

# RELIGIOUS LAWS AND RELIGIOUS CRIMES IN INDIA: A PERSPECTIVE

## Abstract

This chapter examines the intricate relationship between religious laws and religious crimes in India. It delves into the historical context of religious practices and their influence on the country's legal framework. Key areas of focus include the impact of personal laws, the rise of communal tensions, and the challenges in striking a balance between religious freedom and maintaining social harmony. The paper also highlights recent developments in legislation and their implications for India's diverse religious landscape. Through a comprehensive analysis, this study aims to shed light on the complexities of religious laws and crimes in India.

**Keywords:** Religious laws, Religious crimes, India, Personal laws, Communal tensions, Religious freedom, Legislation

## Authors

**Samridhi Sharma**

B.com LLB (4th year)

Law Student

Chandigarh University Mohali

Punjab, India.

samridhi030303@gmail.com

## I. INTRODUCTION

Religious diversity has been a defining aspect of India, with various religious communities coexisting for centuries. This diversity has led to the existence of distinct personal laws governing family matters, inheritance, and marriage within different religious groups. However, such diversity has also contributed to challenges, including the perpetration of religious crimes. This paper explores the dynamic interplay between religious laws and the commission of crimes committed in the name of religion.

## II. THE IMPACT OF PERSONAL LAWS

India's legal system recognizes the distinct personal laws of different religious communities. While this approach acknowledges cultural and religious differences, it also creates disparities in legal treatment, particularly concerning gender rights. Some religious laws have been criticized for perpetuating discriminatory practices against women, leading to the exploitation of religious norms to justify crimes.

- 1. Rise of Communal Tensions:** In recent years, India has witnessed an escalation in communal tensions, fueled by religious differences. Incidents of violence and hate crimes have been reported in the name of protecting religious sentiments. The abuse of religious laws to instigate violence raises concerns about the misuse of religious freedoms.
- 2. Balancing Religious Freedom and Social Harmony:** The Indian Constitution guarantees freedom of religion as a fundamental right. However, ensuring religious freedom while maintaining social harmony presents a delicate challenge. The state faces the daunting task of balancing the protection of individual rights with preventing religiously motivated crimes and preserving communal peace.

## III. RECENT LEGISLATIVE DEVELOPMENTS

In response to growing concerns over religious crimes and communal tensions, India has implemented some legislative measures. Stricter laws against hate speech and hate crimes have been introduced to address the misuse of religious sentiments to incite violence. Nonetheless, questions about the effectiveness and potential biases of such laws persist.

- 1. Operation Bluestar in India:** Operation Blue Star was a military operation conducted by the Indian government in June 1984 to remove armed Sikh militants who had fortified themselves inside the Golden Temple complex in Amritsar, Punjab. The operation aimed to confront the growing Sikh separatist movement led by Jarnail Singh Bhindranwale, who sought to establish an independent Sikh state, Khalistan.

The Golden Temple, a revered Sikh religious site, became the epicenter of the Sikh insurgency. The operation, executed by the Indian Army, involved intense fighting with militants and resulted in significant damage to parts of the temple complex.

The operation resulted in a high number of casualties, including both militants and civilians caught in the crossfire. The attack on the Golden Temple complex and the subsequent events, including the assassination of Prime Minister Indira Gandhi by her

Sikh bodyguards, triggered anti-Sikh riots in Delhi and other parts of India, leading to the deaths of thousands of Sikhs.

Operation Blue Star remains a highly contentious and sensitive event in Indian history, leaving deep scars on the Sikh community and impacting the relationship between Sikhs and the Indian government. It continues to be a subject of heated debate, political discussions, and demands for accountability and reconciliation.

- 2. Kashmiri Pandit Exodus in India:** The Kashmiri Pandit Exodus refers to the mass migration of the Kashmiri Pandit community from the Kashmir Valley in the late 1980s and early 1990s. The exodus was triggered by a surge in separatist insurgency and religious extremism in the region, particularly after the outbreak of armed militancy in 1989.

During this period, the Kashmir Valley witnessed a rise in violence, targeted killings, and threats to the minority communities, including the Kashmiri Pandits, who are Hindu by faith. The separatist militants issued warnings to the Kashmiri Pandit community to leave the valley or face dire consequences. Fearing for their lives and safety, a vast majority of Kashmiri Pandits were forced to abandon their ancestral homes and belongings and flee to other parts of India.

The exodus had a profound impact on the social fabric and demographic composition of the Kashmir Valley, leading to a significant decline in the Hindu population in the region. The departure of the Kashmiri Pandits left a void in the cultural and social life of the valley, and their absence continues to be deeply felt by both the community and the region as a whole.

The Kashmiri Pandit Exodus remains a highly sensitive and emotional issue, with many displaced families longing to return to their homeland and rebuild their lives. The incident also underscores the complexities and challenges of the Kashmir conflict, which continues to be a contentious and unresolved issue in India.

- 3. Naroda Patiya Massacre in India:** The Naroda Patiya massacre refers to one of the most horrifying incidents of communal violence that occurred during the 2002 Gujarat riots in India. It took place on February 28, 2002, in the Naroda Patiya locality of Ahmedabad, Gujarat.

During the riots, a violent mob, consisting of Hindu extremists, attacked the Muslim residents of Naroda Patiya, resulting in the brutal killing of hundreds of people, mostly women, children, and elderly individuals. The attack involved the use of firearms, swords, and other weapons, and numerous homes were set ablaze.

The incident led to widespread outrage and condemnation both within India and internationally, with accusations of the state government's failure to effectively control the violence and protect the vulnerable communities. There were allegations of police inaction and even complicity in some instances.

In the aftermath of the massacre, several individuals were arrested and charged with involvement in the violence. The trials were conducted, and some perpetrators were eventually convicted and sentenced for their roles in the massacre.

The Naroda Patiya massacre remains a haunting reminder of the communal tensions and violence that gripped Gujarat in 2002. It stands as a stark example of the devastating consequences of communal hatred and the urgent need for a just and equitable society that upholds the principles of tolerance, peace, and harmony.

- 4. Ayodhya Dispute in India:** The Ayodhya dispute is a long-standing religious and political conflict in India centered around the city of Ayodhya in the state of Uttar Pradesh. The dispute revolves around the ownership and control of the Babri Masjid-Ram Janmabhoomi site.

The controversy dates back to the 16th century when the Mughal emperor Babur constructed a mosque, known as the Babri Masjid, at the purported birthplace of Lord Rama. The site remained a place of worship for Muslims for centuries. However, in the 19th and 20th centuries, Hindu groups started claiming that the Babri Masjid was built after demolishing a pre-existing Hindu temple marking the birthplace of Lord Rama.

Tensions escalated in the 1980s when various Hindu organizations, led by the Vishva Hindu Parishad (VHP) and the Bharatiya Janata Party (BJP), launched a campaign for the construction of a Ram temple at the site. In 1992, a large mob of Hindu activists demolished the Babri Masjid, leading to nationwide communal riots and significant loss of life.

The dispute has since been the subject of legal battles and political discussions. In 2019, the Supreme Court of India delivered a landmark judgment, ruling that the disputed land should be given to a trust for the construction of a Ram temple. It also directed the government to provide an alternate five-acre plot to the Sunni Waqf Board for the construction of a mosque.

The Ayodhya dispute remains a sensitive and emotive issue, reflecting the complexities of India's religious and cultural diversity. The resolution of the dispute was a significant step towards closure, but it also highlighted the need for fostering communal harmony and peaceful coexistence in the country.

#### **IV. PUNISHMENT TOWARDS THE RELIGIOUS CRIME IN INDIA**

In India, punishment towards religious crimes is governed by the country's legal system, which operates under the principles of secularism and constitutional provisions guaranteeing freedom of religion while maintaining social harmony and order. Religious crimes can encompass a wide range of offenses, including hate speech, communal violence, desecration of religious places, and acts of terrorism committed in the name of religion.

The Indian Penal Code (IPC) and various state laws address offenses related to religious crimes. Depending on the severity of the crime, punishments can range from fines and imprisonment to life imprisonment or even the death penalty in extreme cases.

Acts that promote enmity between different religious groups or incite violence on religious grounds are dealt with severely. The Code of Criminal Procedure (CrPC) allows for the speedy trial of offenses related to religious violence to ensure timely justice and deterrence.

The judiciary plays a crucial role in ensuring that the punishment is meted out fairly and in accordance with the law, without any bias or prejudice. Additionally, there are specialized laws in some states to prevent and punish religious conversions done through force, inducement, or fraud.

Efforts are also made to promote communal harmony and religious tolerance through various awareness campaigns, educational initiatives, and interfaith dialogues. These measures aim to foster a more inclusive and harmonious society, discouraging religious crimes and promoting respect for all faiths.

However, despite these efforts, challenges persist in curbing religious crimes effectively, and ongoing vigilance and commitment from both the government and society are necessary to uphold the principles of secularism and religious freedom while ensuring that those who commit religious crimes are held accountable for their actions.

Some of the sections are as follows:

- 1. Section 153A of Indian Penal Code:** Section 153A of the Indian Penal Code deals with acts that promote enmity between different religious, racial, or language groups, and disturb public tranquility. It states that anyone who commits such acts shall be punished with imprisonment, which may extend up to three years, or a fine, or both. This provision aims to maintain communal harmony and prevent any form of disharmony or tension between various communities in India.
- 2. Section 298 of Indian Penal Code:** Section 298 of the Indian Penal Code pertains to the uttering or performing of any word, sound, gesture, or exhibit that is intended to wound the religious feelings of any person. It imposes punishment for the same, with imprisonment that may extend to one year, or a fine, or both. This section is aimed at maintaining communal harmony and respect for religious sentiments in the country.
- 3. Section 295A of Indian Penal Code:** Section 295A of the Indian Penal Code pertains to deliberate and malicious acts aimed at outraging the religious feelings of any community by insulting their religious beliefs. It prescribes a punishment of up to three years of imprisonment, a fine, or both for those found guilty. This provision seeks to safeguard religious harmony and protect the sentiments of diverse religious groups in the country.

## **V. RELIGIOUSLY MOTIVATED OFFENSES IN THEIR VARIOUS FORMS**

Religiously motivated offenses in India manifest in various forms, posing challenges to communal harmony and societal cohesion. Some significant forms of such offenses include

1. **Hate Speech:** Incitement of hatred and animosity towards individuals or communities based on their religious identity through speeches, writings, or social media.
2. **Communal Violence:** Riots and violent clashes between religious groups, often triggered by perceived slights or provocations, leading to loss of lives and property.
3. **Attacks on Places of Worship:** Desecration or destruction of religious sites, including temples, mosques, churches, and gurdwaras, to incite religious tensions.
4. **Forced Conversions:** Coercion or fraudulent means used to convert individuals from one religion to another, causing inter-religious tensions.
5. **Honor Killings:** Instances where individuals from different religious backgrounds in relationships face violence or death due to familial objections based on religious differences.
6. **Caste-based Violence:** Certain religious practices are interwoven with the caste system, leading to discrimination, social exclusion, and violence against specific castes.
7. **Terrorism and Insurgency:** Terrorist activities perpetrated by extremist groups with religious motivations to advance their ideological agendas.
8. **Discrimination in Employment and Education:** Instances where individuals face discrimination or denied opportunities based on their religious beliefs.

Religiously motivated offenses often arise from historical grievances, political instrumentalization, socio-economic disparities, and extremist ideologies. Addressing these challenges requires promoting interfaith dialogue, strengthening law enforcement to ensure accountability, and fostering a culture of tolerance and respect for religious diversity. By combating religious intolerance and extremism, India can move towards a more inclusive and harmonious society where all individuals can practice their faith freely and peacefully.

## VI. THE ROOTS OF RELIGIOUS VIOLENCE

The roots of religious violence in India are deeply embedded in historical, social, and political factors. Some key contributing factors are

1. **Historical Tensions:** India's history is marked by various religious and communal conflicts, including invasions, conversions, and partition, which have left lasting scars and grievances among different religious communities.
2. **Political Exploitation:** Political leaders and groups have at times manipulated religious sentiments for their own gains, using religious identity as a tool to mobilize support and polarize communities.
3. **Socio-Economic Disparities:** Economic disparities along religious lines can breed resentment and hostility, leading to violence as marginalized groups may feel excluded or discriminated against.

4. **Identity Politics:** The association of religious identity with political and social identity can create rigid divisions and foster a sense of "us vs. them," exacerbating tensions between communities.
5. **Lack of Interfaith Dialogue:** Limited dialogue and understanding between religious communities can result in misconceptions, stereotypes, and mistrust, perpetuating a cycle of violence.
6. **Communal Riots:** Communal riots often arise from localized incidents and escalate due to historical animosities, lack of effective law enforcement, and political opportunism.
7. **Extremism and Radicalization:** Radical ideologies and religious extremism can lead to violence when adherents resort to aggressive tactics to further their beliefs.
8. **Weak Rule of Law:** Weak law enforcement and the failure to hold perpetrators of religious violence accountable can create a sense of impunity, encouraging further acts of violence.

Addressing the roots of religious violence in India requires multi-faceted efforts, including promoting interfaith harmony, addressing socio-economic disparities, combating extremist ideologies, and ensuring robust law enforcement. Encouraging dialogue, tolerance, and respect among religious communities is crucial for fostering a society where religious diversity is seen as a source of strength and unity rather than a cause of conflict.

## VII. RELIGION-BASED CRIMES: A MYTH

Religion-based crimes being a myth is a misleading statement. While it is essential to acknowledge that not all followers of a particular religion commit crimes, it is undeniable that throughout history and even in contemporary times, some individuals and groups have committed crimes in the name of religion.

Religious extremism, fueled by distorted interpretations of religious teachings, has led to acts of terrorism, hate crimes, and violence against people of other faiths. The misuse of religious texts and symbols to incite hatred and justify acts of aggression is a reality that cannot be ignored.

Instances of religiously motivated violence, discrimination, and persecution have been documented in various parts of the world. These acts range from communal riots to ethnic cleansing, from religiously motivated hate speech to the destruction of places of worship.

Acknowledging the existence of religion-based crimes does not mean condemning an entire religion or its followers. Rather, it calls for collective efforts to address the root causes of religious intolerance, combat extremist ideologies, and promote interfaith understanding and respect.

While the majority of religious believers practice their faith peacefully, it is essential to confront and combat religious extremism and hate in all its forms. By doing so, societies can strive for a more harmonious world, where religion is a source of compassion, understanding, and cooperation rather than a justification for violence and discrimination.

## VIII. METHOD AHEAD

Religiously motivated offenses have caused significant loss of lives, homes, and loved ones, necessitating urgent action to address this issue. Proposed solutions include early religious education for young minds and specialized training for law enforcement to better record and respond to such crimes. Implementing impartial legal systems, adopting a Uniform Civil Code for equality and justice, and discouraging extreme punishments for religious offenses are crucial steps. Encouraging the participation of religious minorities in governance and public organizations can promote inclusivity and protect human rights.

Allowing victims to have a say in judicial proceedings fosters communication and reduces ideological friction. The media and civic society should collaborate to align criminal law and social media to prevent religiously motivated crimes. Law enforcement must ensure that hate crime victims report incidents and that appropriate actions are taken against offenders. By adopting these measures, India can foster a more tolerant and harmonious society where religious diversity is respected, and religiously motivated offenses are effectively curbed.

## IX. CONCLUSION

Religious laws and religious crimes in India are intertwined in a complex manner, reflecting the nation's diverse cultural and religious fabric. The coexistence of personal laws has both fostered pluralism and exacerbated gender disparities. Additionally, the misuse of religious sentiments to perpetrate crimes has posed challenges to social harmony. Striking a balance between religious freedom and preventing religiously motivated crimes remains an ongoing challenge for India's legal system. By understanding the intricacies of religious laws and their implications, policymakers and society can work towards ensuring a more equitable and harmonious future for the country.

## REFERENCES

- [1] [https://en.wikipedia.org/wiki/Exodus\\_of\\_Kashmiri\\_Hindus](https://en.wikipedia.org/wiki/Exodus_of_Kashmiri_Hindus)
- [2] [https://en.wikipedia.org/wiki/Operation\\_Blue\\_Star](https://en.wikipedia.org/wiki/Operation_Blue_Star)
- [3] <https://www.indiatoday.in/fyi/story/1984-operation-blue-star-amritsar-1251681-2018-06-06>
- [4] [https://en.wikipedia.org/wiki/2002\\_Gujarat\\_riots](https://en.wikipedia.org/wiki/2002_Gujarat_riots)
- [5] <https://www.hindustantimes.com/india-news/2002-gujarat-riots-20-years-on-wounds-remain-fresh-101645987291256.html>
- [6] <https://frontline.thehindu.com/the-nation/india-at-75-epochal-moments-2002-godhra-riots/article65725940.ece>
- [7] [https://en.wikipedia.org/wiki/Secularism\\_in\\_India#:~:text=With%20the%20Forty%2Dsecond%20Amendment,the%20formation%20of%20the%20republic.](https://en.wikipedia.org/wiki/Secularism_in_India#:~:text=With%20the%20Forty%2Dsecond%20Amendment,the%20formation%20of%20the%20republic.)
- [8] [https://www.constitutionofindia.net/constitution\\_of\\_india/fundamental\\_rights/articles/Article%2025](https://www.constitutionofindia.net/constitution_of_india/fundamental_rights/articles/Article%2025)
- [9] <https://indianlawportal.co.in/religious-law-crime/>
- [10] <https://indiankanoon.org/doc/1774593/>
- [11] <https://indiankanoon.org/doc/345634/>
- [12] <https://indiankanoon.org/doc/1803184/>
- [13] <https://en.wikipedia.org/wiki/Religion>
- [14] <https://www.thetimes.co.uk/article/expectant-mother-lost-twins-after-racially-motivated-car-park-attack-wnmfmqhs>
- [15] <https://www.soundvision.com/article/what-is-the-babri-mosque-issue>
- [16] [https://www.nyulawglobal.org/globalx/Religious\\_Legal\\_Systems.html](https://www.nyulawglobal.org/globalx/Religious_Legal_Systems.html)



