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“PROTECTION OF RELIGIOUS RIGHTS AND FREEDOM UNDER THE INDIAN CONSTITUTION: A CRITICAL ANALYSIS”

AUTHORED BY - SACHEIN V G

ABSTRACT:

The Indian constitution holds a significant role in the peaceful protection of religion among its people of the state. This research paper is a critical analysis to understand the way the Indian Constitution has framed religious rights and freedom for the citizens of India. This study discloses information on religious legal boundaries, the protection of fundamental freedom and the challenges faced by the people of it. This research also emphasizes the effectuality of the Indian constitution in upholding the diversity of religion in the nation. This paper delves into the legislative changes and communal tensions and offers valuable insights for the improvement of the framework of religious liberty in the potential areas.

This study is made with the help of Indian constitutions as the primary source and some landmark case laws and their key judgements for a better understanding of the topic. This research examines carefully the doctrines based on the secular nature of the state and essential religious practices. The study has been made by interplaying the constitutional provisions, legal situation, and its implication in society regarding safeguarding the rights and freedom provided to the citizens of India. This research paper is made by examining case laws, articles, and the context of history relevant to this research. The Constitution stands as a cornerstone to ensure the safeguarding of religious harmony among its diverse people.

CHAPTER 1:

INTRODUCTION:

Religious rights and freedom within the Indian Constitution serve as fundamental values that support the nation's diverse and pluralistic identity. Holding a significant role in India's constitutional framework, these principles signify the nation's upholding and preserving of religious convictions and rituals of its people. India, with its various faiths and traditions, acknowledges the significance of religious liberty as an essential human entitlement. This constitutional provision assures the freedom to embrace, practice, and disseminate any religion and guarantees the government's secularism. This introduction lays the foundation for an extensive exploration of India's legal and societal structure governing religious rights and freedom.

Religious groups are an important part of society. They have different beliefs and traditions, which make our society diverse. It's crucial and a duty to protect their right to practice their faith to be fair and equal. These rights must be protected in a way that makes our society more friendly and peaceful. But sometimes, they can be treated unfairly and badly, so it's important for the government and society to be nice to them and protect their rights. Religious groups in India are granted fundamental rights and protections through the Constitution. Articles 25 to 28 of the Indian constitution restrict from being prohibiting any form of bias. These provisions also permit them to establish and maintain places of worship and education. India's dedication to upholding the well-being of religions is demonstrated by a range of legal measures and policies aimed at safeguarding their distinct cultural and religious heritages, thus enhancing the country's diverse and inclusive character.

RESEARCH PROBLEM:

In India, legal mechanisms within the Indian Constitution safeguarding religious rights faces many hurdles and difficulties in implementing and enforcing new policies by the policymakers. Even though, landmark precedents on the contemporary status of religious freedoms in India is available as a source the implementation of policies for a particular sole problem is still a challenge.

OBJECTIVES:

To find the current position of religion and secularism in India and the different challenges

faced by religious groups and lawmakers in India, providing insights and recommendations to address these issues happening within the society. The main objectives are to,

- To find the specific laws and policies framed for this sole purpose and extent of the legal framework and the effectiveness of these laws implemented and enforced.
- To identify the hurdles and challenges faced in implementing policies based on religious rights and freedom and to find the factors that are a hindrance in implementing these laws and getting potential results.
- To assess the intersection of other fundamental rights in religious rights like gender equality, right to education, freedom of speech and more.

RESEARCH QUESTIONS:

1. What are the legal frameworks that have been provided by the Indian constitution in order to protect an individual's religious rights?
2. What are the challenges faced by the law and policy makers to implement policies on religious rights?
3. How has the influence of landmark precedents and their judgements been in the current position of religious rights and freedom in India?

HYPOTHESIS:

- The nature of religious diversity in India presents a difficulty in formulating policies that treat different religious communities impartially.
- Legal precedents are a starting point for current interpretations and safeguards of religious rights, influencing the ongoing discussion regarding individual rights and religious freedoms in India.

METHODOLOGY:

The main methodology for this study will be doctrinal research, with an emphasis on a thorough analysis of current regulations and situations of religious rights and their protection under Indian constitution. It will entail a thorough analysis of pertinent government publications, research articles, judicial rulings, and legal legislation. The research will attempt to offer a comprehensive knowledge of the historical background, legal framework, and the development of these rights in a doctrinal analysis. It will also explore the different issues and arguments surrounding it. The study will provide insights into the intricate difficulties

underlying this matter by critically analysing scholarly debate and currently available legal papers.

CHAPTER 2

LEGAL FRAMEWORKS ON RELIGIOUS RIGHTS:

The Indian Constitution gives various laws and policies that aim to protect the religious rights of people. These laws, along with additional rules, create a strong system that ensures freedom of religion in a country known for its many different faiths. This system doesn't just protect religious rights but also shows how dedicated the Indian government is to keep the country secular and letting everyone freely follow their faith without worrying about unfair treatment or being targeted. The Constitution of India provides religious rights under articles 25 to 28, they play a pivotal role in providing religious liberty and freedom to all its citizens.

RELIGIOUS RIGHTS UNDER THE INDIAN CONSTITUTION (ARTICLE 25-28):

Articles 25 to 28 of the Indian Constitution cover the fundamental rights regarding religion and freedom.

Article 25: It guarantees freedom of religion to everyone in India. It allows individuals to practice their religion openly, ensuring they can follow their beliefs as long as it doesn't create problems in society, disrupt what's considered fair, or impact public health. It also clarifies that it doesn't change existing laws and doesn't prevent the government from making laws related to regulating non-religious activities associated with religious practices. Moreover, the government can create laws for social welfare without compromising religious freedom.

The case of *Bijoe Emmanuel v. State of Kerala*, 1987 AIR 748 speaks about article 25. In this landmark judgement in Indian constitutional law that deals with the issue of freedom of religion and expression. The case involves three students who refused to sing the national anthem of India on religious grounds. The incident took place in 1985 when the students, who were studying in a government school in Kerala, remained silent when the national anthem was being played in their school. This led to disciplinary action against them, including expulsion from the school. The students and their parents argued that their religion prohibited them from singing the national anthem and that their right to freedom of religion and expression was being violated. The children did not sing the National Anthem due to their religious beliefs. The Supreme Court held that Article 19(1)(a) and Article 25 (Freedom of Religion and Conscience)

cannot be infringed on the grounds of disrespect shown to the National Anthem. The compulsion of every student to sing the National Anthem despite their religious beliefs and free will violates Article 19(1)(a) and Article 25 of the Constitution of India.

- **Article 26:** It empowers every religious group to manage their religious affairs independently. It gives these groups the authority to oversee places like temples, churches, or other charitable institutions related to their religion without unnecessary interference.
- **Article 27:** This ensures that individuals aren't obligated to pay taxes to promote any specific religion. This provision maintains a neutral stance for the government, refraining from supporting or favouring any religious group.
- **Article 28:** dictates that in government-funded educational institutions, no religious teaching should be imparted. This separation of education from any specific religion ensures that everyone receives a non-religious education in these institutions.

The case of Aruna Roy V. Union Of India, (2002) 7 SCC 368 in this case, a PIL was filed under Article 32 wherein it was contended by the petitioner that the National Curriculum Framework for School Education (NCFSE) which was published by the National Council of Educational Research and Training is violative of the provisions of the constitution. It was also contended that it was anti-secular and was also without the consultation of the Central Advisory Board of Education and hence it should be set aside. NCFSE provided education for value development relating to basic human values, social justice, non-violence, self-discipline, compassion, etc. The court ruled that there is no violation of Article 28 and there is also no prohibition to study religious philosophy for having value-based life in a society.

▪ **INTERSECTION WITH OTHER RIGHTS:**

These articles being fundamental and are provided as a direct form for religion other fundamental rights intersect with these rights, and some namely,

ARTICLE 29: Article 29 of the Indian Constitution is a significant provision that safeguards the cultural and educational rights of minority groups in India. Its primary purpose is to protect the interests of religious and linguistic minority communities, ensuring they can preserve and promote their distinct language, script, and culture without facing discrimination. Article 29(1) explicitly grants individuals from linguistic or cultural minority backgrounds the right to

preserve and advance their unique language, script, or culture. This means that such minority groups have the freedom to practice and nurture their traditions, languages, and cultures, preventing any attempts to homogenize or suppress their distinct identity.

Furthermore, Article 29(2) ensures that individuals are not subjected to discrimination based on their cultural or linguistic backgrounds when it comes to accessing educational institutions that receive government support. This provision promotes equal educational opportunities for all, regardless of their minority status.

Article 29 of the Indian Constitution serves as a crucial foundation for upholding the diversity and cultural richness of the nation. It empowers minority communities to safeguard their unique identity, language, and culture, promoting an inclusive and pluralistic society where the cultural and educational rights of all citizens are respected and preserved.

GENDER EQUALITY (ARTICLE 14-18): Promoting gender equality in relation to religious rights and freedom means finding a balance. To do this, we should encourage open conversations, provide education, and support advocacy efforts that help change harmful traditions. This balance is important because it helps create a fair and inclusive society where everyone can freely practice their religion while also making sure that gender equality is respected. It's about ensuring that no one is treated unfairly or held back because of their gender within the context of their religious beliefs.

RIGHT TO EDUCATION: The right to education, as outlined in Article 21 of the Constitution of India, is naturally connected with religious rights and freedom. It ensures that individuals can pursue education that aligns with their religious beliefs, granting them the freedom to conduct and admit education without demarcation grounded in faith. Likewise, education plays a pivotal role in fostering religious forbearance and understanding, promoting respect for different beliefs and practices. By valuing religious freedom within educational systems, society can uphold the principles of freedom of religion and belief, guard individualities from discrimination and persecution on religious grounds, and contribute to a further inclusive and harmonious concurrence of colorful faiths.

CHALLENGES FACED BY LAWMAKERS:

The implementation of policies concerning religious rights is intricate due to the multifaceted

and sensitive nature of religious freedoms. It requires ongoing dialogue, collaboration, and a careful balancing of interests to protect religious freedoms while respecting other societal values and rights necessitating a comprehensive and inclusive approach to policy implementation. Crafting and enforcing such policies demands a careful balance between respecting individuals' natural rights to freely pursue their views and protecting greater community interests. This complication stems from the various landscape of religious beliefs and practices, which frequently clash with or connect with other fundamental rights and ideals. Policymakers must manage issues, such as maintaining equality and non-discrimination, resolving contradictions between secular government and religious influence, and responding to the changing landscape of varied religious beliefs. The process necessitates a thorough awareness of legal complexities, cultural settings, and societal dynamics, and frequently necessitates a nuanced, adaptable, and inclusive approach to policy creation and implementation. Balancing the protection of religious rights while preventing potential abuses or conflicts demands continual dialogue, education, and careful consideration of the dynamic and ever-evolving nature of religious practices and beliefs within a society.

Law and policymakers encounter several challenges when implementing policies on religious rights. One major challenge is balancing the protection of religious freedoms with the need to ensure that they do not infringe on the rights of others or contradict with existing laws. This balance can be difficult to achieve, especially in diverse cultures where different religious beliefs coexist. It is difficult to create regulations that cater to various faiths without favoring one over another. Furthermore, given the changing nature of religious practices and beliefs, it is difficult to interpret and implement these policies consistently across diverse settings and contexts. Furthermore, dealing with societal changes and new religious movements can make it difficult to keep policies relevant and inclusive. Overall, the difficulty is to develop and enforce laws that protect religious freedom without jeopardizing the rights of others or the legal system's stability.

The challenges faced by the law makers in implementing policies in religious rights:

- **Balancing Religious Freedom and Other Rights:** There's a constant need to strike a balance between religious rights and other fundamental rights such as freedom of speech, equality, and non-discrimination. This can be particularly challenging when religious practices clash with other rights or societal norms.

- **Diversity and Pluralism:** Societies are increasingly diverse, and religious beliefs are no exception. Crafting policies that accommodate and protect the rights of various religious groups can be complex, especially when dealing with conflicting beliefs or practices.
- **Legal Interpretation and Clarity:** Defining and interpreting religious rights within legal frameworks can be intricate. The ambiguity in religious texts and practices might complicate the legal interpretation, making it challenging to develop clear and fair policies.
- **Preventing Discrimination:** Ensuring that policies protect religious rights without inadvertently discriminating against other groups or individuals is essential. It requires careful crafting of legislation to prevent preferential treatment of one religion over another or of religious adherents over non-religious individuals.
- **International and Domestic Consistency:** Ensuring consistency in laws and policies regarding religious rights within a country and in compliance with international human rights standards poses a challenge. Domestic laws might conflict with international agreements or standards.
- **Rapid Societal Changes:** Societies evolve, and religious beliefs and practices are not static. Adapting policies to reflect these changes while upholding fundamental religious rights is a continual challenge.
- **Implementation and Enforcement:** Crafting laws is one thing, but ensuring effective implementation and enforcement of these policies can be challenging, especially when there are limited resources, lack of understanding, or resistance from certain groups.
- **Public Opinion and Backlash:** Public opinion can heavily influence policymaking on religious rights. Striking a balance between protecting rights and appeasing public sentiment or potential backlash requires careful navigation.

INFLUENCE OF LANDMARK PRECEDENTS IN CURRENT LEGAL SITUATION:

Landmark cases have a great influence on the current situation of religious rights by establishing legal precedents that guide how religious freedom is interpreted and protected. These cases often set important legal statements and principles that shape the religious rights in contemporary society. These cases serve as a source of reference and guidance for courts, lawmakers, and advocacy groups when addressing current religious freedom issues. They help strike a balance between safeguarding individual religious rights and ensuring that religious

practices do not affect other fundamental rights or societal interests. As society evolves and new challenges emerge, landmark cases remain pivotal in the ongoing discourse surrounding religious rights, offering valuable insights and legal principles for resolving contemporary religious freedom conflicts and maintaining a just and balanced approach to this essential human right.

- **THE AHMEDABAD ST. XAVIER'S COLLEGE VS STATE OF GUJARAT, (1974) AIR**

In the case of Ahmedabad St. Xavier's College vs. State of Gujarat (1974), the dispute centred on the autonomy of a minority educational institution, particularly a Christian college, and the government's hindrance in its admission programs. The case's crucial data are as follows Ahmedabad St. Xavier's College, affiliated with Gujarat University, was a minority institution under the protection of Article 30(1) of the Indian Constitution. Article 30(1) safeguards the right of verbal and religious minority to establish and administer educational institutions of their choice. The State of Gujarat issued a government resolution that directed the council to admit a specific chance of scholars from the slated gentries and slated lines as part of the government's reservation policy. The council challenged this directive, arguing that it violated their indigenous rights as a nonage institution. They contended that the hindrance with their admission programs was a breach of their right to manage and administer their educational institution in agreement with their morality and principles, as handed by Article 30 (1). The case raised questions regarding the delicate balance between a minority institution's autonomy and the government's responsibility to apply affirmative action policies, specifically reservations, to promote social justice and equity.

The Supreme Court of India supported the rights of minority schools under Article 30(1) of the Indian Constitution. The court recognized that linguistic and religious minority institutions have the right to run their schools without too much government interference. They found that the government's rule in Gujarat, which wanted to enforce reservations in college admissions, was a problem because it interfered with the college's freedom and its ability to follow its unique principles and beliefs.

The judgment stressed how important it is to protect the special character of minority institutions and let them operate according to their own values. This landmark decision became

a legal example that strengthened the rights of minority institutions to manage their schools independently, especially when it comes to how they admit students, despite government rules. It still has a big impact on the laws related to minority rights and schools in India, making sure that the religious and linguistic minority protection in Article 30(1) of the Indian Constitution is upheld.

- **INDIAN YOUNG LAWYERS ASSOCIATION & ORS VS. THE STATE OF KERALA & ORS:**

The case of Indian Young Lawyers Association & Ors vs. The State of Kerala & Ors which is famously known as the Sabarimala case created a controversy in 2018 when India's Supreme Court allowed women of menstruating age to enter, breaking a tradition barring them from the shrine. This decision clashed with the beliefs of devotees who followed the temple's practice of restricting women aged 10 to 50 due to their deity's celibacy. Religious groups, particularly followers of Lord Ayyappa, strongly opposed the ruling, arguing it encroached upon their religious customs protected by India's Constitution. Many religious groups and devotee organizations protested against the court's interference, asserting the importance of preserving the temple's traditions.

The debate saw supporters and dissenters take to the streets, with some advocating for gender equality and others defending religious traditions. Even after the Supreme Court upheld women's entry, there were ongoing discussions on how to implement the decision and gain acceptance from the temple's followers. The Sabarimala case sparked discussions on the intersection of religious beliefs, constitutional rights, and gender equality, underscoring the complex challenge of balancing tradition with constitutional principles in India.

- **CITIZENSHIP AMENDMENT ACT, 2019:**

In 2019, India passed the Citizenship Amendment Act (CAA) to offer fast-tracked citizenship to persecuted minorities from nearby countries, specifically non-Muslims. However, this move triggered massive protests nationwide. People criticized the law for excluding Muslims and going against India's secular values, seeing it as a threat to the nation's inclusive fabric. Protests erupted across India, drawing students, activists, and people from various backgrounds. Many feared that this law, combined with other plans like the National Register of Citizens (NRC), could render millions of Muslims stateless if they couldn't provide

proper documentation.

These demonstrations became more than just opposition to the CAA; they evolved into broader expressions against government policies, raising concerns about democratic values and the promotion of a particular religious identity.

The uproar against the Citizenship Amendment Act highlighted deep-seated debates about identity, secularism, and inclusivity in India. It sparked worries about the country's direction and its foundational principles. The protests symbolized citizens' efforts to safeguard what they saw as the heart of India's diverse and secular identity.

SUGGESTION:

It is important to know that suggestion that are addressed are ongoing and continuous process. Both government and the society must be committed to uphold the laws and principles of the religious freedom and rights provided by the Indian Constitution. Some suggestions that can be given are,

The policies must be implemented and enforced in a transparent manner. To guarantee that policies aimed at safeguarding religious rights are carried out transparently and accountably, it is imperative to put in place robust systems for supervision and reporting. These systems are designed to keep a close watch on the implementation of such policies and take prompt action to rectify any violations or deficiencies that may arise. This involves creating structures and processes that allow for comprehensive monitoring of policy progress and the ability to address any issues or shortcomings in a timely and effective manner. By doing so, it ensures that the principles of religious freedom and protection of these rights are upheld in a transparent and responsible manner.

Workshops to be arranged for the policymakers, civil servants, and law enforcement personnel. The primary objective of these sessions is to sensitize these individuals to the crucial significance of religious freedoms and the constitutional safeguards in place. By participating in these educational programs, they gain a more profound insight into the complexities and nuances that surround issues of religion. These workshops and seminars offer a platform for in-depth discussions and learning, enabling participants to appreciate the multifaceted nature of religious rights, their legal protection, and their role in fostering social harmony. Through this heightened awareness, policymakers, civil servants, and law enforcement officials can make more informed and culturally sensitive decisions when dealing with religious matters,

ultimately contributing to a more inclusive and equitable society.

Creating awareness among people is a must and a fundamental step to be performed. Encourage and facilitate a broader understanding among the general public regarding the importance of religious rights, especially in a society characterized by its diversity. To achieve this goal, it is essential to employ a variety of strategies. These strategies encompass the dissemination of information and messages through public awareness campaigns, integrating educational content pertaining to religious rights and interfaith understanding into school curricula, and organizing community-based initiatives.

By utilizing these methods, we can actively work towards building a more inclusive and harmonious society. Public awareness campaigns raise the profile of religious rights, educating citizens about their legal protections and the significance of respecting the beliefs and practices of others. Including relevant educational content in schools equips the younger generation with the knowledge and values necessary for a more tolerant and diverse society. Community programs foster interfaith dialogue and collaboration, encouraging individuals from different religious backgrounds to come together, learn from each other, and build bridges of understanding. In combination, these efforts promote a climate of respect and empathy among diverse religious groups, ultimately contributing to a more cohesive and harmonious society.

CONCLUSION:

The safeguarding of religious rights and freedoms within the Indian Constitution is a fundamental necessity for preserving the country's rich diversity of faiths and traditions. India's dedication to upholding these principles transcends mere legal obligations; it is a testament to its pluralistic identity. Nevertheless, the implementation and enforcement of policies designed to protect religious rights encounter formidable challenges and complexities. These obstacles emerge from the intricate nature of religious freedoms and the delicate task of balancing individual rights while ensuring that they do not impinge on the rights of others or come into conflict with other societal values. Overcoming the challenges of protecting religious rights and freedoms in India necessitates a sustained and comprehensive effort from both the government and society. By adhering to these recommendations and maintaining an unwavering commitment to upholding the principles of religious freedom, India can further strengthen its diverse and inclusive character while ensuring the protection of individual rights and beliefs.

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