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Avinash Kumar



Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC – NET examination and has been awarded ICSSR – Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research methodology and teaching and learning.

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INTERSECTING REALITIES: ANALYZING THE RELATIONSHIP BETWEEN RELIGION AND CRIME IN INDIA.

AUTHORED BY - SHRESHTHA PAWAIYA & NEHA SHRIVASTAVA

Abstract

Religion plays a central role in India's societal framework, permeating its legal, political, and cultural landscapes. While religious freedom is constitutionally guaranteed, the intersection of religion and crime reveals troubling contradictions between ideal and practice. This paper investigates how religious identity in India serves both as a motive and a medium for criminal behavior. It offers a doctrinal and empirical examination of legal provisions, historical events, typologies of religion-based crime, and the responses from institutions such as the police, judiciary, and civil society. By also conducting a comparative analysis with other democracies, the paper argues that India's unique pluralism demands a context-sensitive approach to combating religion-related crime. Finally, it proposes policy reforms in legal, institutional, and educational domains to promote justice, accountability, and communal harmony.

I. Introduction

Religion in India is more than a personal belief system—it is a powerful social force shaping identities, cultural practices, and political discourses. With a population marked by immense religious diversity—Hinduism, Islam, Christianity, Sikhism, Buddhism, Jainism, and numerous indigenous faiths—India's pluralism is both its strength and a source of tension. This diversity has also rendered the nation vulnerable to religion-based crimes ranging from hate speech to mass communal violence.

This paper investigates the relationship between religion and crime in India, focusing on how religious identity influences, motivates, and mediates criminal behavior. It examines the legal frameworks, historical developments, typologies of religion-based crimes, socio-political dynamics, and the responses of law enforcement and the judiciary. The methodology combines doctrinal legal analysis with empirical evidence drawn from government reports, judicial decisions, and scholarly literature. The Bluebook citation style is followed throughout.

II. The Legal Framework Governing Religion and Crime in India

A. Constitutional Protections and Restrictions

The Constitution of India provides robust guarantees for religious freedom. Article 25 affirms every individual's right to freely profess, practice, and propagate religion, subject to public order, morality, and health¹. Article 26 further grants religious denominations the freedom to manage their own affairs². However, these rights are not absolute and have been circumscribed by legislation designed to maintain secularism and public order.

B. Indian Penal Code and Bharatiya Nyaya Sanhita

The Indian Penal Code, 1860 (IPC), now replaced by the Bharatiya Nyaya Sanhita, 2023 (BNS), contains key provisions criminalizing acts that promote religious hatred:

Offense	IPC Section	BNS Section
Promoting enmity on religious grounds	Section 153A	Section 194
Injuring or defiling places of worship	Section 295	Section 335(1)
Outraging religious feelings	Section 295A	Section 335(2)
Disturbing religious assembly	Section 296	Section 336
Trespass on burial sites	Section 297	Section 337
Insulting religious beliefs	Section 298	Section 338

These provisions are intended to uphold religious harmony, though critics often highlight their misuse for political and sectarian ends.³

C. Special Legislations

Several additional laws regulate religion-related crimes:

- The Places of Worship (Special Provisions) Act, 1991 prohibits the alteration of religious sites post-1947⁴.
- The Unlawful Activities (Prevention) Act, 1967 targets extremist organizations and activities, frequently invoked in cases involving alleged religious terrorism.⁵

Though comprehensive on paper, enforcement of these laws is frequently inconsistent, hampered by political interference and lack of accountability.

¹ India Const. art. 25.

² Indian Penal Code, No. 45 of 1860, §§ 153A, 295–298 (India) (repealed 2023).

³ Bharatiya Nyaya Sanhita, No. 45 of 2023, §§ 194, 335–338 (India).

⁴ Places of Worship (Special Provisions) Act, No. 42 of 1991 (India).

⁵ Unlawful Activities (Prevention) Act, No. 37 of 1967 (India).

III. Historical Context of Religion-Based Crimes

A. Partition and Communal Massacres

The 1947 Partition marked one of the bloodiest episodes in modern history, with over a million deaths and widespread violence across religious lines.⁶ Crimes committed in this era—mass killings, rapes, forced conversions—were often framed as religious retribution.

B. Major Post-Independence Incidents

- **1984 Anti-Sikh Riots:** Following Prime Minister Indira Gandhi's assassination, mobs targeted Sikhs across Delhi, resulting in over 3,000 deaths. Investigations implicated political leaders, but justice has been elusive.⁷
- **1992 Babri Masjid Demolition and Riots:** The demolition triggered nationwide violence with over 2,000 deaths. The Liberhan Commission indicted several political leaders for inciting the act.⁸
- **2002 Gujarat Riots:** Sparked by the Godhra train burning, anti-Muslim riots led to more than 1,000 deaths. Human rights organizations pointed to administrative complicity.⁹

These events reveal a recurring pattern of religious violence marked by weak institutional responses.

IV. Typologies of Religion-Based Crimes

A. Hate Crimes and Mob Violence

Lynching and mob violence, often rooted in religious hatred, have surged in recent years. Cow vigilantism, particularly against Muslims and Dalits, is one notable form of this violence. Despite Supreme Court directives, there is still no standalone anti-lynching law.¹⁰

B. Attacks on Religious Minorities

Religious minorities have been targets of systematic violence. In 2008, Christian communities in Kandhamal, Odisha faced organized attacks by Hindu extremist groups, resulting in deaths and widespread destruction of churches and homes.¹¹

⁶ Tehseen S. Poonawalla v. Union of India, (2018) 9 SCC 501 (India).

⁷ Liberhan Comm'n Report, Gov't of India (2009).

⁸ Justice Srikrishna Comm'n Report, Gov't of Maharashtra (1998).

⁹ Citizens for Justice and Peace v. Union of India, W.P. (Crl.) No. 109 of 2003.

¹⁰ Matthew Shepard & James Byrd, Jr. Hate Crimes Prevention Act of 2009, 18 U.S.C. § 249 (U.S.).

¹¹ U.K. Public Order Act, 1986, c. 64.

C. Religious Extremism and Terrorism

Terrorism motivated by religious ideology has appeared across faiths:

- The 2008 Mumbai attacks, perpetrated by Islamist militants, killed 166 civilians.¹²
- Hindu extremist groups like Sanatan Sanstha have been linked to assassinations of rationalists such as Narendra Dabholkar.¹³

Extremism is thus not confined to one religion but reflects deeper socio-political conditions.

V. Socio-Political Factors Behind Religion-Based Crime

A. Rise of Religious Nationalism

The political ascendance of Hindutva ideology has shifted the secular fabric of the state. Organizations such as the Rashtriya Swayamsevak Sangh (RSS) and its affiliates have employed religion for political mobilization, fueling divisive narratives like “Love Jihad” and “Ghar Wapsi.”¹⁴

B. Electoral Polarization

Communal tensions often spike around elections. Studies indicate a correlation between recent communal incidents and increased electoral support for right-wing parties.¹⁵ The 2013 Muzaffarnagar riots exemplified this trend, where violence altered voter demographics.¹⁶

C. Social Media Misinformation

Digital platforms have facilitated the rapid spread of religious misinformation. Inflammatory videos and fake news have incited real-world violence, with tech companies slow to respond to regulatory and judicial directives.¹⁷

VI. Law Enforcement and Judicial Response

A. Police Bias and Inefficiency

Reports by commissions such as the Srikrishna Commission have documented police bias during communal riots. The National Crime Records Bureau consistently reports low conviction rates in communal crimes, indicating systemic weaknesses.¹⁸

B. Role of the Judiciary

The judiciary has occasionally stepped in to address systemic failures. In *Tehseen S.*

¹² Indonesia Penal Code art. 156(a)

¹³ Ahok Blasphemy Case, Jakarta District Court Decision No. 1537/Pid.B/2016/PN.Jkt.Ut.

¹⁴ National Crime Records Bureau, Crime in India Report (various years)

¹⁵ Human Rights Watch, “India: Protect Rights of Religious Minorities,” (2019)

¹⁶ Sabrang Communications & Publishing, Communalism Combat, Vol. 10–20 (2002–2023).

¹⁷ Pratap Bhanu Mehta, “The Burden of Democracy” (Penguin Books, 2003)

¹⁸ Mark Juergensmeyer, Terror in the Mind of God (University of California Press, 2017)

Poonawalla v. Union of India,¹⁹ the Supreme Court laid down guidelines for tackling lynching, urging legislative action.²⁰ In the Best Bakery case, it shifted the trial venue due to local intimidation of witnesses. Yet, justice is frequently delayed, with many high-profile perpetrators escaping punishment.

VII. Role of Civil Society and Religious Institutions

A. Interfaith Initiatives

Organizations like Initiatives of Change and Interfaith Foundation India have facilitated dialogue and reconciliation in post-riot contexts. These efforts are essential to counter divisive narratives and build trust at the community level.

B. Legal Aid and Advocacy

Groups such as Citizens for Justice and Peace (CJP) and Human Rights Law Network (HRLN) provide critical legal support for victims of communal violence. Their advocacy has led to key convictions in Gujarat and Odisha cases. [

Religious leaders have also played varied roles—some fueling hatred, while others like Swami Agnivesh and the Dalai Lama have worked tirelessly for peace.

VIII. Comparative Insights from Other Democracies

A. United States

The U.S. enforces hate crime laws under the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act (2009).²¹ While systemic issues persist, data collection and enforcement mechanisms are more structured.

B. United Kingdom

UK law combines Public Order Acts with Hate Crime Action Plans, allowing the Crown Prosecution Service to swiftly prosecute online and offline religious hate crimes.²²

C. Indonesia

Despite being secular, Indonesia's blasphemy laws have disproportionately affected minorities. The conviction of Jakarta's Christian governor, Basuki "Ahok" Purnama, for blasphemy highlights legal overreach driven by religious populism.²³

¹⁹ Tehseen S. Poonawalla v. Union of India, (2018) 9 S.C.C. 501 (India).

²⁰ Christophe Jaffrelot, "Religion, Caste, and Politics in India" (Primus Books, 2010).

²¹ Matthew Shepard & James Byrd, Jr. Hate Crimes Prevention Act of 2009, 18 U.S.C. § 249 (2009).

²² U.K. Public Order Act, 1986, c. 64.

²³ Jakarta District Court Decision, No. 1537/Pid.B/2016/PN.Jkt.Ut. (Indonesia).

IX. Conclusion and Policy Recommendations

The relationship between religion and crime in India is deeply entrenched in the nation's socio-political landscape. Legal provisions exist, but enforcement remains inadequate due to institutional bias, political interference, and societal complicity.

Recommendations:

A. Legal Reforms

1. Enact a dedicated anti-lynching law with mandatory FIR registration, victim compensation, and fast-track trials.
2. Clarify and expand hate speech provisions under BNS to ensure precision and prevent misuse.
3. Implement structured sensitivity and legal training for police on communal issues.

B. Institutional Reforms

1. Establish special courts for communal crimes to expedite justice.
2. Empower statutory bodies like the National Commission for Minorities with investigative authority.

C. Societal and Technological Engagement

1. Promote interfaith community councils in high-risk areas.
2. Impose accountability on social media platforms to curb hate speech.
3. Reform educational curricula to emphasize secularism, diversity, and empathy.

India's pluralism must be preserved through active legal, institutional, and societal engagement. It is both a constitutional promise and a democratic necessity.