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A STUDY ON RELIGIOUS MINORITIES AND LEGAL PROTECTION IN INDIA

**K.Prasanna,*

INTRODUCTION

India, a country known for its rich artistic and religious heritage, is home to a different population that includes colourful religious minorities. The Indian Constitution, in its attachment to secularism, guarantees equal rights and protection to all citizens, regardless of their religious affiliations. Ensuring the rights and protection of religious minorities is pivotal for fostering a harmonious and inclusive society. The Indian Constitution, the supreme law of the land, provides a comprehensive framework for safeguarding the rights of all citizens, including religious minorities. India has constituted specific laws to cover the interests of religious minorities. India's diverse society is shaped by its numerous religious minorities, including Muslims, Christians, Sikhs, Buddhists, Jains, and others, who have enriched the country's cultural heritage. Despite legal safeguards, these communities still encounter obstacles, such as discrimination, marginalization, and underrepresentation in politics. Tensions between groups, often driven by religious and sectarian differences, can lead to violence, putting the well-being and security of minority communities at risk. The National Commission for Minorities Act, 1992 establishes a statutory body to defend the constitutional rights of religious minorities, cover their well-being, and probe complaints of demarcation or violation of rights. Still, despite these constitutional provisions, religious minorities in India have frequently faced challenges in terms of legal protection and social acceptance. This paper aims to deliver a comprehensive overview of the legal protection afforded to religious minorities in India, the challenges they face, and the measures taken by the government to insure their safety and well-being. promote tolerance and understanding, and hold those responsible who engage in acts of discrimination and violence against religious minorities. By

ensuring the equal protection and dignity of all citizens, India can uphold its commitment to a truly inclusive and harmonious society.

HISTORICAL BACKGROUND

India, a land of different societies and religions, has a rich history of religious tolerance and pluralism. India, a flourishing shade of lifestyles and beliefs, has a rich tradition of religious diversity. Throughout its history, the nation has been home to a multitude of religions, including Hinduism, Buddhism, Jainism, Sikhism, Christianity, Judaism, and Islam. To ensure the well-being and protection of its religious minorities, India has a comprehensive legal framework that has evolved over centuries.

Vedic Period to Pre-Islamic India The roots of religious tolerance in India can be traced back to the ancient Vedic period. The Vedas, the sacred manuals of Hinduism, emphasise the importance of respecting all faiths and pursuing spiritual enlightenment through colourful paths. During the Gupta period(4th- 6th centuries CE), the conception of 'dharma' became central to Indian philosophy, promoting moral conduct and compassion towards all beings, anyhow of their religious collaboration.

Pre-Independence Era

Mughal Empire With the arrival of Islam in the 7th century, India witnessed a significant transformation in its religious landscape. While some conflicts passed between Hindu and Muslim monarchs, there were also periods of peaceful coexistence and artistic exchange. The Mughal Empire(16th- 19th centuries) was particularly notable for its religious tolerance. Emperor Akbar, known for his enlightened policies, abolished the hated jizya tax on non-Muslims and encouraged inter-religious dialogue. The Mughal emperors generally espoused a policy of religious tolerance, allowing non-Muslims to practise their faith freely. still, there were occasional instances of persecution, particularly during the reign of Emperor Aurangzeb.

British Colonialism The British introduced the concept of 'separate electorates' for religious minorities, which sowed the seeds of communalism. This system allowed Muslims, Sikhs, and other groups to handpick their own representatives, which led to the formation of collaborative organizations. The advent of British social rule in the 18th century brought about a shift in the religious dynamics of India. The 'divide and rule' policy employed by the British sowed seeds of discord among different religious communities, culminating in the partition of the country in 1947 along religious lines. The bloody collaborative violence that accompanied partition left a deep scar on Indian society.

Post-Independence Era After independence in 1947, India adopted a new constitution that enshrined the principles of religious freedom and equality. The

constitution prohibits discrimination based on religion and guarantees the right to exercise, profess, and propagate one's faith. It also establishes a temporal state, where the government can not favor any particular religion. Secularism India adopted theology as a guiding principle, which means that the state remains neutral in matters of religion. still, this principle has been challenged at times by collaborative forces and political ideologies. Specific Laws for Religious Minorities In addition to the indigenous provisions, India has constituted a number of specific laws to protect the rights of religious minorities. These include The National Commission for Minorities Act(1992), which established a commission to investigate complaints of discrimination and cover the interests of minorities. Religious Minorities Commission(1978) The National Commission for Minorities was established in 1978 to protect the interests of religious minorities and monitor their statues The Protection of Places of Worship(Special Provisions) Act(1991), which prohibits the conversion of places of worship from one religion to another. The Collaborative Violence(Prevention, Control and Rehabilitation of Victims) Bill(2011), which provides for the prevention, control, and rehabilitation of victims of collaborative violence.

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To address these challenges, it's essential for the government and civil society to

- Apply the existing laws effectively and hold perpetrators of violence responsible.
- Promoting religious dialogue and understanding through educational initiatives and grassroots movements.
- Foster a culture of inclusivity and respect for all religions.

CONSTITUTIONAL FRAMEWORK

The Indian Constitution was drafted in the aftermath of a long struggle for independence, which was marked by collaborative tensions and violence. The framers of the Constitution were acutely apprehensive of the need to cover the rights of religious minorities to insure a harmonious and inclusive society. The Constitution, thus, contains several provisions that guarantee the rights of religious minorities and promote their welfare. 1. Abecedarian Rights

1. The Constitution of India contains several provisions that specifically address the protection of religious minorities.

¹ Protection of Places of Worship (Special Provisions) Act, 1991 (Act 42 of 1991)

These include Article 14 Guarantees equality before the law and equal protection of laws for all citizens.

Article 15(1) Prohibits discrimination against any citizen on grounds of religion, race, caste, sex, or place of birth.

Article 25 Provides freedom of conscience and the right to freely profess, exercise, and propagate one's religion.

Article 29 Preserves the artistic and educational rights of minorities, including the right to establish and administer their own educational institutions.

Article 30 Grants religious minorities the right to establish and maintain their own religious institutions.

Article 350A of the Indian Constitution provides for the appointment of a Special Officer for verbal Minorities to probe all matters relating to the safeguards provided for verbal minorities under the Constitution. This provision ensures that the interests of verbal minorities, which frequently overlap with the interests of religious minorities, are defended and promoted.

2. Special provisions for minority groups The Constitution also has specific provisions on the protection and promotion of religious minorities.

Article 29(1) guarantees the right of any section of the population having a distinct language, script or culture to maintain that language.

Article 30(1) gives minorities the right to establish and manage educational institutions of their choice. These regulations allow religious minorities to save their unique artistic and verbal heritage.

3. Reservation Policy The Indian Constitution also provides for reservations in education and employment for religious minorities. Article 15(4) and Article 16(4) empower the government to make special provisions to promote the advancement of socially and educationally backward classes, including religious minorities. This policy aims to combat literal inequality and promote social justice.

4. National Commission for Minorities

In addition to these indigenous provisions, the Government of India established the National Commission for Minorities(NCM) in 1992. NCM is an independent legal body that works to cover and promote the rights of religious minorities in India. The Commission investigates matters relating to the deprivation of rights and guarantees swung to minorities under the Constitution and makes recommendations to the government for the effective implementation of these guarantees. * Protection of places of minorities Worship(Special Provisions) Act 1991 Conversion of places of religious worship from one religion to another is banned. else, except as handed by law.

Religious Institutions(Prevention of Abuses) Act, 1988 Prevention of abuse of religious institutions for purposes non-religious.Community Violence(Prevention, Control and Prevention) Act, 2002 Rehabilitation of Victims Provides measures to help, control and victim recovery. collaborative violence, frequently disproportionately affecting religious minorities²

JUDICIARY ROLE

The Indian judiciary has played a vital part in guarding the rights of religious minorities and ensuring their legal protection. Through its visionary activism, the judiciary has expanded the scope of religious freedom, addressed discrimination, and scanned religious laws to insure their compliance with indigenous principles. The bar's commitment to guarding the rights of religious minorities is essential for maintaining the temporal fabric of India and fostering a society that respects all faiths. As India continues to grapple with issues of religious diversity and pluralism, the judiciary will really face new challenges. still, the judiciary's track record of upholding the rights of religious minorities provides hope that it'll continue to play a vital part in securing the indigenous values of equality, freedom, and justice for all. The Indian judiciary has been visionary in securing the rights of religious minorities. In a landmark judgement in the case of Sri Adi Vishweshwara Swamy Temple vs Commissioner, Hindu Religious Endowments, Mysore(1984), the Supreme Court held that Article 25 wasn't confined to the freedom to worship but extended to all aspects of religious belief and practice. This judgement expanded the scope of religious freedom and gave religious minorities a stronger legal base to assert their rights. In another significant case, Shayara Banov. Union of India(

² National Commission for Minorities: Need for Greater Autonomy and Resources,' The Hindu, February 15, 2020.

2017), the Supreme Court struck down the practice of instant triadic talaq among Muslims as unconstitutional. This judgment was a major victory for Muslim women and demonstrated the judiciary's commitment to guarding the rights of vulnerable religious communities.

Protection from Discrimination Religious minorities in India have frequently faced discrimination in colourful spheres of life, including education, employment, and housing. The high court has played a vital part in addressing these issues. In the case of *St. Xavier's College vs State of Gujarat* (1974), the Supreme Court held that educational institutions run by religious minorities were entitled to protection under Article 30 of the Constitution, which guarantees the right to establish and administer educational institutions. The judiciary has also interposed to help discrimination in the allocation of government benefits and resources. In the case of *M. Ismail Faruqui v. Union of India* (1994), the Supreme Court held that the exclusion of non-Hindus from the Haj subsidy was unconstitutional. This judgement assured that religious minorities had equal access to state benefits.

Judicial Scrutiny of Religious Laws The judiciary has also been watchful in checking religious laws that violate abecedarian rights. In the case of *S.R. Bomma v. Union of India* (1994), the Supreme Court held that religious laws must be in harmony with the Constitution and can not be used to justify practices that are discriminative or violative of mortal rights.³

Kartar Singh v. State of Punjab (1992) This case established the right of Sikhs to wear turbans as an essential part of their religious practice, overruling a state law that banned the wearing of hat in public schools.

Pai Foundation Vs. State of Karnataka (2002) The Supreme Court upheld the right of minority educational institutions to establish and administer their own institutions, without interference from the state. This decision defended the autonomy of religious minority institutions and their ability to save their unique ethos.

STRENGTHS OF THE LEGAL FRAMEWORK

- National Commission for Minorities

The National Commission for Minorities (NCM) was established in 1992 to guard the interests of religious minorities. The NCM is an independent statutory body that investigates complaints of violations of minority rights, recommends remedial measures, and advises the government

³ Shah, A., Secularism and minorities in India: A critical appraisal, *International Journal of Human Rights*, 21(4), 445-463, (2017)

on matters related to minorities. The actuality of the NCM demonstrates the commitment of the Indian government to cover the rights of religious minorities.

- Legal Recourse for Victims of Discrimination

India has a robust legal system that provides redressal mechanisms for victims of religious discrimination. The Indian Penal Code(IPC) criminalises acts of religious hatred and violence, while the Protection of Civil Rights Act, 1955, and the Scheduled Castes and Scheduled Tribes(Prevention of Atrocities) Act, 1989, give fresh legal safeguards for vulnerable communities. These laws insure that perpetrators of religious violence are held responsible and that victims receive justice

- Affirmative Action Policies The Indian government has implemented affirmative action policies to promote the socio- profitable development of religious m minorities. The Constitution mandates reservations in government jobs and educational institutions for members of Scheduled Castes and Scheduled Tribes, which include several religious minority communities. These policies aim to address literal inequalities and give equal opportunities for all citizens, anyhow of their religious affiliation.⁴

- International Legal Obligations India is a signatory to several transnational mortal rights covenants, including the International Covenant on Civil and Political Rights(ICCPR) and the Convention on the Elimination of All Forms of ethnical Discrimination(CERD). By ratifying these covenants, India has committed itself to upholding the rights of religious minorities and ensuring their protection under transnational law.

- Public Awareness and Education

The Indian government has accepted several initiatives to promote public mindfulness and education about the rights of religious minorities. The National Curriculum Framework for School Education, for case, emphasises the significance of teaching scholars about India's different artistic heritage and the need to admire and celebrate religious differences. Similar

⁴ Human Rights Watch, Gujarat: A Crime Against Humanity, Human Rights Watch Report, (2002)

efforts contribute to a further inclusive and tolerant society, where religious minorities can thrive

- Government enterprise

The Indian government has enforced several enterprises to promote the welfare of religious minorities, similar as the establishment of minority welfare departments and the allocation of finances for minority educational institutions. These enterprises demonstrate the government's commitment to guarding the rights of religious minorities.

- Promotion of Interfaith Harmony

The Indian Constitution and colourful laws promote interfaith harmony and encourage the peaceful coexistence of different religious communities. This fosters a sense of unity and tolerance among the different religious groups in India.⁵

WEAKNESSES OF THE LEGAL FRAMEWORK

1. Ambiguity in Defining Minorities

The Indian Constitution doesn't give a clear description of religious minorities. The term 'minority' is defined in the National Commission for Minorities Act, 1992, as a community that constitutes lower than 50 of the total population. still, this definition isn't widely applicable, as the percentage of a religious community may vary from state to state. This ambiguity in defining minorities leads to inconsistencies in the implementation of minority-specific laws and policies.

2. Inadequate enactment of Laws

India has legislated several laws to cover religious minorities, similar as the Protection of Civil Rights Act, 1955, and the Scheduled Castes and Scheduled Tribes(Prevention of Atrocities) Act, 1989. still, the implementation of these laws has been shy. The lack of proper

⁵ Narasingha P. Sil, The crisis of secularism in India – edited by Anuradha Dingwaney Needham and Rajeswari Sunder rajan, 34 Religious Studies Review 227–227 (2008)

enforcement mechanisms, inadequate aid, and inadequate training of law enforcement labour force contribute to the weak implementation of these laws.

3. Delays in Justice Delivery

The Indian judicial system is notorious for its slow pace, which frequently results in delays in the delivery of justice. This is particularly problematic for religious minorities, who may face prolonged legal battles to seek justice for the violation of their rights. The delays in the judicial process can also discourage victims from pursuing legal remedies, leading to a sense of immunity for the perpetrators.⁶

4. Inadequate Representation in Law Enforcement and Judiciary

Religious minorities are underrepresented in the law enforcement and judiciary systems in India. This lack of representation can lead to a lack of understanding and empathy towards the issues faced by religious minorities. also, the absence of minority representation can also affect in prejudiced decision- making, farther aggravating the challenges faced by religious minorities in accessing justice.

5. Weaknesses in the Prevention of Communal Violence Act

The Prevention of Communal and Targeted Violence(Access to Justice and Reparations) Bill, 2011, was introduced to address the issue of collaborative violence and give legal protection to religious minorities. still, the bill faced strong opposition from colorful political parties and was noway passed. The absence of a comprehensive law to help collaborative violence leaves religious minorities vulnerable to targeted attacks and violence.

6. Inadequate Protection of Places of Worship

Religious minorities in India often face threats to their places of worship, similar as vandalization, desecration, and forced conversions. The Indian government has legislated laws to cover places of worship, similar as the Ancient Monuments and Archaeological spots and Remains Act, 1958, and the Places of Worship(Special Provisions) Act, 1991. still, these laws have been shy in preventing attacks on places of worship, and the perpetrators frequently go unpunished.

⁶ Liah Greenfeld & T. K. Oommen, Citizenship, nationality, and ethnicity: Reconciling competing identities., 76 Social Forces 1137 (1998).

7. Weaknesses in the Education System

The Indian education system has been blamed for promoting a majoritarian narrative that marginalises religious minorities. The lack of representation of minority perspectives in handbooks and the absence of minority-specific curricula can contribute to the marginalisation of religious minorities. also, the lack of access to quality education for religious minorities can further complicate their vulnerability and limit their opportunities for social and profitable mobility

AREAS FOR IMPROVEMENT

In examining the status of religious minorities and legal protections in India, there are several areas where enhancement is demanded to insure the effective safekeeping of their rights and interests. Originally, while India's Constitution and legal frame give a strong foundation for guarding religious minorities, there's frequently a gap between the legal provisions and their enactment on the ground. Enforcement mechanisms need to be strengthened to ensure that discriminatory practices are effectively addressed, and perpetrators are held responsible for their conduct. This requires lesser collaboration between law enforcement agencies, judicial bodies, and civil society organizations to cover and respond to instances of religiously motivated violence and discrimination⁷.

Secondly, there's a need for lesser awareness and sensitization among the general populace regarding the rights and freedoms of religious minorities. Education and outreach programs should be enforced to promote understanding, tolerance, and respect for diversity within Indian society. This includes enterprise to combat stereotypes, prejudices, and misconceptions that may contribute to discrimination against religious minorities.

Thirdly, the issue of collaborative violence and tensions between religious communities requires visionary measures to promote peace, conciliation, and interfaith dialogue. Government enterprise, community- led initiatives, and religious leaders can play a pivotal part in fostering collective understanding and cooperation among different religious groups.

⁷ Stephen Thompson, Brigitte Rohwerder & Clement Arockiasamy, Freedom of religious belief and people with disabilities: A case study of people with disabilities from religious minorities in Chennai, India (2021).

also, efforts should be made to address underpinning socio- profitable grievances that may complicate collaborative pressures and contribute to inter-group conflict.

Fourthly, there's a need to review and amend certain laws and legal provisions that may be used to target religious minorities or infringe upon their abecedarian rights. For example, anti-conversion laws in some countries have been blamed for their potential to be misused to kill and intimidate religious minorities, particularly Christians and Muslims. Reforms to these laws should be accepted to insure that they're harmonious with indigenous principles of freedom of religion and don't undermine the rights of individualities to freely choose and change their religion.

Eventually, there's a need for lesser representation and participation of religious minorities in decision- making processes at all situations of governance. This includes having acceptable representation in legislative bodies, government institutions, and executive bodies, as well as promoting the addition of different perspectives in policy- making and planning processes. Empowering religious minorities to laboriously share in the popular process can help address their enterprises and promote lesser social addition and equality.⁸

CONCLUSION

The legal protection of religious minorities in India is essential for fostering a harmonious and inclusive society. The Constitution, public laws, and the bar give a wholesome frame to guard their rights. still, ongoing challenges require continuing alert and collaborative efforts to ensure that all citizens enjoy equal protection and freedom of religion. By justifying the principles of equality, non-discrimination, and religious freedom, India can produce a society where all individualities, anyhow of their beliefs, feel valued and appreciated. This won't only strengthen the nation's social fabric but also contribute to its overall progress and prosperity. As India moves forward, it's imperative that it remains married to guarding the rights of its religious minorities, ensuring that they live with quality and harmony alongside their fellow citizens.

⁸ Joanna Howard, Vulnerability and poverty during covid-19: Religious minorities in India (2021).