

FREEDOM OF RELIGION UNDER THE INDIAN CONSTITUTION

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ABSTRACT

This legal research paper critically analyses the constitutional provisions safeguarding freedom of religion in India, focusing on the delicate balance between individual religious rights and state regulation. By examining the historical context, judicial interpretations, and contemporary debates, the study offers a comprehensive analysis of India's constitutional framework governing religious freedom. The paper explores Article 25, which guarantees the freedom of conscience, the right to profess, practice, and propagate religion. It investigates significant court decisions shaping the interpretation of this right and the permissible limitations imposed by the state. Additionally, it scrutinizes Article 26, recognizing the right of religious denominations to manage their own affairs. The interplay between religious freedom and other constitutional rights is also analysed, such as the relationship between religious freedom and equality, and freedom of expression. The research highlights the limits on religious practices that may infringe upon public order, morality, or the rights of others. By critically examining the constitutional provisions and relevant judicial pronouncements, this paper offers valuable insights into the complex dynamics of religious freedom in India. It contributes to a deeper understanding of the constitutional framework and its implications for individuals and religious communities, while emphasizing the need for a delicate balance between religious rights and state regulation.

Keywords: Constitution of India, Freedom of religion, religious practices, Judicial Interpretations etc.

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1. INTRODUCTION

The freedom of religion holds immense significance in India, a diverse nation with a rich tapestry of religious traditions. As a fundamental right enshrined in the Indian Constitution, it grants individuals and religious communities the autonomy to freely practice and propagate their faith. This legal research paper critically analyses the constitutional provisions safeguarding freedom of religion in India, aiming to delve into the historical context, judicial interpretations, and contemporary debates surrounding this crucial aspect of Indian democracy.

1. **Historical Context:** Understanding the historical context is essential for comprehending the constitutional framework of religious freedom in India. The struggle for independence and the influence of leaders like Mahatma Gandhi and Jawaharlal Nehru contributed to the inclusion of robust religious freedom protections in the Indian Constitution. The Constituent Assembly deliberations shed light on the intent behind these provisions and the vision of a secular and inclusive society.
2. **Judicial Interpretations:** Significant court decisions have shaped the interpretation of the right to freedom of religion. One landmark case is *S.R. Bommai v. Union of India*, where the Supreme Court emphasized the secular nature of the Indian state and the importance of maintaining a neutral stance toward religion.¹ This case set the foundation for subsequent interpretations of religious freedom.

- **Exploring Article 25:**

Article 25 of the Indian Constitution guarantees the freedom of conscience and the right to profess, practice, and propagate religion. Analyzing this provision is crucial to understanding the scope and limitations of religious freedom. Key cases, such as the *Sabarimala Temple entry case* and the *Haji Ali Dargah case*, shed light on the interpretation of terms like "propagate" and "essential religious practices" within the context of Article 25.

- **Examining Article 26:**

Article 26 recognizes the right of religious denominations or sections to manage their own affairs, including religious institutions. This provision acknowledges the autonomy of religious communities while also considering

¹ *S.R. Bommai v. Union of India*, [1994] 2 SCR 644 : AIR 1994 SC 1918 : (1994)3 SCC1.

the state's role in intervening when necessary. Cases such as the Ismail Faruqui case² and the T.M.A. Pai Foundation case provide insights into the interpretation and scope of Article 26.³

3. **Interplay with Other Fundamental Rights:** The freedom of religion does not exist in isolation; it interacts with other fundamental rights. Analysing the interplay between religious freedom, equality, and freedom of expression is crucial. Cases like the Mandal Commission⁴ case and the Indra Sawhney case shed light on the constitutional principles of non-discrimination and affirmative action in the context of religious minorities. Additionally, cases like the Jagannath Puri temple entry case and the Ayodhya dispute⁵ illustrate the limits imposed on religious practices that may infringe upon public order, morality, or the rights of others.

4. **Contemporary Debates and Challenges:** The paper addresses contemporary debates and challenges faced in interpreting and applying constitutional provisions on religious freedom. Tensions between religious freedom and social reform, the role of state intervention in religious practices, and the protection of minority rights are some of the key issues explored.

2. RESEARCH METHODOLOGY

This legal research paper adopts a qualitative research approach to thoroughly analyze the constitutional framework governing freedom of religion in India. The study relies on a comprehensive analysis of primary and secondary legal sources to ensure a robust and well-rounded examination of the subject matter.

The primary sources for this research paper include the Indian Constitution itself, specifically focusing on provisions related to freedom of religion, such as Article 25 and Article 26. These constitutional provisions serve as the foundational basis for understanding the scope and limitations of religious freedom in India. Legislative acts, such as the Religious Institutions

² "What is the 1994 Ismail Faruqui judgment? | What Is News, The Indian Express," available at: <https://indianexpress.com/article/what-is/ayodhya-land-dispute-case-what-is-the-1994-ismail-faruqui-judgment-case-5376560/> (last visited June 5, 2023).

³ *T.M.A. Pai Foundation & Ors v. State Of Karnataka & Ors*, (2002) 8 SCC 481.

⁴ Akshay Ratan, "MANDAL COMMISSION - PERSISTENCE OF CASTE IDENTITIES and RESERVATIONS IN INDIA" (2014).

⁵ "Ayodhya dispute: The complex legal history of India's holy site," *BBC News*, 16 October 2019, available at: <https://www.bbc.com/news/world-asia-india-50065277> (last visited June 5, 2023).

(Prevention of Misuse) Act and the Places of Worship (Special Provisions) Act, are also examined to provide insights into the legislative framework surrounding religious freedom.

3. IMPORTANT CASE LAWS ON RIGHT TO FREEDOM OF RELIGION

To further enhance the analysis, the research paper incorporates a thorough examination of judicial decisions. This includes an in-depth review of significant cases related to freedom of religion, such as *S.R. Bommai v. Union of India*, *Sabarimala Temple entry case*, *Haji Ali Dargah case*, *Ismail Faruqui case*, *T.M.A. Pai Foundation case*, *Mandal Commission case*, *Indra Sawhney case*, *Jagannath Puri temple entry case*, and the *Ayodhya dispute*. These cases offer valuable interpretations, clarifications, and precedents set by the judiciary in the context of religious freedom.

In addition to primary legal sources, secondary legal sources are extensively utilized to provide a comprehensive analysis. Scholarly articles, commentaries, and textbooks by legal experts, constitutional scholars, and academics offer valuable insights, analysis, and perspectives on the constitutional framework of religious freedom in India. These secondary sources ensure that the research paper incorporates a wide range of opinions and interpretations, contributing to a well-rounded analysis.

1. **S.R. Bommai v. Union of India⁶**: This landmark case addressed the issue of the imposition of President's Rule in states on the grounds of breakdown of constitutional machinery. In the context of the right to freedom of religion, the Supreme Court held that the secular nature of the Indian Constitution and the preservation of religious harmony are essential components of the basic structure of the Constitution. The case emphasized the importance of protecting the freedom of religion and ensuring that the state does not interfere with the religious practices of its citizens.
2. **Sabarimala Temple entry case⁷**: This case dealt with the issue of the entry of women of menstruating age into the Sabarimala temple in Kerala. The Supreme Court held that the practice of prohibiting women between the ages of 10 and 50 from entering the temple violated their right to freedom of religion. The court recognized the constitutional principle of gender equality and affirmed that religious practices cannot

⁶ *Supra* Note 1.

⁷ WRIT PETITION (CIVIL) NO. 373 OF 2006.

discriminate against women based on biological factors.⁸

3. **Haji Ali Dargah case⁹**: In this case, the Bombay High Court addressed the issue of the restriction on the entry of women into the sanctum sanctorum of the Haji Ali Dargah in Mumbai. The court ruled that the prohibition on women's entry was a violation of their fundamental right to equality and freedom of religion. The judgment emphasized the need to interpret religious practices in a manner that respects the principles of gender equality and non-discrimination.
4. **Ismail Faruqui case¹⁰**: This case dealt with the constitutional validity of the Acquisition of Certain Area at Ayodhya Act, 1993, which sought to acquire land in Ayodhya, Uttar Pradesh, where the Babri Masjid stood before its demolition in 1992. The Supreme Court held that offering prayers at a mosque is not an essential part of Islam, and therefore, the act of acquiring the land did not violate the right to freedom of religion of Muslims.
5. **T.M.A. Pai Foundation case¹¹**: This case addressed the issue of government control over educational institutions run by religious and linguistic minorities. The Supreme Court held that the right to establish and administer educational institutions is protected under the right to freedom of religion. The judgment recognized the autonomy of religious and linguistic minorities in managing their educational institutions.¹²
6. **Mandal Commission case¹³**: This case focused on the implementation of reservations for socially and educationally backward classes in educational institutions and public employment. The Supreme Court upheld the constitutional validity of reservations, highlighting the importance of affirmative action in ensuring equality and social justice. The judgment recognized that the right to freedom of religion should be interpreted in harmony with the principle of social justice. Later in the Mandal Commission case-II, this case examined the implementation of reservations in promotions in public employment. The Supreme Court held that

⁸ “Sabarimala Temple Entry,” *Supreme Court Observer*, available at: <https://www.scobserver.in/cases/indian-young-lawyers-association-v-state-of-kerala-sabarimala-temple-entry-background/> (last visited June 5, 2023).

⁹ Public Interest Litigation No. 106 OF 2014.

¹⁰ AIR 1995 SC 605.

¹¹ *T.M.A.Pai Foundation & Ors v. State Of Karnataka & Ors*, (2002) 8 SCC 481.

¹² *Ibid*.

¹³ AIR 1993 SC 477, 1992 Supp 2 SCR 454.

reservations in promotions should not exceed the limit of 50% and should be based on quantifiable data showing backwardness and inadequate representation. The judgment emphasized the need to balance the right to equality with the right to freedom of religion.¹⁴

7. **Jagannath Puri temple entry case¹⁵**: This case addressed the issue of the ban on the entry of non-Hindus into the Jagannath Puri temple in Odisha. The Supreme Court held that the prohibition violated the right to equality and freedom of religion. The judgment emphasized the inclusive nature of Hinduism and the principle that places of worship should be open to all, regardless of their religion.¹⁶
8. **Ayodhya dispute**: This long-standing dispute concerned the ownership and control of the site in Ayodhya, Uttar Pradesh, where the Babri Masjid once stood. The Supreme Court, in a landmark judgment, ordered the construction of a Hindu temple at the disputed site while also providing alternative land for the construction of a mosque.¹⁷

By employing a qualitative research approach and drawing upon primary and secondary legal sources, including constitutional provisions, legislative acts, judicial decisions, scholarly articles, and empirical data, this research paper ensures a comprehensive and rigorous analysis of the constitutional framework governing freedom of religion in India. This methodology provides a solid foundation for examining the subject matter and drawing meaningful conclusions based on legal principles, precedents, and contemporary understanding.

4. FINDINGS

The research paper begins by examining Article 25 of the Indian Constitution, which guarantees the freedom of conscience and the right to profess, practice, and propagate religion. This provision forms the bedrock of religious freedom in India. To gain a

¹⁴ Manishiq, "Indra Sawhney Case Analysis, SC Judgements, Summary," 2023, available at: <https://www.studyiq.com/articles/indra-sawhney-case/> (last visited June 5, 2023).

¹⁵ *State Of Orissa v. Chintamani Khuntia & Ors.*, 1997. See also *Mrinalini Padhi v. Union of India*, WRIT PETITION (CIVIL) NO.1094 OF 2019.

¹⁶ "SC For Entry Of Non-Hindus Into Puri Jagannath Temple, Will Servitors Allow?," <https://www.outlookindia.com/>, 2022, available at: <https://www.outlookindia.com/website/story/sc-for-entry-of-non-hindus-into-puri-jagannath-temple-will-servitors-allow/313183> (last visited June 5, 2023).

¹⁷ "Ayodhya dispute: The complex legal history of India's holy site," *BBC News*, 16 October 2019, India, "Ayodhya dispute: The complex legal history of India's holy site," *BBC News*, 16 October 2019, available at: <https://www.bbc.com/news/world-asia-india-50065277> (last visited June 05, 2023).

comprehensive understanding of its interpretation and scope, the paper analyses significant court decisions that have shaped the understanding of Article 25. Cases such as *S.R. Bommai v. Union of India*, Sabarimala Temple entry case, are highlighted, focusing on the interpretation of terms like "propagate" and "essential religious practices" within the context of Article 25.

Moving on, the paper explores Article 26 of the Constitution, which recognizes the right of religious denominations or sections to manage their own affairs, including religious institutions. This provision acknowledges the autonomy of religious communities while also considering the state's authority to intervene in matters of administration, property, and social welfare. To analyse the delicate balance between religious autonomy and state intervention, the research paper examines cases such as the *Ismail Farooqui* case and *T.M.A. Pai Foundation* case. These cases shed light on the interpretation and scope of Article 26, providing insights into the rights and responsibilities of religious communities in managing their institutions.

Furthermore, the interplay between freedom of religion and other fundamental rights is explored in the research paper. The constitutional principles of non-discrimination and affirmative action, particularly in the context of religious minorities, are assessed. Cases such as the *Mandal Commission* case and the *Indra Sawhney* case are evaluated to understand the implications of these principles on religious freedom. Additionally, the paper examines cases such as the *Jagannath Puri temple entry* case and the *Ayodhya dispute*, which demonstrate the limits imposed on religious practices that may infringe upon public order, morality, or the rights of others.

Through this comprehensive analysis, the research paper aims to provide a nuanced understanding of the constitutional framework governing freedom of religion in India. By examining court decisions and their interpretations of Article 25 and Article 26, as well as exploring the interplay with other fundamental rights, the paper contributes to the broader discourse on religious freedom and its boundaries in the Indian constitutional context.

5. DISCUSSION

The research paper delves into a critical discussion of the constitutional framework governing freedom of religion in India. It begins by exploring the historical context of the framing of the Constitution, taking into account the debates and discussions among the members of the

Constituent Assembly. This historical analysis provides insights into the intent behind the inclusion of robust protections for religious freedom in the Indian Constitution.

Moreover, the paper addresses contemporary debates and challenges encountered in interpreting and applying the constitutional provisions related to freedom of religion. It examines the tensions that arise between religious freedom and social reform, as well as the complexities surrounding the role of state intervention in religious practices. The protection of minority rights is a crucial aspect discussed, emphasizing the state's duty to maintain a neutral stance towards all religions while ensuring the safeguarding of minority communities.

The concept of secularism and its impact on the interpretation of religious freedom is thoroughly analysed in the research paper. It highlights the state's responsibility to maintain a secular and inclusive society, ensuring that no religion is given preferential treatment. The Supreme Court's approach to adjudicating religious disputes is examined, focusing on the application of the doctrine of essential religious practices. The challenges faced in determining the boundaries of such practices are explored, considering factors such as public order, morality, and the rights of others.

Furthermore, the paper explores the role of state intervention in religious affairs, particularly in the management and control of religious institutions. It examines cases where the state has intervened to address issues of corruption, gender discrimination, and social reform within religious institutions. The subsequent debates regarding the limits of state interference are analysed, taking into account the delicate balance between religious autonomy and the state's responsibility to uphold principles of justice and equality.

Through this comprehensive analysis, the research paper critically engages with the constitutional framework governing freedom of religion in India. By examining the historical context, contemporary debates, and challenges faced in interpretation and application, the paper contributes to a nuanced understanding of the complexities and dynamics surrounding religious freedom. It sheds light on the role of secularism, state intervention, and the protection of minority rights, providing valuable insights for legal scholars, policymakers, and practitioners in the field.

6. CONCLUSION

In conclusion, this legal research paper has provided a comprehensive analysis of the constitutional safeguard of freedom of religion in India. By critically evaluating the relevant constitutional provisions, judicial interpretations, and contemporary debates, we have gained valuable insights into the delicate balance between religious rights and state regulation.

The analysis of the constitutional provisions, particularly Article 25, has underscored the significance of religious freedom as a fundamental right in India. The guarantee of the freedom of conscience, the right to profess, practice, and propagate religion forms the bedrock of religious freedom. Through the examination of landmark court decisions, we have witnessed the evolution of jurisprudence surrounding the interpretation and scope of religious freedom. These decisions have contributed to shaping the contours of religious rights and have played a pivotal role in maintaining a delicate balance between religious autonomy and societal interests.

The exploration of contemporary debates has shed light on the complexities and challenges that arise in the interpretation and application of constitutional provisions on religious freedom. Tensions between religious freedom and social reform, particularly with regard to caste-based discrimination, gender equality, and the rights of marginalized communities, have been examined. It is essential to navigate these debates with sensitivity and ensure that religious freedom is not used as a shield to perpetuate discrimination or violate the rights of others. A nuanced approach that considers the broader societal context is crucial in striking a balance between individual religious rights and the collective well-being of society.

Moreover, this research paper has highlighted the importance of continuous research and potential reforms to strengthen and protect religious freedom in India. Areas for further research include exploring the interplay between religious freedom and other fundamental rights, as well as the impact of religious freedom on marginalized communities. Comparative perspectives and international human rights standards can provide valuable insights to inform potential reforms in enhancing the protection of religious freedom. In conclusion, upholding religious freedom as a cornerstone of Indian democracy is of utmost importance. It is a fundamental right that should be safeguarded while also considering the broader social fabric and the rights of all individuals. This research paper has contributed to the discourse surrounding religious freedom in India and has emphasized the need for a balanced approach

that respects individual religious rights while promoting equality, social justice, and harmony in society. It is hoped that the findings and insights presented in this research will inform future discussions, policies, and legal developments to ensure the continued protection and promotion of religious freedom in India.

