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Religious Freedom and the Management of Religious Institutions: A Comparative Constitutional Analysis

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Abstract

Religious freedom is one of the most fundamental human rights recognized in democratic constitutional systems across the world. It includes not only the individual right to profess, practice, and propagate religion but also the collective right of religious communities to manage their own religious institutions. However, balancing religious autonomy with state regulation presents a complex constitutional challenge. Governments often intervene in the administration of religious institutions to ensure transparency, prevent exploitation, and maintain public order. At the same time, excessive state control may undermine religious liberty and institutional autonomy.

This paper examines the constitutional framework governing religious freedom and the management of religious institutions through a comparative analysis of India, the United States, and selected European jurisdictions. The research evaluates constitutional provisions, judicial interpretations, and regulatory mechanisms affecting religious institutions. Special attention is given to landmark judicial decisions that have shaped the scope of religious autonomy and state intervention. The paper argues that while constitutional systems aim to protect religious freedom, the degree of state involvement varies depending on historical, cultural, and legal contexts.

The study concludes that a balanced approach is necessary—one that safeguards religious freedom while allowing limited state regulation to ensure accountability, social welfare, and constitutional values.

Keywords: *Religious Freedom, Constitutional Law, Religious Institutions, Secularism, Comparative Constitutional Law, State Regulation.*

Introduction

Religion has historically played a crucial role in shaping societies, cultures, and legal systems. In democratic constitutional frameworks, religious freedom is regarded as a fundamental right essential for protecting human dignity, diversity, and pluralism. The right to religious freedom generally includes two dimensions: the individual freedom of belief and practice and the collective autonomy of religious institutions.

Religious institutions such as temples, churches, mosques, and monasteries function not only as places of worship but also as centers for cultural, educational, and charitable activities. Consequently, their governance and management have significant social and economic implications. The question arises as to how far the state can regulate these institutions without violating the constitutional guarantee of religious freedom.

Different constitutional systems address this issue in diverse ways. Some countries adopt a strict separation between church and state, limiting government interference in religious affairs. Others adopt a model of regulated autonomy, where the state can intervene in the administration of religious institutions under specific circumstances.

India presents a unique case because its Constitution guarantees religious freedom while simultaneously allowing the state to regulate secular aspects of religious institutions. Articles 25 and 26 of the Constitution of India provide the basis for religious liberty and institutional autonomy, but these rights are subject to public order, morality, and health.

This study examines the constitutional relationship between religious freedom and the management of religious institutions from a comparative perspective. It analyzes constitutional provisions, judicial decisions, and regulatory frameworks in India and other democratic jurisdictions to understand how legal systems balance religious autonomy with state oversight.

2-Concept of Religious Freedom

Religious freedom is a fundamental human right recognized in both international law and constitutional democracies. It ensures that every individual has the liberty to believe in, practice, and propagate a religion of their choice, or to choose not to follow any religion at all. This freedom is essential for maintaining human dignity, personal autonomy, and social harmony in a diverse society.

At the international level, instruments like the Universal Declaration of Human Rights affirm that all persons have the right to freedom of thought, conscience, and religion. In democratic nations such as

India, religious freedom is constitutionally protected under Articles 25 to 28, which guarantee the right to freely profess, practice, and propagate religion, subject to public order, morality, and health.

Religious freedom also includes the right of religious groups to establish and manage their own institutions, such as places of worship, educational bodies, and charitable organizations. At the same time, the state retains the authority to regulate secular aspects of religious practices to ensure equality and prevent discrimination.

Thus, religious freedom strikes a balance between individual liberty and social order, promoting pluralism, tolerance, and peaceful coexistence in society.

3-International Legal Framework

The right to religious freedom is recognized in several international human rights instruments.

Universal Declaration of Human Rights (1948)

Article 18 of the Universal Declaration of Human Rights (UDHR) states that everyone has the right to freedom of thought, conscience, and religion. This includes the freedom to change religion and manifest religion through teaching, practice, worship, and observance.

International Covenant on Civil and Political Rights (ICCPR)

Article 18 of the ICCPR further elaborates the right to religious freedom and emphasizes that this freedom can only be restricted by law for reasons such as public safety, order, health, or the protection of the fundamental rights of others.

These international standards influence constitutional protections in many countries.

Individual and Collective Dimensions

Religious freedom has two distinct but related aspects:

1. Individual freedom – the right of individuals to believe, practice, and propagate religion.
2. Collective freedom – the right of religious communities to establish and manage institutions.

The collective dimension is particularly important because religious practices often require organized institutional structures.

4-Constitutional Framework in India

India is a secular democratic republic that recognizes religious diversity and pluralism. The Constitution guarantees religious freedom while allowing reasonable regulation.

Article 25: Freedom of Religion

Article 25 guarantees the freedom of conscience and the right to freely profess, practice, and propagate religion.

However, this right is subject to: Public order, Morality, Health, Other fundamental rights.

The state is also empowered to regulate or restrict secular activities associated with religious practice.

Article 26: Freedom to Manage Religious Affairs

Article 26 grants religious denominations the right:

1. To establish and maintain institutions for religious purposes
2. To manage their own affairs in matters of religion
3. To own and acquire property
4. To administer property according to law

These rights ensure the autonomy of religious institutions but also allow state regulation of property administration.

Article 27 and Article 28

Article 27 prohibits the use of tax revenues for promoting a particular religion.

Article 28 regulates religious instruction in educational institutions.

Together, these provisions reflect India's model of principled secularism, where the state maintains neutrality but may intervene to ensure social reform.

5-Judicial Interpretation in India

The judiciary has played a significant role in defining the relationship between religious freedom and state regulation.

The Supreme Court discussed secularism in the Indian context in *S.R. Bommai*. Faith tolerance, treating all faith groups equally, and safeguarding their property and live sand their places of worship are an essential part of the secularism that our constitution enhances.

BP Jeevan Reddy J stated: “..... **While the citizen of this country is free to profess practice and propagate such religion, faith or belief as they choose, so far as the state is concerned, i.e., from point of view of the state, the religion of the faith or belief of a person is immaterial. To it, all are equal and all are entitled to be treated equally**”.

Therefore, the Hon'ble Supreme Court ruled in this case that the idea of secularism is not simply both a positive idea of treating all religions equally and a passive attitude toward religious tolerance. Secularism is therefore a fundamental component of the Indian

Constitution. Consequently, Indian the nature of the judiciary is positive and secular.

St. Xavier's College Case⁴ and Atheist Society Case

The petitioners claim that by permitting religious rites like breaking coconuts, praying, and reciting mantras or sutras of different religions in government-owned establishments, the state is transgressing secular standards in these situations. Additionally, communal tensions and rioting, even massacres in various sections of the state, can result from such state support. It should be illegal to display religious symbols at bus stops and on state-owned buses and its businesses, including the Electricity Board and the APSRTC, since they incite religious feelings and are insulting to the secular aspects of the constitution.

The Supreme Court ruled that a nation's secularism does not imply its atheism. In India, secularism entails accepting all religions, whereas in western nations, it implies rejecting all religions. Consequently, the religious habits of the people that do not harm to society should be regarded as behaviors that support their faith and beliefs, and they should be permitted as they are in the current situations.

Aruna Roy v. Union of India

The issue in this case was that, Is religion or religious education a violation of Article 28 of the Indian Constitution? Petitioner's counsel argued that the course was in violation of Article 28 of the Indian Constitution. the part in the Curriculum saying “Apart from this today's requirement is not religious instructions but education about religion, their basics, the values inherent therein and also a comparative study of the philosophy of all religions.” violates Article 28. Advocates have also argued that Sanskrit language has been unjustly imposed on them like Vedic astrology, Vedic mathematics and by declaring Hindu festivals as national festivals they are violating constitutional provisions. Since religion is the basis of moral values, the three-judge bench agreed on the need for religious education, and the court answered all of them, and all religions ultimately convey the message of social harmony. Therefore, through religious education, students can get information about all religions, how they are all equal and thus peace will be established in the society. It will help the students to inculcate moral values from the beginning because teaching about religion is not against the secularism but religious teaching is definitely against the secularism.

The State of Bombay vs Narasu Appa Mali The central question in this case was related to the validity of the Bombay Prevention of Bigamous Hindu Marriage Act, 1946. The primary contention against the law was that it violated Article 14 (right to equality) and Article 15 (prohibition of discrimination), as the law discriminated between (and lack of) their

respective rights to engage Hindu and Muslim men in polygamy. Article 25 (Right to Freedom of Religion) was also argued to violate the right of Hindus to polygamy, which was argued to be a part of Hindu custom. The Supreme Court held that, personal law is not 'law' or 'law enforcement' under section 13, and it is assumed that immunising practices deprive the Constitution of its supremacy. And personal laws are not to be seen in the eye of Article 13 of the constitution. It means that the personal laws of minorities are not to be challenged. And this is against the secularism. Later while delivering shabrimala judgement, Justice D.Y. Chandrachud, in his separate opinion, held that “the reasoning given in the Narasu Appa Mali judgment of the Bombay High Court in 1951 was based on flawed premises. Immunising customs and usages, like the prohibition of women in Sabarimala, takes away the primacy of the Constitution.”

The Shirur Mutt Case

One of the most significant cases is The Commissioner, *Hindu Religious Endowments v. Sri Lakshmindra Thirtha Swamiar (1954)*.

The Supreme Court held that:

- **Religious denominations have the right to manage religious affairs.**
- **The state may regulate secular activities associated with religion.**
- **Essential religious practices must be protected.**
- **This case established the Essential Religious Practices Doctrine.**

S.P. Mittal v. Union of India (1983)

The Court examined whether a spiritual organization qualified as a religious denomination under Article 26. It held that an organization must have:

- **A common faith**
- **A common organization**
- **A distinctive name**

To claim protection under Article 26.

Indian Young Lawyers Association v. State of Kerala (2018)

In the Sabarimala case, the Supreme Court held that denying entry to women violated constitutional equality and religious freedom. The judgment emphasized that religious practices must comply with constitutional principles such as equality and dignity.

This decision demonstrates the judiciary’s willingness to balance religious autonomy with constitutional values.

6-Comparative Constitutional Perspectives

Comparative constitutional analysis helps in understanding how different legal systems balance religious autonomy and state regulation.

United States

The U.S. Constitution provides strong protection for religious freedom.

First Amendment

The First Amendment contains two clauses:

1. Free Exercise Clause – protects religious practice.
2. Establishment Clause – prohibits government establishment of religion.

This framework promotes a strict separation between church and state.

The United States adopts a more accommodating approach to religious freedom within its secular context. The First Amendment of the U.S. Constitution guarantees freedom of religion, prohibiting the establishment of a state religion and protecting individuals’ rights to practice their faith freely. This has led to a diverse religious landscape where various beliefs coexist, supported by legal protections and accommodations. However, challenges arise when religious practices conflict with secular laws, such as debates over LGBTQ+ rights versus religious freedom, highlighting the complexities of balancing competing interests.

Employment Division v. Smith (1990)

The U.S. Supreme Court held that neutral laws of general applicability can apply to religious practices.

Hosanna-Tabor Evangelical Lutheran Church v. EEOC (2012)

The Court recognized the ministerial exception, protecting religious institutions from government interference in selecting ministers.

United Kingdom

The United Kingdom has an established church (the Church of England), yet it protects religious freedom.

The Human Rights Act 1998, incorporating the European Convention on Human Rights, guarantees freedom of religion under Article 9.

Courts generally allow religious institutions autonomy but intervene where discrimination or public law issues arise.

European Constitutional Systems

European countries follow a model of cooperative secularism, where the state may support religious institutions while ensuring neutrality.

For example:

Germany recognizes religious communities as public law corporations.

Instead of a strict separation of religion and state, the German type of secularism is distinguished by a formal collaboration with major religious communities and a neutral, cooperative state (neutrality of worldview). The state engages religious organizations in public life, including church taxes paid by the state and religious instruction in schools, while maintaining the absence of a state religion.

France

France places a strong emphasis on the strict separation of church and state through its laïcité concept. Its prohibition on religious symbols in public places like government buildings and schools is clear evidence of this. For example, discussions concerning religious freedom and secularism in the nation have been triggered by the contentious prohibition on the wearing of prominent religious symbols, such as headscarves, in public schools (Jackson, 2021, p. 75). Although laïcité seeks to uphold impartiality and guarantee that all individuals are treated equally, regardless of their religious convictions, detractors contend that such regulations may violate personal freedoms and limit religious expression.

7-State Regulation of Religious Institutions

Governments regulate religious institutions primarily to ensure transparency and prevent misuse of resources. Many religious institutions manage significant financial resources and charitable activities. State regulation often focuses on:

- **Financial accountability**
- **Property management**
- **Prevention of corruption**

In India, laws such as Hindu Religious and Charitable Endowments Acts regulate temple administration.

Social Reform

State intervention has also been justified to promote social reform, such as:

- **Abolition of untouchability**
- **Temple entry for marginalized communities**
- **Gender equality**

Such reforms demonstrate that religious freedom is not absolute.

8-Challenges in Balancing Religious Freedom and Regulation

Balancing religious autonomy with state oversight remains a complex constitutional challenge.

- **Political Interference**

State control over religious institutions may lead to political interference in religious affairs. Tensions between religious communities and the state may result from such actions, though, as they may be seen as meddling in religious matters.

- **Minority Rights**

Minority religious communities often fear that state regulation may disproportionately affect them.

- **Defining Essential Religious Practices**

Courts frequently struggle to determine what constitutes an essential religious practice.

Critics argue that judges lack theological expertise to make such determinations.

- **Need for Constitutional Balance**

A balanced constitutional approach should include:

- **Respect for religious autonomy**
- **Limited state regulation of secular activities**
- **Protection of fundamental rights**
- **Transparency in institutional governance**
- **Judicial oversight should ensure that state regulation does not become excessive or discriminatory.**

9. Conclusion

Religious freedom and the autonomy of religious institutions are fundamental components of democratic constitutional systems. At the same time, the management of religious institutions often involves significant social, economic, and political considerations that may justify limited state regulation.

The comparative constitutional analysis shows that different countries adopt varied approaches depending on their historical and cultural contexts. The United States emphasizes strict separation between church and state, whereas European systems often adopt cooperative models. India follows a distinctive approach that allows state intervention in secular aspects of religious institutions while protecting essential religious practices.

Judicial interpretation has played a vital role in maintaining the balance between religious liberty and constitutional governance. However, challenges remain, particularly regarding the determination of essential religious practices and the prevention of excessive state control.

Ultimately, the protection of religious freedom requires a careful balance between institutional autonomy and constitutional values such as equality, dignity, and social justice. A transparent and accountable system of governance for religious institutions, combined with respect for religious diversity, is essential for sustaining constitutional democracy in pluralistic societies.

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