



## Navigating Religious Freedom in The Present Political Context of India

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### Introduction

Religious freedom, which is a fundamental right recognized by international declaration and state constitutions, plays a significant role in the political environments of many countries worldwide. It represents the idea that people should be free to adopt, practice and abandon their beliefs without worrying about any retaliation or discrimination. The fight for religious freedom has historically been intertwined with the advancement of politics and the pursuit of power; religious wars have shaped political landscapes and nations histories, from the roman empire's persecution of the early Christians to the protestant reformations challenge to catholic dominance. The modern conceptions of religious freedom within political systems were established during the Westphalian era, which introduced new ideas of religious tolerance and separation of religion and the state. The concept of religious freedom has taken on new dimensions with the emergence of religious nationalism, identity politics and favoritism in contemporary times.



### Religious freedom: what does the term imply

What does the term religious freedom actually mean and what does it imply for society? Is religious freedom only the ability to attend worship services? Is religious freedom absolute or the foundation of any sociopolitical structure? Is the notion of freedom limited only to the internal beliefs, or does it extend to actions taken in the public sphere? Should religious freedom ever be prioritized over other societal needs? See, there are a lot of questions but no conclusive and universal answers, only the popular definitions given by UN agencies, academicians and researchers.

The theme of religious freedom has been described as “an explosive one, both historically and at present”. Religious freedom is significant because it is hypothesized to be a vital feature of Westernized liberal democratic societies. Many people believe that the right to religious freedom is inalienable. Many contend that backing religious freedom also helps national security (Farr, 2008), economic prosperity proposed by Gill in 2008 terrorism and violence reduction (Saiya, 2019), and a more secure and free society (Glendon, 2019). It has also grown in importance as a component of western nations foreign policies especially for the americans. The liberal political worldview views religious freedom as central consequential and advantageous. The popular definitions of religious freedom are 1. ‘Free exercise of religion’ comes from the first amendment of the US constitution, which essentially means that the government must not limit the ability to practice one’s religion (Fox, 2021). Fox described this interpretation of religious freedom as relatively narrow and focusing especially on the freedom to engage in religious activities. 2. ‘religious persecutions and repressions’ which means ‘an effort by a government to repress major activities by a given religious group, commonly with the goal of eliminating that group in the long or short term (Jenkins, 2007) 3. ‘Religious tolerance’ focuses on giving equal rights and privileges to minorities. (Fox, 2021) ‘tolerance means putting up with those you dislike or with whom you disagree’ (Eisenstein, 2008). In Karpov’s view political tolerance is the willingness to extend civil liberties to the political out groups (Karpov, 2008) 4. ‘Freedom from religion’ means they include the right of religious minorities not to have elements of another religion forced upon them and also the right to be free from mandatory religious practices even for nominal members for the majority religion. (Fox, 2021). Joustra in her article points out that “for the ardent religious believer..religious freedom often means the right to restrict the freedom of others or to impose one’s religion on the larger world, that’s why the most important religious freedom is freedom from religion (Joustra, 2018). Other definitions of are 5. Absolute separationism (fox, 2021) which essentially follows the united state paradigms, in which the government must be explicitly uninvolved in religion in any way. 6. Neutrality in which the state does not show preferences and treats all religions equally.



This conception allows support for religion as well as repression, persecutions and restrictions as long as the policy falls equally on all religions (Fox, 2021). 7 Laicism model, it is essentially a French model of religious policy which restricts the religions presence in the private sphere and public sphere must be secular including the majority religion.



### Religious Freedom in Indian Body-Politik

Religious freedom in India is a fundamental right inscribed under Articles 25-28 of the Indian Constitution. In 1947, modern India came into being as an independent and sovereign nation, and in 1976 through the 42nd amendment act the preamble of the Indian constitution was changed to declare India to be a secular state. What was actually accomplished by this amendment is to explicitly say what was previously contained implicitly under the Articles 25 to 28. All Indian nationals are entitled to the peaceful practice and propagation of their respective religions but these rights are not absolute and are subject to public order, morality, health and other provisions. Article 25 says that all persons are equally entitled to freedom of 'conscience' and the right to freely profess practice and propagate religion; so, it covers both religious beliefs and practices. Article 26 guarantees and protects collective freedom of religion and religious denominations of their sections that means right to establish as well as maintain institutions, right to manage its own affairs, right to own and acquire movable and immovable property and right to administer such property in accordance with law. Article 27 lays down that nonperson shall be compelled to pay any taxes for the promotion or maintenance of any particular religion or religious denomination. This provision of the constitution prohibits the state from favoring, patronizing and supporting one religion over another. Under Article 28 no religious instruction shall be provided in any educational institution wholly maintained out of state funds. Further there are article 29 which provides 'protection of interests of minorities' and article 30 which grants the right of minorities to establish and administer educational institutions. There were explicit provisions pertaining to secularism, although they were expressed in 'res ipsa loquitur' terminology. Indian type of secularism differs from western style secularism on the grounds that the Indian constitution holds secularism in the highest regard and gives it the greatest weight. western state considers religion to be completely non- interfering.



Western concept of secularism does not support public display of religion. In Indian essence creating a constructive connection between state and religion is what secularism is all about. In India the state supports every manifestation of a religion in an equal manner that is why Rajiv vergava terms this type of secularism as 'principled distance' not equidistance<sup>8</sup> (Rajiv Vergava, 1988). Bhargava has maintained that secularism in India does not imply that the state refrains from being involved in questions of faith. Conversely the state has taken strong stand in religious matters in some instances for example by outlawing animal sacrifices, Dalit can enter into the temple. There have been occasions when the government has treated various religious sects differently. For instances the state changed Hindu personal laws in line with several new Hindu Code measures but if god not later laws for other religious minorities in the same way example is muslims were permitted to continue using sharia law (Bhargava, 1990). The Supreme Court has consistently stressed the value of religious freedom and upheld secularism. There are numerous cases like *Bijoe Emmanuel vs State of Kerala*, 1987, AIR 748; *The Ahmedabad St. Xaviers College vs State of Gujarat*, 1974, AIR (SC) 1389, *Shayara Bano vs Union of India* (triple *talaq* case) AIR 2017 SC 1388, in which the top court upheld the individual freedom of religion and belief and enforcing the belief that India being a secular and democratic state.



### Religious freedom in India since 2014

In January 2022, a few female Muslim students at a government pre-university college in Udupi district of Karnataka were allegedly denied entry to classrooms for wearing an 'extra piece of cloth' - the Hijab. In September 2021, seven tribal Christians were tonsured in a village in Jharkhand for following their own religious beliefs. Fearing backlash, the Christian Tribals did not even report the matter to the Police. In January 2020, the Madhya Pradesh government promulgated, 'The Madhya Pradesh Freedom of Religion Ordinance, 2020' which specifies the procedure for undergoing religious conversion and prohibits unlawful religious conversion. This ordinance repeals the 'Madhya Pradesh Dharma Swatantrya Adhiniyam,' 1968, which previously regulated religious conversions in the state. All these glaring realities have been highlighted by the report of the International Religious Freedom Report of the Office of International Religious Freedom, United States Department of State. There were numerous instances of violence by law enforcement authorities against members of religious minorities in multiple states across India. The report further pointed out that the attacks on members of religious minority communities, including killings, assaults, and intimidation, occurred in various states throughout the year. These included incidents of "cow vigilantism" against non-Hindus based on allegations of cow slaughter or trade in beef and incidents in which Muslim men were alleged to have married Hindu women to convert them. There were also attacks on pastors, disruption of Christian and Muslim worship services, and vandalism of Churches. (Report of religious freedom; 2022).

The report also mentioned calls for genocide extermination for muslim mainly from the ruling party leaders. Notwithstanding this, the Indian government has categorically rejected it and maintained that reports of this kind are based on inaccurate information, flawed understanding and incomplete comprehension. Through the current government has been accused of enacting anti Muslim laws and enforcing anti minority policies, such as the Citizenship Amendment Act, 2019; which was notified by the government on 22 January, 2024, on the very first day of the Ramadan! and also abrogation of the special status of Jammu and Kashmir , since assuming in power. Moreover the home ministry no longer provides data on ‘communal incidents’ occurring in India and the national crime records bureau now only publishes data on religious riots only.( civilsdily.com). The state authorities have also tightened their restrictions on foreign funding in recent years. Although foreign funding is essential to any NGOs, the authorities frequently view it with suspicion. One example of this is ‘compassion international’, christian charitable child welfare organization that has been operating in India for 48 years. As per the report, compassion international was accused of alleged pro-selytization and was forced to receive funds only with the prior permission from the ministry of home affairs. As a result of these financial restrictions, the organization closed its operations in India in 2017, despite advocacy efforts to defend it.

The United Nations Special Rapporteur on the issues of religious freedom in India has described the erosion of Fundamental Rights, particularly of religious and other minorities, in India as ‘massive, systematic and dangerous.’ During the UN Human Rights Council’s Universal Periodic Review Process held on November 10, 2022 at least 21 countries urged India to improve its protection of freedom of religion and rights of religious minorities, with several raising concerns over increasing violence and hate speech and the government’s adoption of discriminatory policies such as “Anti Conversation” laws.



In this critical juncture let’s take an insight into the kind of religious discrimination as well as religious freedom is prevalent in the country in the current scenario. Firstly, government restrictions on religious freedom have risen in several different ways (Pew Research Center, 2019). According to the study of pew research center, laws and policies restricting religious freedom and government favoritism of religious groups have consistently been the most prevalent types of restriction globally including India. There is inter-religious tension and violence although it has declined markedly globally but in the Indian scenario it is continuously in rising trend example a dispute between two Hindu and Muslim high schools students of Gujarat escalated into a mob attack on the villages muslim residents, 50 homes are ransacked (International Religious Freedom Report, 2017).

There is also a continually rising trend of limiting religious activities of religious groups and individuals across the asia pacific while China and the countries of central Asia are in the top; India also featured in the top 10 countries of the list published by the pew. In the category of harassment of religious groups by the government , the Asia pacific region including india also stands out as relatively higher. Pew research shows in 2017 alone harassment or intimidation of religious groups by the government was reported in 86% of the countries in the region! Religion related harassment in India also has received global attention in recent years with unlawful property damage of most of the muslims being the most common type of harassment reported , another is arbitrary arrests and unlawful and prolonged detention of the minority communities, killings based on religion in most of the states is on high. India also featured in the top 10 list of countries with high levels of religious violence by organized groups. The times of India on September 22, 2022 reported a series of violence done by the Bajrang Dal workers in which they assaulted four muslim youths at a Garba venue on Sindhu Bhavan, Gujarat. There are numerous reports of organized violence committed by the hindu radical groups where they attacked muslim youths for refusing to chant ‘jai shree ram’. These organized groups have increasingly used force in an attempt to dominate the public sphere with their own version of perception of religion. In the category of individual and social group harassment India also featured in the top 5 of the list. This type of harassment includes derogatory remarks on the minority groups on social media, online trolling through memes and abusing, Islamophobic posts, spreading fake news or publications of articles that are distorted and false. Online digital media platform the wire in its survey found that 60% of the participants surveyed said they have come across contents on social media platforms that incites violence against Muslims.

The overall restriction of religious freedom by the government authorities and its machinery fairly stable although in ‘high’ category in India , ranks 34 in government restriction index ( GHI ) ; when compared to the social hostilities involving religion (SHI), India ranks at the top of the list with 9.4 score in an overall score of 10 which is worse than neighboring Pakistan and Afghanistan! (Pew Research center, the Social Hostilities Index, 2019). In addition to social hostilities and government restrictions towards minorities , a new trend has emerged in India in recent years : ‘ freedom from religion’. Coming to the study of Fox (2020), he includes 26 measures which involve legislating religious precepts as law and government institutions which enforce religious law.(Fox, 2020) these includes restrictions on interfaith marriages, restrictions on conversions away from majority religion, censorship of press or publications for being anti religious , restriction of special kind of foods, mandatory closing of businesses during religious holidays.

### Way forward

Given the current landscape of discrimination and religious freedom in India, a forward looking strategy that addresses social, legal, and political dimensions is necessary. Acknowledging the complexity and sensitive nature of the matter, this is the time to strengthen legal safeguards, enhancing education, ensuring accountability, promoting interfaith dialogue and funding research so that India can aim forwards to a more inclusive and harmonious society where the rights and freedom of all religions and communities are respected and protected.

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## About the Author



I'm Mahesh Ganguly , a UGC NET qualified Junior Research Fellow with a bachelor degree in Dentistry, currently pursuing a major in International relations and area studies from MMAJ Academy of International Relations, Jamia Millia Islamia, New Delbi. An IMPRI fellow, my research interests include global politics, security and strategic studies, diplomacy , foreign policy analysis and public policy. I aim to engage myself in rigorous research in the emerging aforementioned fields and issues and seek to make my contribution and dent in the relative disciplines.



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