



INDIAN JOURNAL OF
LEGAL REVIEW

VOLUME 4 AND ISSUE 4 OF 2024

INSTITUTE OF LEGAL EDUCATION



INDIAN JOURNAL OF LEGAL REVIEW

APIS – 3920 – 0001 | ISSN – 2583-2344

(Free and Open Access Journal)

Journal's Home Page – <https://ijlr.iledu.in/>

Journal's Editorial Page – <https://ijlr.iledu.in/editorial-board/>

Volume 4 and Issue 4 of 2024 (Access Full Issue on – <https://ijlr.iledu.in/volume-4-and-issue-4-of-2024/>)

Publisher

Prasanna S,

Chairman of Institute of Legal Education (Established by I.L.E. Educational Trust)

No. 08, Arul Nagar, Seera Thoppu,

Maudhanda Kurichi, Srirangam,

Tiruchirappalli – 620102

Phone : +91 94896 71437 – info@iledu.in / Chairman@iledu.in



ILE Publication House is the
**India's Largest
Scholarly Publisher**

© Institute of Legal Education

Copyright Disclaimer: All rights are reserved with Institute of Legal Education. No part of the material published on this website (Articles or Research Papers including those published in this journal) may be reproduced, distributed, or transmitted in any form or by any means, including photocopying, recording, or other electronic or mechanical methods, without the prior written permission of the publisher. For more details refer <https://ijlr.iledu.in/terms-and-condition/>

CRIME AGAINST RELIGION IN INDIA: A REVIEW

AUTHORS – NISHITA NAYAK* & DR. AJAZ AFZAL LONE**, L.L.M STUDENT* AND ASSISTANT PROFESSOR AT CHANDIGARH UNIVERSITY, MOHALI.

BEST CITATION – NISHITA NAYAK & DR. AJAZ AFZAL LONE, CRIME AGAINST RELIGION IN INDIA: A REVIEW, *INDIAN JOURNAL OF LEGAL REVIEW (IJLR)*, 4 (4) OF 2024, PG. 411-422, APIS – 3920 – 0001 & ISSN – 2583-2344.

ABSTRACT:

Religious freedom is a fundamental right that is crucial for creating a harmonious and tolerant society, where individuals from diverse religious backgrounds can coexist peacefully. However, this right is often threatened in diverse societies, and religious minorities may face discrimination, persecution, and even violence based on their beliefs. To promote religious freedom, governments and individuals must work together to respect the beliefs of others, create policies that protect religious minorities, and engage in education and dialogue. By upholding this fundamental right, we can create a society where all individuals, regardless of their religious background, can coexist peacefully and contribute to the common good.

Keywords: Crime, Religion, Constitutional, The Religion Institute Act, The Indian Penal Code

1.1- INTRODUCTION: -

“No one is born hating another person because of the colour of his skin, or his background, or his religion. People must learn to hate, and if they can learn to hate, they can be taught to love, for love comes more naturally to the human heart than its opposite.”

– Nelson Mandela (1994)

Historically, all societies have had criminal offences which relate to religion.

The crime against religion has been growing more and more. Though there are laws, rules and regulations, freedom and much more provided to every individual, still the lack of awareness and hate for each-other's religion and resulted in committing crime just because of different religion and this happens specially between Hindus and Muslims in India.

The reason why such crimes are committed between two different religion is because of not accepting and respecting the different religious belief that exist. A person can even kill another person or his entire family just because of the

faith he holds and belonging from different community.

On July 2022, a horrifying incident happened in Rajasthan, India where a Hindu tailor, named Kanhaiya Lal, was killed by two Muslims, named, Mohammad Riyaz Attari and Mohammad Javed⁶⁰². just because of the slogan which says, “Hindu Lives Matter.”

• Definition of crimes against religion-

A crime against religion is an act which target a victim because of the offender's hostility or different religion towards them or a group based on their theological faith, or lack of one. The law does not protect the teachings of the theology (often referred to a 'tenets'), but it is based in the human rights principles, which means that we all have a right to hold our religious beliefs and to practice our theological faith in safety, security and in society without

⁶⁰² Mohammed Javed v National Investigation Agency, 2024 Live Law (Raj) 246.

worrying about anything and living freely with our rights⁶⁰³.

The crimes motivated by inter-faith or intra-faith hostility (which is sometimes referred to as sectarian) or a crime targeting someone who has left a religion would be investigated and prosecuted as religious hate crimes. They could attract the same enhanced sentencing in court.

So, any incident or crime which is perceived by the victim to be motivated by religious hostility will be recorded as such. If the offender is to have a sentence enhanced by the court, then prosecutors must provide evidence to prove that, but such proof is not required for recording purposes. Hate crimes can be committed against a person or property.

▪ Importance of Religious Freedom-

Freedom of religion or belief, including the ability to worship in peace and security, is a universal human right. This has been enshrined in both the Universal Declaration of Human Rights, and the International Covenant on Civil and Political Rights, among other key human rights documents. Discrimination against religious and belief communities, as with all forms of discrimination causes suffering, spreads division, and contributes to a climate of fear, intolerance, and stigmatization⁶⁰⁴. The right to freedom of religion or belief is intrinsically linked to other human rights, such as freedom of expression, peaceful assembly, and association, which are foundational to safe, prosperous, and inclusive societies⁶⁰⁵.

The UDHR guarantees freedom of religion as a fundamental right in Article 18. This article was progressive for its time in asserting that people of all religions and beliefs should be able to live peacefully. It also guarantees that the state must guarantee freedom of religion on an equal footing for all.

⁶⁰³ Kim, H. and Singh, G., 'Managing religious diversity in India', in A. Dawson (ed.).

⁶⁰⁴ Harendra Sarkar vs. State of Assam, 2008 (7) SCR 589; 2008 (9) SCC 204.

⁶⁰⁵ Forum18.org, "Situations of Religious Freedom in India." <http://www.forum18.org/PDF/india.pdf>.

□ **ARTICLE-18:** Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Freedom of religion is linked to other human rights, including freedom of expression, peaceful assembly, and association. It's also important to preserve and respect cultural heritage sites and objects that are important for religious practices.

▪ Importance of Religious Freedom in a Diverse Society like India-

Though the Indians say it is important to respect all religions, but major religious groups see little in common and want to live separately. More than 75 years after India became free from colonial rule, the Indians generally feel their country has lived up to one of its post-independence ideals, a society where followers of many religions can live and practice freely.

India's massive population is diverse as well as devout. Not only do most of the world's Hindus, Jains and Sikhs live in India, but it also is home to one of the world's largest Muslim populations and to millions of Christians and Buddhists. Across the major religious groups, most people say it is very important to respect all religions to be "truly Indian." Indians are united in the view that respecting other religions is a very important part of what it means to be a member of their own religious community.

These shared values are accompanied by a number of beliefs that cross religious lines. Not only do a majority of Hindus in India (77%) believe in karma, but an identical percentage of Muslims do, too. A third of Christians in India (32%) – together with 81% of Hindus – say they believe in the purifying power of the Ganges River, a central belief in Hinduism. In Northern India, 12% of Hindus and 10% of Sikhs, along with 37% of Muslims, identify with Sufism, a mystical

tradition most closely associated with Islam. And the vast majority of Indians of all major religious backgrounds say that respecting elders is very important to their faith.

Freedom of Religion is guaranteed under the Constitution of India⁶⁰⁶. Every citizen of India has a right to practice and promote their religion peacefully. There were eventually many riots happened regarding securing the importance of each religion in India.

Case- Bijoe Emmanuel v. State of Kerala⁶⁰⁷

It is a landmark case 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 Supreme Court held that the action of the school authorities in expelling the three students was arbitrary and violative of the Fundamental Right to Freedom of Conscience and Religion. The Court observed that the students' right to Freedom of Conscience and Religion extends to not only the holding of their beliefs but also to the act of expressing or practising their beliefs. The court reaffirmed the importance of the Right to Freedom of Conscience and Religion as a Fundamental Right protected under the Indian Constitution. The judgment also emphasised the duty of public authorities, including schools, to respect and protect this right, and to act on reasonable and justifiable grounds when regulating the exercise of this right.

Case- Rev. Stainislaus v. State of Madhya Pradesh⁶⁰⁸

This case has been instrumental in shaping the legal landscape of India, especially regarding anti-conversion laws. Since this case, several states in India have passed laws regulating or prohibiting religious conversion, often citing concerns of forced conversion. However, many of these laws have faced legal challenges on the grounds that they infringe on the Fundamental Right to Freedom of Religion, Freedom of Speech and Expression, Right to Privacy, Right to Equality and Right to Life and Liberty.

Thus, Rev. Stainislaus v. State of Madhya Pradesh was an important case that affirmed the right to freedom of religion and the right to propagate one's religion as a fundamental right under the Indian Constitution. The case has also had a significant impact on the legal landscape of India, especially with regard to anti-conversion laws.

▪ **Overview of the legal framework governing crimes against religion-**

The legal framework governing crimes against religion is different in different country but in India, the Indian Constitution, IPC, BNS and Special laws prohibits crimes against religion by providing remedies and punishment regarding it.

The constitution and other laws and policies protect religious freedom and, in practice, the government generally respected religious freedom; however, some state-level laws and policies restricted this freedom. India is a secular republic, with all religions offered equality under the law. The constitution and other laws and policies protect religious freedom and, in practice, the national government generally enforced these protections. Some state and local governments, which hold responsibility under the constitution for law and order, limited this freedom by

⁶⁰⁶<https://www.lawctopus.com/academike/preamble-constitution-india/>
⁶⁰⁷ 1987 AIR 748.

⁶⁰⁸ (1977) 1 S.C.C. 677.

maintaining or enforcing existing "anticonversion" legislation and by not efficiently or effectively prosecuting those who attacked religious minorities⁶⁰⁹. The government provides minorities strong official legal protection, although at times its weak law enforcement, lack of trained police, and overburdened court system played a role in not addressing communal tensions as swiftly as possible.

The country's political system is federal and gives state governments primary jurisdiction over law enforcement and the maintenance of order, which limited the national government's capacity to deal directly with state-level issues, including abuses of religious freedom.

The states of Madhya Pradesh, Rajasthan, Uttar Pradesh, and West Bengal have laws regulating the construction of public religious buildings and the use of public places for religious purposes. The 1989 Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act listed offenses, including those pertaining to religious duties and practices, against disadvantaged persons and provided for steep penalties for offenders.

There were different personal laws for the various religious communities in matters of marriage, divorce, adoption, and inheritance. The government granted a significant amount of autonomy to personal status law boards in crafting these laws. There was Hindu law, Christian law, Parsi law, and Islamic law; all were legally recognized and judicially enforceable. None were exempt from national and state level legislative powers or social reform obligations as laid down in the constitution.

The constitution provides for freedom of conscience and the right of all individuals to freely profess, practice, and propagate religion; mandates a secular state; requires the state to treat all religions impartially; and prohibits discrimination based on religion. It also states citizens must practice their faith in a way that

does not adversely affect public order, morality, or health. Thirteen of 28 states have laws restricting religious conversions for all faiths. Some of these states also impose penalties specifically against forced religious conversions for the purpose of marriage although historically, some state high courts have dismissed cases brought under these laws.

1.2- LEGAL FRAMEWORKS IN INDIA: -

There are many rules and regulations present in India which helps to maintain the religious belief within the people. Thus, the legal frameworks which governs the crimes again religion are-

□ Constitutional Provisions-

The Right to Freedom of Religion is guaranteed to all Indians by the Constitution under Articles 25 to 28⁶¹⁰. The Constitution of India guarantees the right to freedom of religion to not only individuals but also religious groups in India. Hence, the following articles states:

Article-25: [Freedom of conscience and free profession, practice, and propagation of religion]

It guarantees the freedom of conscience, the freedom to profess, practice, and propagate religion to all citizens. They are subject to public order, health, and morality.

This article also gives a provision that the State can make laws:

1. To regulates and restricts any financial, economic, political, or other secular activity associated with any religious practice.
2. To provides for the social welfare and reform or opening up of Hindu religious institutions of a public character to all sections and classes of Hindus. Under this provision, Hindus are construed as including the people professing the Sikh, Jain, or Buddhist religions, and Hindu institutions shall also be construed accordingly.

⁶⁰⁹ Rev. Stainislaus v. State of Madhya Pradesh & Ors. <https://indiankanoon.org/doc/1308071/>.

⁶¹⁰ The Constitution of India.

3. The people of the Sikh faith wearing & carrying the kirpan shall be considered included in the profession of the Sikh religion.

Case- Tilkayat Shri Govindlalji Maharaj V. State of Rajasthan⁶¹¹

In this case, the Supreme Court held that the test to determine the question in deciding what is an integral part of a religion is whether it is regarded as integral by the community following that religion or not.

Case- Church of God (Full Gospel) v. K.K.R. Majestic Colony Welfare Association⁶¹²

In this case, the Supreme Court held that nowhere in any religion, it is mentioned that prayers should be performed through the beating of drums or through voice amplifiers which disturbs the peace and tranquility of others. If there is any such practice, it should be done without adversely affecting the rights of others as well as that of not being disturbed in their activities.

Article 26. [Freedom to manage religious affairs]

It provides that every religious denomination has the following rights, subject to morality, health, and public order. There are more rights followed under this article which are-

- The right to form and maintain institutions for religious and charitable intents.
- The right to manage its own affairs in the matter of religion.
- The right to acquire the immovable and movable property.
- The right to administer such property according to the law.

Case- Bramchari Sidheshwar Bhai v. State of West Bengal⁶¹³

In this case, the Ram Krishna Mission wanted to declare itself as a non-Hindu minority where its members were to be treated as Hindus in the matter of marriage and inheritance but in the religious sense to be recognized as non-Hindus. This would certainly mean that they are given the status of legal Hindus but religious non-Hindus, similar to Sikhs and Buddhists. To this, the Supreme Court ruled that it cannot be claimed by the followers of Ram Krishna that they belong to the minority of the Ram Krishna Religion. Ram Krishna Religion is not distinct and separate from the Hindu religion. It is not a minority based upon religion. Hence, it cannot claim the fundamental right under Article 30 (1) to establish and administer institutions of education by Ram Krishna Mission.

Case- Acharaj Singh v. State of Bihar⁶¹⁴

In this case, the matter of religion includes religious practices, rituals, observances, ceremonies, mode, and manner of worship, etc., regarded as the essential and integral part of the religion. The Supreme Court held that, if Bhog offered to the deity is a well-established practice of that religious institution, such a practice should be regarded as a part of that religion.

Article 27. [Freedom as to payment of taxes for promotion of any particular religion]

It states that, there can be no taxes and the proceeds of which are directly used for the promotion and/or maintenance of any particular religion/religious denomination.

Case- Commissioner, Hindu Religious Endowments, Madras v. Sri Lakshmindra Thirtha Swamiar of Sri Shirur Mutt⁶¹⁵

In this case, the Madras legislature enacted the Madras Hindu Religious and Charitable Endowment Act, 1951 and contributions were levied under the Act. It was contended by the petitioner that the contributions levied are taxes and not a fee and the state of Madras is not

⁶¹¹ 1964 SCR (1) 561.

⁶¹² 2001 (10) SCC 624.

⁶¹³ 1995 SCC (4) 646.

⁶¹⁴ AIR 1967 PATNA 114.

⁶¹⁵ 1954 AIR 282.

competent to enact such a provision. It was held by the Supreme Court that though the contribution levied was tax but the object of it was for the proper administration of the religious institution.

Article 28: [Freedom as to attendance at religious instruction or religious worship in certain educational institutions]

It permits educational institutions that are maintained by religious groups to disseminate religious instruction. Moreover, the main three pointers are as follows-

- This provides that no religious instruction shall be provided in State-run educational institutions.
- Educational institutions administered by the State but that were established under any endowment or trust which requires that religious instruction shall be imparted in such institutions are exempt from the above clause (that no religious instruction shall be provided).
- Any person who attends any educational institution recognized by the State or receiving State aid shall not be required to participate in any religious instruction that may be imparted in such institution, or also attend any religious worship in such institutions unless he/she has given consent for the same. In the case of minors, the guardians should have given consent for the same.

Case- D.A.V. College v. State of Punjab⁶¹⁶

The section 4 of the Guru Nanak University (Amritsar) Act, 1969 which provided that the state shall make provisions for the study of life and teachings of Guru Nanak Devji was questioned as being violative of Article 28 of the Constitution. The question that arose was that the Guru Nanak University is wholly maintained out of state funds and Section 4 infringes Article 28. The court rejecting this held that Section 4 provides for the academic study of the life and

teachings of Guru Nanak and this cannot be considered as religious instruction.

Case- Aruna Roy v. Union of India⁶¹⁷

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.

- The Indian Penal Code, 1860-

India is known for its diversity and secularism, where people of various religions coexist peacefully. However, there are instances where people try to disrupt this harmony by committing offences relating to religion. To prevent such acts and maintain social harmony, the Indian Penal Code (IPC) has provisions under Sections 295 and 295A deals with religious offences under IPC. The sections are:

Section- 295: [Injuring or defiling place of worship, with intent to insult the religion of any class]

This provision makes it a crime to harm or degrade any place of worship or object held sacred by a specific religious group with the goal of offending that community's religious emotions. The main elements under this section are:

- The accused must have harmed or desecrated a place of worship or any

⁶¹⁶ (1971) 2 SCC 368.

⁶¹⁷ (2002) 7 SCC 368.

- object considered sacred by a religious group.
- Damage or pollution must have been done on purpose.
- The goal underlying the conduct has to be to offend the religious emotions of a certain religious group.
- The accused must have known or should have known that his or her acts would offend the religious sensitivities of a certain religious group.
- If an individual is found guilty of committing this offence, he or she may face imprisonment for a term of up to two years, a fine, or both.

Case- Joseph v. State of Kerala⁶¹⁸

In this case, a hut was used as a worship place by people of a specific religion. 'A' took possession by court order and took down the images of the Hindu Gods and was charged under Section 295. The High Court held that 'A' has the right to do whatever he has done and he had not intended to hurt the religious beliefs and holy object and hence, he was held not guilty. Religious books like the Bible, the Koran, the Granth, the Gita etc. are held to be sacred even though they are not worshipped per se.

Section- 295A: [deliberate and malicious acts intended to outrage religious feelings of any class by insulting its religion or religious beliefs]

The section's goal is to prevent any form of communal conflict or disturbance that may occur as a result of inflammatory remarks or acts directed towards a certain religion or religious community. The main elements present in this section are-

- **Intentional and malicious acts:** The act of insult or provocation must be intentional and done with the goal of offending the religious emotions of a certain religious community.

- **Meant to incite religious sentiments:** The conduct must be meant to incite religious feelings in any class of Indian residents. Religious sentiments might encompass a person's religious beliefs, customs, and practises.
- **Insulting a religion or religious beliefs:** The conduct must be intended to offend a specific faith or religious beliefs. Words, gestures, or any other kind of communication can be used.
- **Intended against a class:** The act must be intended at a specific class of Indian people who practise a specific religion. Religious beliefs, practises, or customs can be used to define the class.

- Special laws-

The Religious Institution, 1988: The Religious Institutions (Prevention of Misuse) Act, 1988 was introduced to prevent the misuse of religious institutions for any unlawful or anti-social activity. The act defines a religious institution as any temple, mosque, church, gurudwara, mutt or any other place of worship. The act prohibits any person from using a religious institution for any purpose other than that of religious worship or religious instruction. The act empowers the state government to appoint an officer to take charge of the management of any religious institution if it is found that the institution is being misused. The act also lays down provisions for the appointment of trustees or committee members to manage the affairs of religious institutions and their properties. The act prescribes penalties for contravention of its provisions.

1.3- TYPES OF CRIMES AGAINST RELIGION: -

- **Hate Speech and Incitement to Violence-**

There is no specific legal definition of 'hate speech.' Provisions in law criminalise speeches, writings, actions, signs and representations that foment violence and spread disharmony between communities and groups and these

⁶¹⁸ 1960 KER LT 623.

are understood to refer to 'hate speech'. The Law Commission of India, in its 267th Report, says: "Hate speech generally is an incitement to hatred primarily against a group of persons defined in terms of race, ethnicity, gender, sexual orientation, religious belief and the like ... Thus, hate speech is any word written or spoken, signs, visible representations within the hearing or sight of a person with the intention to cause fear or alarm, or incitement to violence."

In general, hate speech is considered a limitation on free speech that seeks to prevent or bar speech that exposes a person or a group or section of society to hate, violence, ridicule or indignity.

- How hate speech is treated in the Indian law?

Sections 153A and 505 of the Indian Penal Code are generally taken to be the main penal provisions that deal with inflammatory speeches and expressions that seek to punish 'hate speech'.

Under Section 153A, 'promotion of enmity between different groups on grounds of religion, race, place of birth, residence, language, etc., and doing acts prejudicial to maintenance of harmony', is an offence punishable with three years' imprisonment. It attracts a five-year term if committed in a place of worship, or an assembly engaged in religious worship or religious ceremonies.

Section 505 of IPC makes it an offence to making "statements conducing to public mischief". The statement, publication, report or rumour that is penalised under Section 505(1) should be one that promotes mutiny by the armed forces, or causes such fear or alarm that people are induced to commit an offence against the state or public tranquillity; or is intended to incite or incites any class or community to commit an offence against another class or community. This attracts a jail term of up to three years. Under 505(2), it is an offence to make statements creating or promoting enmity, hatred or ill-will between

classes. Under subsection (3), the same offence will attract up to a five-year jail term if it takes place in a place of worship, or in any assembly engaged in religious worship or religious ceremonies.

Incitement to violence-

Section 295A of the IPC prohibits deliberately insulting a religion or religious beliefs of any Indian citizen or their religious community. This includes using words, signs, or visible representations to outrage religious feelings.

Case- Ramji Lal Modi v. State of UP⁶¹⁹

The Supreme Court held that Section 295A is constitutionally valid and is necessary to maintain public order. So, it is a reasonable restriction on the freedom of speech and expression under Article 19(2) of the Constitution of India, 1950.

- **Religious Intolerance and discrimination-**

Religious intolerance means an intolerance of a person's religion, religious beliefs or practices. It is rooted in the negative attitudes, values, and beliefs held towards those of a particular religion. While attitudes of religious intolerance can be very difficult to measure and quantify, actions are more recognizable. Indians see religious tolerance as a central part of who they are as a nation. Across the major religious groups, most people say it is very important to respect all religions to be "truly Indian." And tolerance is a religious as well as civic value: Indians are united in the view that respecting other religions is a very important part of what it means to be a member of their own religious community.

Religious intolerance can materialize in many ways, from microaggressions, to lack of accommodation and acceptance of religious practices, to vandalism of religious buildings, hate speech, and physical violence. All acts of religious intolerance are forms of discrimination on the basis of religion. The psychological,

⁶¹⁹ 1957 SCR 860.

economic, and societal impacts these intolerant behaviours and attitudes have on people can be very detrimental and long lasting.

Intersectionality is a concept that recognizes that different kinds of discrimination reinforce and influence each other. The various social categories a person belongs to, such as their religion, race, class, gender, physical or mental ability, or sexual orientation, can shape the nature of the discrimination they face in their lives.

Kimberle Crenshaw, the scholar who coined the term intersectionality, describes this concept by explaining that a Black woman, who experiences both racism and sexism, experiences different racism than a Black man, and different sexism than a white woman, because her two identities intersect (hence intersectionality). The two identities compound upon each other in the face of discrimination.

- **Forced Conversion:** -

Forced conversion is a crime against religion in India under the Indian Penal Code (IPC) and anti-conversion laws that vary by state. Sections 295A and 298 of the IPC make forced conversion a cognizable offense, punishable by up to three years in prison and a fine. These sections apply when the conversion is done with the intent to hurt the religious feelings of others. The Anti-conversion laws prohibit or prevent the conversion of one religion to another. They are intended to prevent forced conversions and to stop religious groups from recruiting members from other religions. The purpose of the SAC Act is to prohibit conversions from one religion to another by the use of force, allurement, or fraudulent means.

1.4- LEGAL ISSUES AND CHALLENGES-

1. Defining Ambiguities-

Due to lack of clear definitions for terms like hate speech and religious tolerance, it can lead to a challenging prospecting in the religious context. The Constitution of India does not

provide for a state religion⁶²⁰. Hate speech is addressed under various laws, including the IPC and the Prevention of Communal Violence Act. However, defining hate speech can be challenging, as it often involves subjective interpretations of intent and context. This ambiguity can lead to inconsistent enforcement, with some cases prosecuted while others go unaddressed. Additionally, the balance between protecting free speech and preventing hate speech remains a contentious legal issue, making it difficult to establish clear guidelines and effectively combat communal tensions.

Article 25(1)⁶²¹ states, "Subject to public order, morality and health and to the other provisions of this Part, all persons are equally entitled to freedom of conscience and the right freely.

Indian Penal Code (IPC): Sections- 153A (promoting enmity) and 295A (deliberate and malicious acts to outrage religious feelings) criminalize hate speech. However, these sections can be vague, leading to varied interpretations.

Challenges in Definition: The distinction between legitimate criticism of a religion and hate speech is often unclear. This ambiguity can result in selective enforcement, where some speech is penalized while similar expressions are ignored.

Courts have attempted to clarify the scope of hate speech, but inconsistencies in judgments can complicate legal outcomes. The need for a clear standard remains pressing.

The politicization of hate speech cases can impact their prosecution, with certain groups receiving protection while others face harsh penalties. Social media's role has amplified hate speech, making it more challenging to regulate and often leading to mob violence or communal unrest. fess, practise and propagate religion.

⁶²⁰ Ram ji Lal v. State of U.P., 1957 AIR 620.

⁶²¹ The Constitution of India.

The preamble of the Indian Constitution disallows the formation of a theocratic state and precludes the state from identifying itself with, or otherwise favouring, any particular religion.

2. No training opportunities are provided on human rights and religious freedom standards and practices for the members of its legislature, police, and the judiciary. This leads to the riots in religious belief.

3. Judicial Interpretation-

There are varied interpretation of laws by different courts, leading to inconsistency. The value of the free exercise of religion is so well recognized that the cases in which government does interfere with religious conduct are usually those which indirectly burden a relatively obscure religious practice.

4. Enforcement challenges-

Communal riots typically occur in chaotic and violent settings, making it hard to document incidents accurately. The rapid escalation of violence can result in the destruction of evidence and hinder thorough investigations. The eyewitness accounts are often inconsistent due to the traumatic nature of events. Witnesses may experience fear, confusion, or trauma, leading to varying reports that can complicate legal proceedings.

In some cases, local political dynamics can lead to intimidation or coercion of witnesses, further undermining the collection of reliable evidence. Victims may be pressured not to testify or may face threats from influential groups. The absence of systematic documentation during riots—such as police reports, medical records, and official accounts—can result in gaps in the evidence needed for prosecution.

5. Insufficient training for law enforcement agencies in handling religious crimes-

Officers with minimal training may struggle to religious crimes are often motivated by

periconceptual motives, and the victim is usually a member of a particular religion, group, caste, race, or gender, identify hate crimes, even with good training. Bias-based crimes can be difficult to classify. Law enforcement agencies may lack the resources to investigate complex crimes, such as transnational organized crime. Countries may lack the financial capacity to provide training and adequate funding for technology.

6. Political Interference-

Influence of political parties in communal matters and the impact on legal proceedings. Religion is important in Indian politics. India has many religions and people have strong beliefs. Political parties may align with specific communities, leading to biased investigations. Law enforcement agencies may feel pressured to protect certain groups or individuals connected to political interests, undermining impartiality. Politicians may exert influence over police actions, leading to selective enforcement. Officers may avoid taking action against members of political parties or influential local leaders involved in communal violence.=

7. Public sentiment and media influence-

The role of social media in spreading hate and misinformation. Sensationalized reporting on religious crimes can exacerbate tensions and influence public perception. Misinformation can lead to communal disharmony, further complicating legal and social responses.

Media coverage can exacerbate communal tensions by sensationalizing events, leading to heightened emotions and divisions among communities. Sensational reporting can prioritize attention-grabbing headlines over responsible journalism, often depicting religious communities in a negative light and perpetuating stereotypes. The social media algorithms often create echo chambers where users are exposed only to views that reinforce their religious beliefs, exacerbating prejudices and reducing opportunities for constructive dialogue.

8. Religious conversion laws-

Laws governing religious conversions often lead to disputes, accusations of coercion, and legal challenges, further complicating the landscape of religious freedoms. Different states in India have varying laws governing religious conversions, leading to inconsistencies and confusion. Some states have strict anti-conversion laws, while others have more lenient regulations⁶²².

In many cases, the burden of proof lies with the individual seeking to convert, requiring them to demonstrate that their conversion was voluntary and not influenced by external pressures. This can be a daunting challenge. Similarly, individuals converting from one religion to another may face significant social ostracism, threats, or violence from their communities, creating a hostile environment for free religious practice.

Many individuals are unaware of their rights related to religious conversion, which can lead to exploitation or coercion, particularly among marginalized communities. Thus, the scrutiny surrounding conversions can inhibit open discussions about faith and personal beliefs, limiting freedom of expression and religious dialogue.

9. Victim reluctance-

When victims are not provided with adequate protection, assistance, and support, they may be less willing or able to provide information and testimony to police and prosecutors. Victims of religious crimes often face social stigma or intimidation, discouraging them from reporting incidents. Fear of retaliation can deter witnesses from coming forward, complicating evidence collection.

10. Lack of comprehensive legislation-

While various laws exist to address specific aspects of crimes against religion, there is no comprehensive framework that addresses all

facets effectively. This gap can hinder coordinated responses to such crimes. The courts may face challenges in interpreting existing laws due to their fragmented nature, leading to inconsistent judgments that can further complicate the legal landscape. The absence of a unified law addressing all aspects of crimes against religion leads to a fragmented legal approach, making it difficult to ensure consistent application across different regions.

Many existing laws lack precise definitions of terms like "hate speech," "communal violence," or "religious discrimination," creating loopholes that can be exploited in legal proceedings. Even when laws exist, poor implementation and lack of training for law enforcement can hinder their effectiveness. Officers may lack the necessary understanding of legal nuances related to religious crimes. There are often no established mechanisms to monitor and evaluate the effectiveness of laws related to crimes against religion, hindering improvements and adaptations to legal frameworks.

CONCLUSION-

As stated at the outset, India's constitution encompasses provisions that emphasize complete legal equality of its citizens regardless of their religion or creed, and prohibits any kind of religion-based discrimination.

The legal landscape surrounding crimes against religion in India is fraught with challenges, including ambiguous laws, political interference, and inadequate protections for victims. The lack of comprehensive legislation often leaves significant gaps in addressing the complexities of communal violence and religious discrimination.

To effectively combat crimes against religion, a multifaceted approach is essential. This includes legal reforms to create a unified and robust framework, enhanced support for victims, and a commitment to responsible media practices that promote understanding and coexistence. Ultimately, fostering a culture of tolerance and respect for religious diversity is

⁶²² Vishal Arora, "State in India Modifies Anti-Conversion Law: the religious conversion law" 25 journal of Indian Law Institute 211 [2012].

crucial for ensuring lasting peace and justice in a pluralistic society like India.

The challenges surrounding crimes against religion in India highlight the urgent need for comprehensive reform. The lack of a unified legislative framework leaves significant gaps, making it difficult to address the root causes of communal tensions.

Moreover, public sentiments shaped by media narratives play a critical role in either exacerbating or alleviating these tensions. Sensationalism, misinformation, and the creation of echo chambers can fuel animosity and violence, while responsible journalism has the potential to educate and foster understanding among diverse communities.

REFERENCE-

Books and Articles:

- "Communalism in India: A Historical Perspective" by S. Paul.
- "The Indian Penal Code" by K.D. Gaur, which provides insights into relevant sections dealing with religious offenses.
- "Secularism and the Indian Constitution" by Rajeev Bhargava discusses the constitutional framework for religious rights.

Reports:

- National Commission for Minorities: Various reports detailing incidents of communal violence and recommendations for protection of minority rights.
- Amnesty International: Reports on human rights issues in India, including religious discrimination.

Legal Texts:

- Indian Penal Code, 1860: Available online through legal databases and government resources.

- Constitution of India: The full text is available on the official website of the Government of India.

Research Papers:

- Various academic journals publish papers analyzing communal violence and legal challenges, available through databases like JSTOR or Google Scholar.

News Articles:

- Major Indian newspapers like *The Hindu*, *The Times of India*, and *Indian Express* frequently cover issues related to religious crimes and legal responses.