

Identify Various Religious Practices which Conflict with Human Rights in India

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Abstract : Religious practices play a central role in shaping cultural identities and values worldwide. However, certain practices can sometimes conflict with internationally recognized human rights principles. This paper explores various religious practices across different faiths that have raised concerns regarding human rights violations. Examples include gender discrimination, such as restrictions on women's participation in religious activities or leadership, and practices like child marriage and female genital mutilation, which are often justified through religious customs.

By identifying these conflicts, the paper highlights the need for a careful balance between respecting religious freedom and upholding fundamental human rights. It calls for ongoing dialogue between religious leaders, policymakers, and human rights advocates to reconcile these tensions, ensuring that religious traditions evolve in ways that align with modern human rights frameworks, while preserving cultural diversity.

Introduction - India is a diverse and pluralistic nation, home to multiple religions and a rich cultural heritage. Religious freedom is enshrined in the Indian Constitution, reflecting the country's commitment to upholding the rights of individuals to practice and propagate their faith. However, in a nation as religiously diverse as India, conflicts between religious practices and the principles of human rights often emerge. While religion plays an important role in shaping societal norms, some religious customs and traditions may contradict the universal principles of human rights, which guarantee equality, non-discrimination, and personal freedoms for all individuals (Deniz, 2023; Trigg, 2012).

This research paper seeks to explore the intricate balance between religious practices and human rights in India. Specifically, it aims to identify religious practices that, while rooted in longstanding cultural and religious traditions, can conflict with modern human rights standards. Examples include restrictions based on gender, caste, or sexual orientation, practices involving minors, and constraints on personal freedoms such as conversion or freedom of expression (Karst, 1990; Ojha, 2024).

The focus of this study is on analyzing these points of conflict, questioning how such practices align with human rights as defined by national and international legal frameworks. India's legal system has often been tasked with reconciling these differences, and numerous landmark cases have set precedents in this regard. By understanding these areas of tension, this research aims to shed light on how religious freedoms can be preserved while ensuring that fundamental human rights are not undermined.

Objective: The primary objective of this research is to critically analyze the intersection between religious practices and human rights in India, focusing on identifying where these two important aspects of society come into conflict. India, as a secular nation with deep-rooted religious traditions, guarantees the right to religious freedom under its Constitution. At the same time, it is committed to upholding human rights, including equality, freedom from discrimination, and personal dignity, as defined by both national and international standards (Sangiovanni, 2017; Steinmann, 2016).

This research aims to:

Identify Specific Religious Practices: Examine various religious customs and practices prevalent in India that have raised human rights concerns. These may include gender-based restrictions, caste-based discrimination, child-related religious rites, and religious opposition to LGBTQ+ rights.

Highlight Areas of Conflict: Explore how these practices conflict with universally recognized human rights principles, such as gender equality, freedom of expression, and the right to personal freedom and dignity.

Analyze Legal and Social Implications: Investigate how Indian courts, legal frameworks, and societal norms have responded to these conflicts, focusing on case laws and legal precedents that illustrate the struggle to balance religious freedom and human rights.

Propose Solutions for Reconciliation: Suggest potential legal and policy solutions to harmonize religious freedom with the need to protect individual rights, ensuring that both religious diversity and fundamental human rights are

respected.

Through this study, the research will contribute to a deeper understanding of the challenges and potential solutions for ensuring that religious freedom and human rights coexist harmoniously in India's complex social landscape.

Importance of Study: The topic of identifying conflicts between religious practices and human rights is of paramount importance in India's socio-political and legal landscape (Grewal, 2016). India is one of the most religiously diverse nations in the world, with a population that practices a wide variety of faiths, including Hinduism, Islam, Christianity, Sikhism, Buddhism, Jainism, and others. In this pluralistic society, religion significantly influences culture, law, and daily life. However, the co-existence of religious traditions and modern human rights principles often leads to tension, especially when age-old religious customs are seen to conflict with the rights of individuals guaranteed by both national laws and international human rights standards (Edmunds, 2023).

Key Reasons Why This Study is Crucial:

Religious Diversity and Secularism: India's Constitution grants the right to religious freedom under Articles 25-28, allowing individuals to freely profess, practice, and propagate their religion. At the same time, India's commitment to secularism requires the state to remain neutral in matters of religion, ensuring that no particular faith is given preference. In practice, balancing religious freedom with the protection of human rights can be complex. This study helps illuminate how such balance is negotiated and where the challenges lie, especially in maintaining secularism while respecting deeply held religious beliefs.

Tensions Between Tradition and Modernity: Many religious practices in India have roots that date back centuries, yet some of these practices may now appear to conflict with modern human rights principles. Practices that involve gender discrimination, caste-based exclusions, or opposition to LGBTQ+ rights often clash with ideals of equality and personal freedoms. This study is vital to understanding how India's legal and social systems address these conflicts, helping to modernize religious traditions without undermining their cultural significance.

Legal and Constitutional Challenges: India's legal framework is frequently called upon to resolve conflicts between religious practices and human rights. Landmark court cases, such as the Sabarimala verdict (2018) on women's entry into temples, the decriminalization of homosexuality (2018), and the abolition of Triple Talaq (2017), have highlighted the judiciary's role in balancing religious beliefs with fundamental rights. Understanding these legal challenges is critical to proposing policies that protect both individual rights and religious freedoms.

Human Rights in a Global Context: India, as a signatory to international human rights conventions like the Universal Declaration of Human Rights (UDHR) and the International

Covenant on Civil and Political Rights (ICCPR), is obligated to uphold universal human rights standards. This study is crucial in evaluating how India fulfills its international obligations while maintaining its commitment to religious pluralism. It also adds to the global discourse on how countries with diverse religious practices can reconcile these with human rights.

Social Cohesion and Inclusive Development: Addressing conflicts between religious practices and human rights is vital for promoting social harmony and inclusive development. Religious conflicts that infringe on the rights of women, marginalized castes, or minorities can exacerbate social inequalities and divisions. This research is essential in identifying ways to bridge these gaps, ensuring that religious traditions do not become a source of social injustice.

Policy Formulation and Reform: The findings from this study will be valuable for policymakers who must navigate the delicate balance between protecting religious freedom and ensuring the enforcement of human rights. Recommendations for legal and policy reforms can emerge from this research, providing a framework for addressing conflicts while respecting India's rich religious diversity.

Research Questions:

A. What are the main religious practices under scrutiny? The research will focus on identifying specific religious practices that have raised concerns regarding potential conflicts with human rights principles. Some of the key practices under scrutiny include:

Gender-Based Restrictions: Religious traditions that impose restrictions on women, such as barring them from entering places of worship (e.g., Sabarimala Temple) or prescribing dress codes that are seen as discriminatory.

Caste-Based Practices: Practices justified by religion that perpetuate caste-based discrimination, such as exclusion from religious ceremonies or segregation in temples.

Opposition to LGBTQ+ Rights: Religious objections to the rights of LGBTQ+ individuals, including same-sex relationships and gender identity, which often conflict with the movement for equal rights.

Religious Rites Involving Minors: Practices such as early marriage or initiation rites for children that may infringe on the rights of the child, particularly in terms of education, health, and freedom from exploitation.

Restrictions on Freedom of Expression and Conversion: Religious norms that limit individuals' ability to freely express their beliefs or convert to other religions, sometimes resulting in social ostracization or legal challenges.

B. Which human rights do these practices potentially conflict with? The religious practices identified above may potentially conflict with various human rights as outlined by national laws and international agreements. The specific human rights at risk include:

Right to Equality (Article 14 of the Indian Constitution,

UDHR Article 1): Practices that discriminate based on gender, caste, or sexual orientation may violate the fundamental right to equality.

Right to Non-Discrimination (ICCPR Article 26, CEDAW): Practices that result in discrimination, especially against women, caste minorities, or LGBTQ+ individuals, conflict with the right to be free from discrimination.

Right to Freedom of Religion (Article 25 of the Indian Constitution, UDHR Article 18): While religious freedom is protected, the practice of one's religion should not infringe on the rights of others, such as the right to personal autonomy or the rights of minors.

Right to Freedom from Harm (CRC Article 19): Practices that may endanger children's physical or mental health, such as early marriage, initiation rites, or forced religious education, violate the rights of the child to be free from harm.

Right to Freedom of Expression and Thought (UDHR Articles 18 and 19): Restrictions on religious conversions or penalties for leaving a particular religion conflict with the fundamental right to freedom of expression and belief.

Right to Dignity (UDHR Preamble, ICCPR Article 10): Practices that undermine individual dignity, such as untouchability or forced seclusion of menstruating women, violate the human right to dignity and respect.

Religious Freedom in India

Brief History of Religious Freedom in India:

India's history of religious freedom spans millennia, shaped by its rich and diverse cultural and religious landscape. Here is an overview:

1. Ancient India: India has long been home to major world religions, including Hinduism, Buddhism, Jainism, and later, Sikhism. Ancient texts like the Vedas and Upanishads reflect a spirit of inclusivity, although the caste system introduced social stratification (Myrvold et al., 2024). Buddhism (6th century BCE): With leaders like Emperor Ashoka, who promoted religious tolerance after his conversion to Buddhism, India saw the official encouragement of non-violence and respect for different religious traditions.

2. Medieval India: The arrival of Islam (from the 7th century onward) through trade, and later with the establishment of Islamic empires, marked a significant phase (Lailatun & Mawardi, 2023). The Mughal Empire (1526-1857), particularly under Emperor Akbar, embraced policies of religious tolerance, known as Sulh-e-kul (peace for all), promoting dialogue and harmony among different faiths. While some later Mughal rulers, like Aurangzeb, reversed these policies, the coexistence of Hinduism, Islam, Sikhism, and other faiths continued to shape the Indian social fabric.

3. Colonial Era (British Rule): The British East India Company, which started as a trade entity in the 17th century, increasingly controlled large parts of India by the 18th and 19th centuries.

The British adopted a policy of religious neutrality,

largely to prevent rebellion in the deeply religious Indian society. However, British missionary activities sometimes caused tensions.

The Indian Rebellion of 1857 saw religious freedom become a rallying cry, as British policies affecting religious customs were cited as reasons for the revolt.

4. Indian Independence Movement: During the 19th and 20th centuries, leaders like Mahatma Gandhi emphasized religious harmony, coining the term Sarva Dharma Sambhava (equal respect for all religions).

The Indian National Congress, under leaders like Gandhi and Jawaharlal Nehru, promoted religious freedom as a cornerstone of the fight for independence from the British (Ambekar, 2023).

5. Post-Independence India: The Indian Constitution of 1950 enshrined religious freedom as a fundamental right. Article 25 guarantees the freedom to profess, practice, and propagate religion, while Article 15 prohibits discrimination based on religion.

India was declared a secular state, with no official religion, ensuring equality for all religions in law (Manhas, 2023).

6. Modern Challenges: Despite constitutional guarantees, religious freedom has faced challenges in post-independence India, including communal tensions and riots, particularly between Hindu and Muslim communities. In recent decades, debates about religious conversion, cow slaughter laws, and interfaith marriages have stirred discussions around the limits and practice of religious freedom.

The rise of Hindu nationalism has led to concerns about growing intolerance towards minority faiths, sparking debates about India's secularism and its future.

Conclusion: The evolution of religious freedom in India reveals a complex history of tolerance, coexistence, and at times, conflict. From ancient traditions promoting inclusivity, through the religiously diverse rule of the Mughal Empire and the colonial period's balancing act, to the establishment of religious freedom as a constitutional right in independent India, the nation's journey underscores the significance of protecting this freedom.

While India's Constitution guarantees religious equality, modern challenges such as communal tensions, political influences, and rising nationalism pose threats to this ideal. This history highlights that religious freedom in India, though constitutionally protected, remains a dynamic and evolving issue. To ensure a harmonious balance, ongoing dialogue between religious institutions, legal frameworks, and human rights bodies is essential. Such dialogue can foster mutual respect, uphold constitutional values, and ensure that religious freedom thrives in a way that respects the diversity and pluralism integral to India's identity. This cooperation is crucial to sustaining peace and protecting the rights of all citizens, regardless of faith.

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