laws and regulations don't discriminate against anybody or restrict their ability to practice their religion. Political leaders must put the larger benefit of the country above petty sectarian interests and abstain from using religious feelings for electoral purposes. Equal protection for all people depends on the impartiality and independence of the institutions charged with defending human rights.

Civil society is essential in defending human rights and religious liberty, opposing discrimination, and fostering an inclusive culture. Civil society may play a crucial role in

healing divides and creating understanding among various religious groups by actively participating in interfaith conversation and spreading education on human rights. In conclusion, it takes a coordinated effort from all parties involved to promote religious freedom and uphold human rights in India. India may advance toward being a society that really embraces the values of religious freedom and human rights for all its residents by embracing India's multicultural history, respecting the rights and dignity of every person, and supporting the secularism principles.

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