



IJMRRS

**International Journal for Multidisciplinary
Research, Review and Studies**

ISSN: 3049-124X

Volume 1 - Issue 2

2024

© 2024 International Journal of Multidisciplinary Research Review and Studies

Judicial Attitude Towards Religious Minorities and Their Protection

Pratima Pal, BA.LL.B(Hons.) student at Amity University, Lucknow.

Dr. Rajeev kr. Singh, Assistant Professor at Amity University, Lucknow.

Abstract

India's constitutional vision embraces a secular and pluralistic ethos, aiming to protect the rights of all citizens regardless of their religious affiliations. Yet, the protection of religious minority communities that are numerically smaller and often socially vulnerable remains a complex and evolving issue. This research paper delves into the role of the Indian judiciary in interpreting and upholding the rights of religious minorities, analyzing how judicial attitudes have influenced the practical realization of constitutional guarantees.

While the Constitution enshrines fundamental rights such as equality before the law, freedom of religion, and cultural autonomy, their real-world enforcement often hinges on the sensitivity and commitment of the judiciary. The paper traces the judicial journey from a passive interpreter to a more activist and empathetic protector of minority rights. Through a critical examination of key Supreme Court and High Court rulings, it evaluates the extent to which judicial decisions have strengthened or weakened the position of religious minorities in India.

The study also identifies inconsistencies in judicial approaches, instances of judicial overreach, and gaps between legal provisions and their actual implementation. Furthermore, it underscores the importance of a consistent and inclusive judicial philosophy that recognizes the unique challenges faced by religious minorities. By highlighting the interplay between law, religion, and judicial interpretation, this paper suggests a path forward that emphasizes judicial accountability, cultural sensitivity, and a rights-based approach to minority protection. The ultimate objective is to ensure that the judiciary remains a guardian of constitutional morality and an instrument for fostering an inclusive and harmonious society.

Keywords

Constitutional, Religious Minority, Cultural Autonomy, Religion, Constitutional Morality

Introduction

India's socio-political identity is uniquely marked by its pluralistic composition and religious heterogeneity. With a civilizational legacy spanning millennia and an unparalleled confluence of faiths, India houses one of the most religiously diverse populations in the world. As per the latest census, religious minorities comprising Muslims, Christians, Sikhs, Buddhists, Jains, and others constitute more than 20% of the Indian population. These communities, spread across regions and socio-economic backgrounds, contribute richly to India's cultural and historical landscape¹. Yet, their status as minorities raises pertinent concerns regarding inclusion, representation, and protection within the Indian legal system. In a democratic republic premised on justice, liberty, equality, and fraternity, the role of the judiciary in safeguarding the rights of these communities assumes profound significance.

The Constitution of India, often celebrated as a living document, is embedded with a robust framework aimed at promoting secularism and religious freedom. It guarantees fundamental rights to all citizens, including freedom of religion, equality before the law, and protection against discrimination on the grounds of religion, race, caste, sex, or place of birth. Despite these guarantees, the lived experiences of religious minorities often reveal gaps between constitutional ideals and ground realities². There are instances where members of minority communities have faced social exclusion, political marginalization, and even violence. In such contexts, the judiciary

¹ Henry C. Hart, "The Indian Constitution: Political Development and Decay," *Asia Survey* 20:4 (April 1980).

² Berkley Centre for Religion, Peace, and World Affairs, "Mohandas Gandhi on Proselytizing as a Source of Conflict." <https://berkleycenter.georgetown.edu/quotes/mohandas-gandhi-on-proselytizing-as-a-source-of-conflict>.

emerges as a critical institution, tasked with interpreting the Constitution and ensuring that its principles are translated into effective protection for all.

Since Independence, the Indian judiciary, particularly the higher judiciary, has played a pivotal role in shaping the contours of minority rights through its interpretations of constitutional provisions. The Supreme Court and High Courts have not only interpreted the law but have also laid down principles that define the scope of religious freedom, the limits of state intervention in religious practices, and the extent of minority rights under Articles 25 to 30 of the Constitution. Several landmark judgments have underscored the judiciary's commitment to the secular ethos of the state. However, judicial responses have not always been consistent or devoid of controversy. There have been occasions where judicial pronouncements have been criticized for either failing to adequately protect minority rights or for upholding majoritarian perspectives in the garb of uniformity and public order.

In recent years, the discourse around the rights of religious minorities has gained renewed urgency. Socio-political developments, including rising instances of communal tensions, debates around religious conversions, mob violence in the name of cow protection, and contentious legislative measures like the Citizenship Amendment Act, have triggered widespread legal and constitutional debates. In such a volatile landscape, the judiciary's role becomes more than a passive interpreter of law—it is expected to act as a guardian of constitutional morality and a check on potential majoritarian excesses. This study, therefore, is not merely a legal inquiry but a reflection on the broader question of how constitutional values are upheld in a pluralistic society.

The rationale for undertaking this research stems from the need to critically examine the Indian judiciary's engagement with religious minority rights. While the constitutional scheme envisages a secular state that maintains equal distance from all religions, the actual functioning of state institutions—including the judiciary—often reflects the pressures and complexities of a deeply religious society. In this context, it becomes necessary to investigate whether judicial decisions have succeeded in balancing the competing demands of religious autonomy, state regulation, and individual rights. The study aims to explore whether the judiciary has been proactive in countering religious discrimination or whether it has, at times, reinforced structural inequalities by adopting a narrow or conservative interpretation of minority rights.

Furthermore, the issue of judicial attitude towards religious minorities cannot be understood in isolation. It must be situated within the broader framework of constitutional law, democratic theory, and social justice. The Indian judiciary, particularly the Supreme Court, has often positioned itself as the protector of the “basic structure” of the Constitution. Yet, the interpretation of secularism itself has evolved over the decades—from the Nehruvian idea of state neutrality to more interventionist models. This shifting judicial philosophy has direct implications for minority rights jurisprudence. By mapping these shifts, the study seeks to provide a nuanced understanding of the judicial role in a secular democracy like India.

In methodological terms, the research adopts a doctrinal approach, which is particularly suited for legal analysis. The doctrinal method involves a close reading of primary legal sources, including constitutional provisions, statutory laws, and judicial decisions. Special emphasis will be placed on landmark judgments delivered by the Supreme Court of India and various High Courts that deal with minority rights, secularism, freedom of religion, and related issues. Through this analysis, the study will identify patterns, principles, and inconsistencies in judicial reasoning. In addition to primary sources, secondary literature—including academic articles, commentaries, and reports—will be used to frame the legal discourse within a broader socio-political context.

To further enrich the analysis, the study will engage in comparative jurisprudence by examining how other democratic countries with similar constitutional commitments, such as the United States, Canada, and South Africa, have addressed the question of minority religious rights. Comparative analysis helps to contextualize Indian legal developments and provides insights into best practices and potential reforms. While each country has its unique legal and cultural context, certain universal principles—such as the protection of religious freedom, the limits of state intervention, and the need for judicial independence—can offer valuable lessons for India.

It is also important to acknowledge the limitations inherent in a doctrinal study. While judicial decisions provide crucial insights into legal reasoning and constitutional interpretation, they do not always capture the full spectrum of societal experiences and outcomes. For instance, a judgment that upholds minority rights on paper may not necessarily translate into effective implementation on the ground. Therefore, while this research will primarily rely on doctrinal analysis, it will

remain critically aware of the limitations of a purely legalistic approach³. Where possible, references to empirical studies, media reports, and data from human rights organizations will be used to illustrate the real-world implications of judicial decisions.

This study is organized into several parts, each addressing a specific aspect of the judicial approach towards religious minorities. Beginning with a conceptual framework that defines key terms and explores theoretical perspectives on secularism and minority rights, the subsequent chapters will delve into constitutional provisions, landmark judgments, judicial trends, and the role of the judiciary during communal crises. Special attention will be paid to instances where the judiciary has either intervened to protect minorities or has been accused of judicial indifference. The final chapters will critically evaluate the challenges faced by the judiciary in dealing with religious issues and will propose recommendations for ensuring a more consistent and rights-oriented approach.

In sum, this research is both timely and necessary. At a moment when constitutional values are under stress and the secular character of the Indian state is being tested, a focused study on the judiciary's role in protecting religious minorities offers an opportunity to assess the health of Indian democracy. The judiciary, as the final arbiter of constitutional disputes, carries the heavy burden of maintaining the delicate balance between majority will and minority rights. Whether it has succeeded in fulfilling this role is the central question this research seeks to answer.

Constitutional Protection for Religious Minorities

India, as a democratic republic, was envisioned by its framers as a nation that upholds the dignity and diversity of all its citizens. Given the vast multiplicity of religious groups residing within its territory, the Indian Constitution incorporates robust legal safeguards to ensure that religious minorities are not only protected but also empowered to coexist on an equal footing. These protections are not merely symbolic but are embedded in the very fabric of the Constitution, particularly through the Fundamental Rights, the Directive Principles of State Policy, and the

³ Human Rights Watch, "India: Stop Harassment of Activists," February 21, 2015. <https://www.hrw.org/news/2013/10/31/india-end-funding-restraints-organizations>

secular character as enshrined in the Preamble. This framework ensures that India remains committed to justice, equality, and fraternity, especially for its religious minorities.

One of the most foundational pillars ensuring the protection of religious minorities is Article 14 of the Indian Constitution. It guarantees "equality before the law" and "equal protection of the laws" to every person within the territory of India. This article forms the backbone of the constitutional guarantee against arbitrary state action and discrimination. It ensures that all individuals, regardless of their religious background, are treated equally in the eyes of the law. For religious minorities, Article 14 is crucial because it affirms their legal status as equal citizens of the country. It also provides the basis for challenging discriminatory practices or laws that may disproportionately affect minority communities. Whether in the context of education, employment, or access to justice, Article 14 ensures a level playing field for all.

Closely linked with the principle of equality are Articles 15 and 16, which prohibit discrimination and ensure equal opportunity. Article 15(1) categorically prohibits the state from discriminating against any citizen on the grounds of religion, race, caste, sex, or place of birth. Article 15(2) further reinforces this by prohibiting any restriction or denial of access to public spaces, such as shops, wells, or roads, based on the same grounds. This ensures that religious minorities cannot be denied access to public goods and services merely because of their faith. Article 16, on the other hand, focuses on equality of opportunity in matters of public employment. It guarantees that no citizen shall be ineligible for any office under the state on grounds only of religion or other prohibited criteria. This is particularly significant for religious minorities who might otherwise face systemic biases or exclusion in the employment sector. Together, Articles 14, 15, and 16 form a triad of provisions that uphold the principles of equality, non-discrimination, and inclusivity.

Perhaps the most explicit constitutional guarantees for religious freedom are found in Articles 25 and 26. Article 25 grants all persons the freedom of conscience and the right to freely profess, practice, and propagate religion, subject to public order, morality, and health. This article is particularly important for religious minorities as it allows them to preserve and practice their unique religious beliefs without fear of coercion or suppression. Whether it is the right to wear religious symbols, observe particular rituals, or celebrate religious festivals, Article 25 ensures these freedoms are constitutionally protected. The inclusion of the word "propagate" is especially

significant, as it protects the right of religious minorities to share their beliefs with others, a right that is often curtailed in many other jurisdictions.

Article 26 complements this by granting every religious denomination the right to manage its own religious affairs. This includes the right to establish and maintain institutions for religious and charitable purposes, manage its own affairs in matters of religion, own and acquire movable and immovable property, and administer such property in accordance with the law. For religious minorities, this means they have the autonomy to organize their religious life and institutions according to their own customs and traditions. This autonomy is vital for the preservation of their cultural and spiritual identity. It ensures that the state does not interfere in the internal religious matters of minority communities, thereby respecting the pluralistic ethos of Indian society.

Further protection for religious minorities can be found in Articles 29 and 30, which are specifically tailored to protect the cultural and educational rights of minorities. Article 29(1) provides that any section of the citizens residing in the territory of India having a distinct language, script, or culture shall have the right to conserve the same. This article recognizes the right of religious minorities to preserve their unique cultural identities, including their languages and traditions⁴. It ensures that minority groups are not forced into cultural assimilation or homogenization, thereby promoting India's cultural mosaic. Article 30(1) goes a step further by granting all minorities, whether based on religion or language, the right to establish and administer educational institutions of their choice. This enables religious minorities to not only preserve their cultural heritage but also to impart education in an environment that respects and promotes their religious values. Furthermore, Article 30(2) prohibits the state from discriminating against any educational institution managed by a minority in the matter of granting aid. These provisions are particularly important as they provide the legal framework for the establishment of minority-run schools, colleges, and seminaries, thereby contributing to both educational development and cultural preservation.

Apart from the Fundamental Rights, the Indian Constitution also draws its guiding spirit from the Preamble, which declares India to be a "sovereign, socialist, secular, democratic republic." The

⁴ Rajnish Sharma and Moyna Manku, "Govt to Change registration, Audit Processes for NGOs," Live Mint, September 18, 2015.

inclusion of the word "secular" affirms that the state does not favor any religion over another and maintains an equidistant approach towards all faiths. This secular character is not just symbolic but forms the basis of India's constitutional morality. It mandates that religion and politics be kept separate, and that the state must treat all religions with equal respect and consideration. This constitutional commitment to secularism plays a vital role in ensuring that religious minorities feel secure and respected in the public sphere.

Further reinforcement of the rights and welfare of religious minorities comes from the Directive Principles of State Policy enshrined in Part IV of the Constitution. Although these principles are non-justiciable, meaning they cannot be enforced through the courts, they serve as important directives for the government in formulating laws and policies. Several of these principles, such as Articles 38, 39, 46, and 51A, underline the importance of promoting social justice, reducing inequalities, and protecting the interests of weaker sections of society. Article 38(1) mandates the state to strive to promote the welfare of the people by securing and protecting a social order in which justice—social, economic, and political—shall inform all institutions of national life. Article 46 directs the state to promote the educational and economic interests of the weaker sections of the people, particularly the Scheduled Castes and Scheduled Tribes, but this also extends by implication to other marginalized groups, including religious minorities. These directives create a framework within which the state is expected to act to promote the collective good, particularly for those communities who have historically faced discrimination and exclusion⁵.

It is also noteworthy that the Indian judiciary has played a proactive role in interpreting and enforcing these constitutional provisions to benefit religious minorities. In several landmark cases, the Supreme Court of India has reiterated the need to protect the rights of religious minorities and has often intervened to strike down policies or actions that infringe upon their constitutional protections. For instance, in the *Kesavananda Bharati* case⁶, the Supreme Court held that secularism is a part of the basic structure of the Constitution and cannot be amended or abrogated. Similarly, in the *T.M.A. Pai Foundation* case⁷, the Court reaffirmed the rights of minorities to

⁵ Maseeh Rahman, "Indian Leader Links Caste System to Apartheid Regime: Millions of Dalits Still Face Oppression, Says PM," *Guardian*, December 28, 2006.

⁶ AIR 1973 SUPREME COURT 1461, 1973 4 SCC 225

⁷ Decided on 31st October, 2002

establish and administer educational institutions, emphasizing that such rights are essential for the preservation of minority identity.

The Indian Constitution provides a comprehensive and multi-layered framework for the protection of religious minorities. Through a combination of enforceable fundamental rights, guiding directive principles, and a secular preamble, it seeks to create a just, inclusive, and pluralistic society. These constitutional safeguards are not merely theoretical but have been operationalized through judicial interpretation, legislative action, and administrative policies. In a diverse and multi-religious country like India, such protections are essential not just for minority welfare but for the health and sustainability of the democratic framework itself. Religious minorities form an integral part of the Indian nation, and their protection is both a constitutional mandate and a moral imperative.

Role of the Judiciary in Safeguarding Minority Rights

In a pluralistic society like India, the judiciary plays a critical role in upholding the constitutional promise of equality, dignity, and freedom for all citizens, including minorities. Given India's diverse social fabric, the protection of minority rights is not just a legal imperative but a foundational principle of democratic governance. The judiciary, particularly the Supreme Court and High Courts, has functioned as a bulwark against the infringement of these rights by legislative or executive overreach. Through its constitutional mandate and interpretation of fundamental rights, the judiciary has established itself as a vital guardian of the rights of religious minorities, ensuring that India's secular ethos is preserved amidst competing interests and political pressures.

Guardian of the Constitution

The Indian judiciary, especially the Supreme Court, is regarded as the guardian of the Constitution. It has consistently reaffirmed its role as the ultimate protector of fundamental rights enshrined under Part III of the Constitution. Article 32 provides individuals the right to move the Supreme Court for enforcement of these rights, thus empowering citizens and minority communities alike to seek justice directly from the apex court. The judiciary has often intervened when legislative or executive actions have appeared to curtail minority rights, ensuring that the principle of constitutional morality prevails over majoritarian politics.

One of the landmark judgments that illustrate this role is the *Kesavananda Bharati v. State of Kerala* case (1973), where the Supreme Court laid down the "basic structure doctrine." This judgment asserted that certain features of the Constitution, such as secularism, equality, and fundamental rights, cannot be amended even by the Parliament. This doctrine has provided a strong safeguard for minority rights by preventing any constitutional amendments that might undermine their status or freedoms. Furthermore, in the *Indira Sawhney v. Union of India* case (1992), the Supreme Court addressed the issue of reservations and recognized the importance of affirmative action to uplift backward and marginalized communities, including religious minorities, while also laying down limitations to prevent abuse of the policy.

The judiciary's proactive stance is further exemplified in the *T.M.A. Pai Foundation v. State of Karnataka* (2002) judgment. In this case, the Supreme Court upheld the right of minorities to establish and administer educational institutions of their choice under Article 30(1). The court clarified the extent of governmental regulation permissible without infringing upon this right, reinforcing the autonomy of minority institutions. Such decisions have significantly contributed to shaping the jurisprudence on minority rights and demonstrate the court's commitment to preserving constitutional guarantees.

Judicial Review and Activism

Judicial review and judicial activism have become powerful tools through which the Indian judiciary scrutinizes legislative and executive actions. In the context of minority rights, this power has often served as the last resort for communities whose voices may be marginalized in the political process. The judiciary's ability to entertain Public Interest Litigations (PILs) has expanded the scope of access to justice for minority groups, allowing individuals and civil society organizations to seek redressal even in the absence of direct harm.

A prominent example of this is the Supreme Court's judgment in the *Shah Bano case* (1985)⁸, where the court upheld the right of a Muslim woman to receive maintenance from her husband under Section 125 of the Criminal Procedure Code, transcending personal laws that denied such claims. While the judgment sparked a political and religious controversy leading to the enactment

⁸ 1985 AIR 945, 1985 SCR (3) 844

of the Muslim Women (Protection of Rights on Divorce) Act of 1986, it marked a significant judicial intervention in favor of gender justice within minority communities. The case underscored the judiciary's willingness to uphold individual rights, even in the face of opposition rooted in religious traditions.

Another significant intervention came in the form of the *Babri Masjid-Ram Janmabhoomi* case, wherein the judiciary was tasked with resolving a deeply sensitive and communally charged dispute. While the final verdict in 2019 handed over the disputed land to a trust for the construction of a temple, the court simultaneously recognized the illegality of the mosque's demolition and directed that an alternate plot be allotted for the construction of a mosque. Though the judgment drew mixed reactions, it reflected the judiciary's attempt to balance competing claims and maintain communal harmony.

Through PILs, the judiciary has also addressed instances of hate speech, mob lynching, and discrimination against religious minorities. In such cases, the courts have directed governments to uphold law and order and prevent the spread of communal violence. The judiciary's active role in such matters illustrates its readiness to intervene when executive machinery fails to protect the rights and dignity of minority citizens.

Balancing Rights and Religious Practices

India's constitutional framework guarantees both the right to religious freedom and the right to equality. The judiciary has often been called upon to strike a delicate balance between these rights, particularly when they come into conflict. Articles 25 and 26 of the Constitution ensure freedom of conscience and the right to freely profess, practice, and propagate religion. However, this freedom is subject to public order, morality, and health, as well as to other provisions of Part III of the Constitution. Consequently, the judiciary has had to determine which religious practices are protected and which may be regulated or restricted in the interest of social justice.

One of the most debated rulings in recent times was the *Indian Young Lawyers Association v. State of Kerala* (2018), commonly known as the Sabarimala case⁹. In this case, the Supreme Court struck down the centuries-old practice of excluding women of menstruating age from entering the

⁹ AIR ONLINE 2018 SC 243

Sabarimala temple, holding it unconstitutional and discriminatory. The judgment emphasized that religious freedom cannot override the fundamental right to equality and dignity. The decision marked a significant moment in judicial activism, showcasing the court's role in challenging patriarchal norms entrenched in religious traditions.

Similarly, in the *Shayara Bano v. Union of India* case (2017)¹⁰, the Supreme Court declared the practice of instant triple talaq (talaq-e-biddat) unconstitutional. The judgment reinforced the constitutional mandate of gender justice within personal laws and demonstrated the court's willingness to interpret religious practices through the lens of fundamental rights. These judgments highlight the judiciary's nuanced approach in respecting religious freedom while ensuring that such freedom does not perpetuate discrimination or inequality.

At the same time, the judiciary has also respected the autonomy of religious denominations in managing their affairs. For instance, in *Sri Adi Visheshwara of Kashi Vishwanath Temple v. State of UP* (1997)¹¹, the court recognized the rights of religious denominations under Article 26 to manage their own affairs in matters of religion. Thus, the judiciary has attempted to walk the tightrope between protecting religious liberty and ensuring that constitutional values are not compromised.

Moreover, the judiciary has acted to ensure that secularism — a basic structure of the Constitution — is not undermined by state practices. In the *Bijoe Emmanuel v. State of Kerala* case (1986), the Supreme Court protected the rights of Jehovah's Witnesses students who refused to sing the national anthem due to their religious beliefs. The court held that forcing them to sing the anthem would violate their freedom of conscience under Article 25. This judgment exemplifies the judiciary's commitment to individual conscience and religious belief, even when it may appear to conflict with patriotic or nationalistic sentiments¹².

The judiciary has played a vital and multifaceted role in safeguarding the rights of religious minorities in India. As the guardian of the Constitution, it has ensured that the promises of equality,

¹⁰ AIR 2017 SUPREME COURT 4609, AIR 2018 SC (CIVIL) 1169

¹¹ Decided on 14th March, 1997

¹² South Asia Citizens Web, Hindu Nationalism in the United States: A Report on Non-profit Groups, July 2014, 3.

dignity, and freedom are not rendered hollow by the tyranny of the majority. Through judicial review, activism, and a balanced approach to religious practices, the courts have upheld the secular and pluralistic ethos of the nation. While challenges remain, especially in the wake of rising religious polarization, the judiciary's independence and commitment to constitutional values continue to offer hope and recourse to minority communities. In a democracy as diverse as India, a vigilant and responsive judiciary is indispensable for the protection of minority rights and the sustenance of constitutional democracy.

Landmark Judgments Reflecting Judicial Attitude

The Indian judiciary has played a crucial role in shaping the contours of constitutional protection for religious minorities. Through landmark judgments, the Supreme Court has consistently interpreted the Constitution in a manner that upholds the rights and dignity of religious minorities. This judicial attitude not only reflects constitutional fidelity but also ensures the preservation of India's secular fabric. Some key cases, such as *State of Kerala v. Mother Provincial*¹³, *T.M.A. Pai Foundation v. State of Karnataka*, *Bijoe Emmanuel v. State of Kerala*¹⁴, and *S.R. Bommai v. Union of India*¹⁵, stand out as milestones in this context.

In the case of *State of Kerala v. Mother Provincial*, the Supreme Court was faced with the question of whether religious minorities had the right to manage their own educational institutions without undue interference by the state. The case arose when the Kerala government imposed certain conditions on educational institutions managed by Christian minorities, which were perceived as a violation of their rights under Article 30(1) of the Constitution. This provision grants religious and linguistic minorities the right to establish and administer educational institutions of their choice. The Court, in a well-reasoned judgment, upheld the rights of the Christian community, affirming that Article 30(1) is a fundamental right designed to protect the autonomy of minorities in the sphere of education. The judgment emphasized that this right was not a mere formality but an essential component of India's commitment to pluralism and diversity. The Court held that any regulatory measure introduced by the state must not destroy or abridge the essence of this right. This ruling demonstrated an early and profound judicial sensitivity towards the aspirations and

¹³ 1970 AIR 2079, 1971 SCR (1) 734

¹⁴ 1987 AIR 748, 1986 SCR (3) 518, AIR 1987 SUPREME COURT 748

¹⁵ 1994 AIR 1918, 1994 SCC (3) 1

cultural preservation of minority communities, highlighting the Court's role in defending constitutional guarantees from potential state overreach.

Another significant development came with the landmark case of *T.M.A. Pai Foundation v. State of Karnataka* (2002). This judgment marked a turning point in the jurisprudence of minority rights in education. The central issue was the extent to which the state could regulate educational institutions established by minorities. A larger Bench of eleven judges was constituted to examine the broader implications of Articles 29 and 30, particularly in light of earlier decisions that had offered varying interpretations. The Supreme Court held that minorities, both religious and linguistic, had the unequivocal right to establish and administer educational institutions of their choice. Importantly, the Court clarified that the state could introduce reasonable regulations in the interest of academic excellence, transparency, and the welfare of students, but such regulations must not infringe upon the core right of administration. The Court struck a balance between autonomy and accountability, stating that while the right to administer does not imply the right to maladminister, state interference should be minimal and non-intrusive. This judgment reflected the Court's evolving and nuanced understanding of minority rights, moving beyond a simplistic assertion of autonomy towards a structured approach that recognized the diversity of India while also safeguarding the broader interests of quality education. The ruling reinforced that the minority status of an institution could not be diluted simply because it admitted students from the majority community, thereby ensuring the continued protection of minority institutions in a pluralistic society.

In *Bijoe Emmanuel v. State of Kerala* (1986), the judiciary dealt with the intersection of religious freedom and patriotic expression. Three students belonging to the Jehovah's Witnesses refused to sing the national anthem in their school, citing religious beliefs that prohibited them from engaging in such nationalistic rituals. The school authorities expelled the students, leading to widespread debate over the limits of Article 25, which guarantees freedom of conscience and the right to freely profess, practice, and propagate religion. The Kerala High Court initially ruled against the students, stating that singing the national anthem was a reasonable restriction. However, on appeal, the Supreme Court reversed this decision and ruled in favor of the students. Justice Chinnappa Reddy, delivering the judgment, held that the mere refusal to sing the national anthem, without showing disrespect, did not constitute a breach of duty or patriotism. He emphasized that the constitutional

scheme allows for diversity in belief and practice, and coercing individuals to act against their conscience violated the spirit of secularism enshrined in the Constitution. This case became a touchstone for religious freedom, affirming that even the majority's patriotic sentiments cannot override the individual's right to religious expression. The judgment underscored the judiciary's commitment to protecting minority religious practices from majoritarian pressure and demonstrated a liberal and inclusive interpretation of constitutional rights.

Perhaps the most comprehensive pronouncement on secularism and the state's role in religious matters came in *S.R. Bommai v. Union of India* (1994). This judgment arose in the context of the dismissal of state governments under Article 356 following communal violence and allegations of religious intolerance. The case tested the constitutional boundaries of center-state relations, the misuse of emergency powers, and the essential nature of secularism. The Supreme Court, in a nine-judge Bench decision, held that secularism is a basic feature of the Constitution and, therefore, cannot be abrogated even by constitutional amendments. The Court stated that a state government that acts in a manner contrary to secular principles can be legitimately dismissed, as it violates the Constitution's core identity. The judgment emphasized that the government, both at the Center and in the states, must maintain equal distance from all religions and cannot favor or promote any particular faith. It noted that religious tolerance and equality of treatment are fundamental to maintaining India's pluralistic ethos. The Court also highlighted the role of the judiciary as a guardian of constitutional morality, tasked with checking any form of religious discrimination by the state. The decision in *S.R. Bommai* fortified the idea that secularism is not merely a political slogan but a constitutional mandate with enforceable legal consequences. The judgment serves as a foundational precedent in reinforcing that any governmental action motivated by religious bias is liable to judicial scrutiny and constitutional correction.

Collectively, these judgments reflect a consistent judicial attitude aimed at upholding the dignity, autonomy, and identity of religious minorities in India. They reveal a pattern where the Court has acted as a counter-majoritarian institution, stepping in to protect vulnerable groups from both direct and indirect encroachments on their rights. The evolution from *Mother Provincial* to *T.M.A. Pai*, and from *Bijoe Emmanuel* to *S.R. Bommai*, shows a deepening judicial engagement with the principles of pluralism, secularism, and individual liberty. The Court has not merely mechanically

interpreted the Constitution but has infused its rulings with moral reasoning rooted in human dignity and social justice.

Moreover, these cases collectively showcase the Indian judiciary's resolve to strike a balance between state interests and minority rights, ensuring that constitutional ideals are not compromised in the face of political or populist pressures. The Supreme Court's approach in these cases also resonates with international human rights standards that call for the protection of minority identities within democratic frameworks. By recognizing the diversity of India not as a challenge but as a foundational strength, the judiciary has consistently emphasized that the Constitution's promise of equality and liberty is incomplete without robust protections for religious minorities.

The judicial attitude towards religious minorities in India, as reflected in these landmark judgments, exemplifies a principled commitment to constitutional morality, pluralism, and secular governance. These cases stand as enduring testaments to the role of the judiciary in upholding the values of tolerance, mutual respect, and peaceful coexistence in a multi-religious society. As India continues to navigate complex socio-religious dynamics, the lessons from these judgments will remain vital in ensuring that the constitutional promise of justice and equality extends to every citizen, regardless of faith.

Evolving Judicial Trends and Changing Interpretations

Over the decades, the Indian judiciary has undergone a notable transformation in its approach towards the protection of religious minorities, reflecting a shift from a passive guardian of the Constitution to a more activist institution. This evolution, particularly evident post-1980s, signifies a growing willingness of the courts to step into domains traditionally reserved for the legislature or the executive, especially in matters concerning minority rights, religious freedoms, and personal laws. While this shift has enabled the judiciary to play a pivotal role in upholding constitutional values, it has also raised concerns about overreach and the balancing of religious autonomy with legal reform.

In the initial decades following independence, the judiciary maintained a largely restrained role, focusing on interpreting the Constitution with a conservative lens. During this period, the courts exercised judicial review cautiously, particularly when addressing sensitive issues relating to

religion and minority communities. However, the emergence of Public Interest Litigation (PIL) in the late 1970s and early 1980s marked a turning point. It empowered the judiciary to engage more deeply with social issues, including those affecting religious minorities. This newfound judicial activism, which gained momentum after the Emergency era, saw courts taking a proactive stance in defending fundamental rights, especially under Articles 14, 19, and 25-28. Consequently, the judiciary began playing an increasingly assertive role in scrutinizing legislative and executive actions through the lens of constitutional morality and minority protection.

A significant aspect of this evolving judicial trend is the development and application of the "essential religious practices" doctrine. First articulated by the Supreme Court in the *Commissioner of Hindu Religious Endowments, Madras v. Sri Lakshmindra Thirtha Swamiar of Shirur Mutt* (1954)¹⁶, this doctrine aimed to protect only those religious practices deemed "essential" to a particular faith. According to the court, it was not for the state to determine what constituted religion but rather what was essential to it based on the beliefs and tenets of that religion. While the doctrine was initially intended to safeguard religious freedom, its application over the years has often led to controversy. In several cases, courts have taken it upon themselves to define what constitutes an essential religious practice, leading to criticism that the judiciary is stepping beyond its constitutional mandate and venturing into theological interpretation. For instance, the *Indian Young Lawyers Association v. State of Kerala* (Sabarimala case) witnessed the court striking down a religious restriction based on gender, which it deemed non-essential, despite opposition from certain religious groups. This judicial scrutiny, though grounded in constitutional principles, has been critiqued for undermining religious autonomy and failing to adequately appreciate the pluralistic nature of Indian faiths.

Another area reflecting the judiciary's evolving interpretation is its approach to personal laws, particularly those governing religious minorities. Personal laws in India have historically been rooted in religious customs and traditions, and any attempt to reform them often triggers debates on cultural identity and secularism. The judiciary's intervention in this domain has been both applauded and criticized. The landmark judgment in *Shayara Bano v. Union of India* (2017), commonly referred to as the Triple Talaq case, is illustrative of this trend. In this case, the Supreme

¹⁶ 1954 AIR 282, 1954 SCR 1005

Court declared the practice of instant triple talaq (talaq-e-biddat) unconstitutional, holding it violative of fundamental rights. While the verdict was celebrated as a progressive move towards gender justice, it also reignited debates over the extent to which the judiciary should interfere in personal laws, especially when such interference may be perceived as an imposition of majoritarian values on minority communities. Critics argue that judicial reform in this sphere must be sensitive to the cultural and religious sentiments of the communities involved, lest it erode their sense of identity and belonging.

These evolving judicial trends highlight a complex interplay between constitutional values, religious freedom, and the role of the judiciary in a secular democracy. While judicial activism has undeniably enhanced the protection of minority rights and pushed for social reform, it also brings forth challenges related to judicial legitimacy, consistency in legal reasoning, and respect for cultural diversity. The inconsistent application of doctrines such as essential religious practices has sometimes led to unpredictability in outcomes, affecting the credibility of the courts among minority groups. Furthermore, the increasing tendency of the judiciary to act as a moral arbiter raises fundamental questions about the separation of powers and the appropriate boundaries of judicial intervention.

The Indian judiciary's journey from a passive to an activist role in matters concerning religious minorities underscores its commitment to upholding constitutional principles. However, this transformation must be accompanied by a nuanced and culturally sensitive approach that balances legal reform with respect for religious and cultural pluralism. As India continues to grapple with questions of secularism, minority rights, and social justice, the judiciary's interpretive choices will remain pivotal in shaping the country's constitutional and social fabric.

Judicial Responses to Communal Violence and State Inaction

The Indian judiciary has played a complex and evolving role in addressing communal violence and state inaction, often having to step in when executive and law enforcement agencies have failed to uphold constitutional principles. One of the landmark instances that highlighted the judiciary's proactive approach was the Best Bakery case¹⁷, formally known as *Zahira Habibullah*

¹⁷ AIR 2006 SUPREME COURT 1367, 2006 (3) SCC 374

Sheikh v. State of Gujarat. In this case, the Supreme Court of India transferred the trial from Gujarat to Maharashtra after serious allegations of witness intimidation and a hostile environment that undermined the judicial process. The case arose from the horrific incident during the 2002 Gujarat riots, where fourteen people, mostly from the minority community, were burnt alive in the Best Bakery in Vadodara. The initial acquittal of all accused due to lack of credible testimony drew national outrage. Zahira Sheikh, a key witness who turned hostile during the initial trial, later claimed that she had been threatened and coerced. Recognizing the failure of the state machinery in protecting witnesses and ensuring justice, the Supreme Court not only ordered a retrial outside the state but also emphasized the need for a fair and fearless judicial process. This case stands as a critical example of the judiciary's interventionist stance in matters of communal violence and its willingness to go beyond procedural formalities to ensure substantive justice. It also underscored the importance of witness protection in cases involving communal tension and political influence.

In parallel, the legal activism of human rights defenders like Teesta Setalvad in pursuing justice for the victims of the 2002 Gujarat riots brought multiple petitions before the courts, including those relating to the Gulberg Society massacre. Despite being subjected to intense political pressure, legal harassment, and public vilification, the courts permitted these cases to proceed. The Gulberg Society case, which involved the killing of 69 people including former Member of Parliament Ehsan Jafri, became a symbol of state failure to prevent or control the violence. While the judicial outcomes in these cases have varied—some resulting in convictions and others in acquittals—the judiciary's role in allowing these cases to be heard and investigated was significant. It demonstrated that, despite systemic inertia and external pressures, judicial forums could serve as arenas for redressal and accountability. Teesta Setalvad's efforts led to the reopening and re-examination of several riot-related cases that had previously been closed or improperly investigated, and the courts' willingness to consider these petitions reflected a guarded commitment to the rule of law, even in politically charged environments. However, the mixed outcomes of these cases also reveal the limitations of the judiciary in the absence of robust institutional support and a conducive political climate for impartial investigations.

The judiciary's responsibility to protect vulnerable communities in conflict zones has also been reflected in cases beyond the Gujarat riots, such as *Nandini Sundar & Others v. State of*

*Chhattisgarh*¹⁸. This case involved the Salwa Judum, a state-supported vigilante group that had been formed ostensibly to combat Maoist insurgents but had been widely accused of gross human rights violations against tribal populations, including Christians. The petitioners, including sociologist Nandini Sundar, highlighted how the use of such militias led to extrajudicial killings, displacement, and the destruction of tribal livelihoods. In a landmark judgment, the Supreme Court ruled that the deployment of armed civilian vigilantes violated constitutional principles and ordered the disbandment of Salwa Judum. The Court's observations went beyond the specifics of the case and reaffirmed the fundamental duty of the state to protect the rights of all citizens, especially those in marginalized and conflict-affected regions. It stressed that the state cannot abdicate its responsibilities under the guise of fighting insurgency and must adhere to constitutional safeguards even during internal conflicts. The judgment was a significant reaffirmation of the rights of religious and ethnic minorities and a rare instance of judicial intervention in a context where the state had used national security as a rationale for overriding civil liberties.

These cases collectively illustrate a broader judicial trend of engaging with communal violence not merely as isolated criminal acts but as systemic failures of state machinery. When state institutions become complicit or negligent, the judiciary has, in many instances, acted as the last resort for victims seeking justice. However, this judicial interventionism, while commendable, has not always resulted in comprehensive justice. The procedural delays, inconsistent rulings, and the lack of institutional follow-up often blunt the impact of even the most progressive judgments. Furthermore, the increasing politicization of communal violence and the polarization of public discourse pose challenges to the impartiality and effectiveness of judicial redress. In such an environment, the independence of the judiciary becomes both crucial and vulnerable. While landmark rulings like those in the *Best Bakery*, *Gulberg Society*, and *Nandini Sundar* cases showcase judicial courage, they also highlight the need for systemic reforms—such as improved witness protection programs, faster trial processes, and greater judicial oversight of law enforcement agencies.

¹⁸ AIR 2011 SUPREME COURT 2839, 2011 (7) SCC 547

The judicial responses to communal violence in India have been marked by moments of bold activism tempered by institutional constraints. The judiciary has intermittently risen to the occasion to protect minorities and uphold constitutional values when other arms of the state have failed. Yet, the pursuit of justice remains a protracted and uneven struggle, reflecting the larger tensions between democratic ideals and political realities. These cases serve as both reminders of the judiciary's potential as a guardian of rights and as cautionary tales of the limitations of justice in the face of entrenched state apathy and political interference.

Challenges and Criticism of the Judicial Approach

The judicial approach towards religious minorities in India has faced several challenges and criticisms over the years. One significant issue is selective activism, where the judiciary has demonstrated a proactive stance in some landmark cases while remaining noticeably passive in others, particularly those involving politically sensitive matters. This inconsistency raises concerns about the uniform application of justice¹⁹. Additionally, delays and procedural lapses are a recurring problem in cases involving communal violence or religious discrimination. Such delays not only weaken the victims' trust in the legal system but also hinder timely justice, which is crucial in sensitive matters. Another critical concern is the perception of majoritarian influence on judicial decisions. Critics argue that certain recent judgments appear to reflect the sentiments of the majority community, thereby casting doubt on the judiciary's role as an impartial guardian of constitutional values. For instance, the Ayodhya verdict in *M. Siddiq v. Mahant Suresh Das* has been viewed by some as prioritizing religious majoritarianism over secular principles. These criticisms collectively point towards the need for a more consistent, unbiased, and timely judicial approach to ensure the protection of religious minorities and the upholding of secularism enshrined in the Indian Constitution.

Comparative Insights: Global Judicial Perspectives on Religious Minorities

¹⁹ Artatrana Gochhayat, "Human Rights Violation and the Dalits: A Theoretical Background with Special Reference to Odisha," IOSR Journal of Humanities and Social Science 8:1 (January–February 2013): 55.

Judicial perspectives across different jurisdictions reflect the unique constitutional, cultural, and legal traditions of each region. In the United States, the judiciary—especially the Supreme Court—has historically championed a firm separation between church and state. This principle, rooted in the Establishment and Free Exercise Clauses of the First Amendment, has been pivotal in protecting religious minorities from state overreach. The American courts apply strict scrutiny to any government action that potentially infringes upon religious freedom, thereby creating a robust legal shield for minority faiths. Notable cases such as *Sherbert v. Verner*²⁰ and *Wisconsin v. Yoder*²¹ highlight how the judiciary has intervened to uphold the rights of religious minorities, balancing societal interests against individual freedoms. However, the Court has also shown restraint in certain instances, particularly where national interest or uniform application of laws is at stake, reflecting the complexities involved in adjudicating such rights.

In contrast, the European Union—guided significantly by the jurisprudence of the European Court of Human Rights (ECHR)—adopts a more nuanced approach to religious freedoms, particularly under Article 9 of the European Convention on Human Rights. The Court has developed a layered understanding of religious rights that considers both individual freedoms and the broader secular values of member states. In *Leyla Sahin v. Turkey*, the ECHR upheld Turkey's university headscarf ban, signaling its willingness to defer to national authorities in contexts where secularism is constitutionally embedded. Yet, the Court has also ruled in favor of minority groups when state actions were deemed disproportionate or discriminatory, emphasizing the need for a fair balance between public order and religious expression. This illustrates a delicate judicial dance—respecting national traditions while enforcing core human rights principles across diverse legal landscapes.

In Canada, the judiciary has embraced a multicultural model that seeks to harmonize individual rights with collective societal values. The Canadian Charter of Rights and Freedoms guarantees freedom of conscience and religion, and courts have interpreted this right with considerable sensitivity toward minority religious practices. In *Syndicat Northcrest v. Amselem*²², the Supreme Court of Canada ruled in favor of Orthodox Jewish residents who constructed succahs (temporary

²⁰ 374 U.S. 398 (1963)

²¹ 406 U.S. 205 (1972)

²² [2004] 2 S.C.R. 551

huts) on their balconies in contravention of condominium rules. The Court held that sincerely held personal beliefs must be respected even if they do not conform to religious orthodoxy, reflecting a liberal and inclusive judicial approach. Canadian jurisprudence tends to prioritize accommodation and the preservation of cultural identity, signaling a commitment to pluralism as a constitutional value. However, the courts are also vigilant against practices that conflict with other Charter rights or public policy, ensuring that religious freedom does not override principles such as gender equality or public safety.

Overall, while the U.S. emphasizes constitutional boundaries and judicial vigilance against state interference, the EU leans toward contextual balancing of rights, and Canada adopts an inclusive stance rooted in multiculturalism. Each model provides unique insights into the role of the judiciary in safeguarding religious minorities. Collectively, these perspectives underscore the importance of a legal framework that is both adaptable and principled, capable of protecting diversity in increasingly pluralistic societies.

Recommendations and Way Forward

In a pluralistic society like India, the protection of religious minorities and the preservation of their rights is not merely a constitutional obligation but also a moral imperative. The judiciary plays a crucial role in balancing the rights of religious communities with the secular framework of the nation. However, the current legal and institutional mechanisms often fall short in ensuring uniformity, prompt justice, and inclusive participation. Thus, comprehensive reforms are necessary to strengthen judicial attitude and enhance the protection of religious minorities. One of the key areas requiring immediate attention is the establishment of uniform standards for determining “essential religious practices.” At present, the judiciary lacks a clear and consistent method to adjudicate what constitutes an essential part of a religion. This has led to several instances of inconsistent and sometimes arbitrary judgments, which not only affect the credibility of the courts but also infringe upon the autonomy of religious groups. To address this issue, a uniform and legally sound test must be formulated, ideally by a constitutional bench of the Supreme Court, that respects religious doctrines while ensuring they do not violate fundamental rights. This will bring much-needed clarity and consistency to jurisprudence concerning religious freedoms.

Equally important is the need for judicial sensitization and training. Judges are often required to deliberate on matters deeply rooted in culture, faith, and community identity. Without adequate exposure to the complexities of religious diversity and minority rights, there is a risk of unconscious bias or lack of empathy influencing verdicts. Therefore, it is imperative to institute periodic sensitization programs and workshops for judges, especially those dealing with constitutional and human rights cases. Such training should focus on pluralism, religious tolerance, international human rights standards, and the historical context of minority protections in India. The objective must be to cultivate a judiciary that not only understands the letter of the law but also appreciates the socio-cultural fabric of the nation.

Another significant reform that can advance justice for religious minorities is the establishment of fast-track courts for cases involving communal violence and religious discrimination. Delay in justice delivery in such sensitive cases not only deepens the trauma of the victims but also diminishes public faith in the legal system. Designated fast-track courts with trained judges and specialized public prosecutors can ensure swift and impartial adjudication, thereby reinforcing the rule of law. These courts should be empowered to conduct time-bound trials and offer interim relief to the victims. Additionally, efforts should be made to shield witnesses from coercion and protect victims from further harassment. Timely and fair resolution of such cases will serve as a strong deterrent against communal crimes and reaffirm the commitment of the judiciary to uphold secularism.

Furthermore, legal aid for religious minorities must be significantly strengthened. Many members of minority communities, particularly those from economically weaker sections, face substantial barriers in accessing legal representation. This often results in under-reporting of violations, prolonged litigation, or miscarriage of justice. Legal aid clinics must be expanded, especially in minority-concentrated districts, and staffed with lawyers who are trained to handle issues related to religious rights and discrimination. Public awareness campaigns should also be undertaken to educate minorities about their legal rights and the mechanisms available for their protection. Moreover, the Legal Services Authorities should collaborate with civil society organizations to offer pro bono services and build trust within minority communities.

The rights of religious minorities require a multifaceted approach that includes legal reform, judicial training, institutional innovation, and community engagement. Establishing uniform standards for determining essential religious practices, sensitizing judges to cultural and religious nuances, creating fast-track courts for communal violence cases, and expanding legal aid services are all critical steps in this direction. These measures will not only enhance the efficacy of the judiciary but also strengthen the constitutional promise of equality and secularism. India's democratic ethos can only thrive when its most vulnerable groups are afforded equal protection and respect within the legal framework. Hence, the way forward must involve a committed and coordinated effort by the judiciary, legislature, and civil society to ensure that justice is not only done but is seen to be done for all sections of society, including its religious minorities.

Conclusion

The Indian judiciary has played a crucial role in shaping the landscape of minority rights in the country. Over the years, the courts have time and again intervened to uphold the constitutional values of secularism and pluralism, reinforcing the fundamental rights of religious minorities. Judgments in cases related to educational rights, freedom of religion, and protection against discrimination reflect the judiciary's commitment to ensuring that religious minorities are not rendered voiceless in a majoritarian political framework. These interventions have helped reinforce the idea that the Indian Constitution is not merely a legal document, but a moral compass that guards against the tyranny of the majority. However, the judiciary's approach has not always been consistent or uniformly protective of minority interests. In certain cases, the courts have shown reluctance to step beyond procedural technicalities or have interpreted laws in ways that appear to dilute the essence of minority protections. Such inconsistencies create a sense of unpredictability and erode the confidence of minority communities in the impartiality of the legal system²³.

This ambivalence becomes even more concerning in times of increasing social polarization and the politicization of religious identities. The judiciary, as the ultimate guardian of constitutional rights, must maintain a higher standard of sensitivity and vigilance in such a climate. The failure

²³ Shabnum Tejani, 'Defining Secularism in the Particular: Caste and Citizenship in India 1909-1950' [2013] Religion and Politics section of the American Political Science Association, 705

to unequivocally protect religious minorities risks normalizing discrimination and legitimizing exclusionary narratives. At the same time, it is essential to recognize that the judiciary does not operate in a vacuum. Its decisions are influenced by broader socio-political currents, public sentiment, and institutional constraints. Therefore, a nuanced evaluation of judicial conduct must account for these external pressures while also holding the judiciary accountable for its constitutional mandate.

To truly serve as a bulwark against religious majoritarianism, the Indian judiciary must adopt a more consistent and rights-oriented approach²⁴. It must interpret constitutional principles in a manner that strengthens the democratic fabric and fosters an inclusive national identity. Proactive engagement with issues of religious freedom, equal protection under the law, and non-discrimination must become a norm rather than an exception. Judicial training, greater emphasis on human rights jurisprudence, and increased public accountability can help shape a judiciary that is both aware of and responsive to the lived realities of minority communities. Moreover, landmark judgments that have upheld minority rights should be treated not as isolated victories but as foundational precedents for future judicial reasoning.

In conclusion, the judiciary in India holds immense power in defining the contours of minority rights and setting the tone for religious tolerance. While its track record has moments of remarkable courage and progressive interpretation, the need for a coherent, empathetic, and steadfast judicial philosophy cannot be overstated. As India continues to evolve as a diverse and democratic society, the judiciary's role as the protector of marginalized voices, especially religious minorities, becomes even more vital. A judiciary that is committed to justice not just in principle but in practice will be instrumental in preserving the pluralistic ethos of the Indian republic. Ensuring that religious minorities feel secure, respected, and equal in the eyes of the law is not just a constitutional requirement it is a moral imperative.

References

1. *T.M.A. Pai Found. v. State of Karnataka*, (2002) 8 S.C.C. 481 (India).

²⁴ Chandhokle. N., *Beyond Secularism: The Rights of Religious Minorities* (Oxford University Press, 1999) p.49

2. *Bijoe Emmanuel v. State of Kerala*, (1986) 3 S.C.C. 615 (India).
3. *S.R. Bommai v. Union of India*, (1994) 3 S.C.C. 1 (India).
4. *Zahira Habibullah Sheikh v. State of Gujarat*, (2004) 4 S.C.C. 158 (India).
5. *Shayara Bano v. Union of India*, (2017) 9 S.C.C. 1 (India).
6. *State of Kerala v. Mother Provincial*, A.I.R. 1970 S.C. 2079 (India).
7. *M. Siddiq (D) Thr. Lrs. v. Mahant Suresh Das*, (2019) 18 S.C.C. 1 (India).
8. *Nandini Sundar v. State of Chhattisgarh*, (2011) 7 S.C.C. 547 (India).
9. **India Const.** arts. 14, 15, 16, 19, 21, 25–30.
10. **India Const.** pmb.
11. *Leyla Şahin v. Turkey*, 2005-XI Eur. Ct. H.R. 173.
12. *Syndicat Northcrest v. Amselem*, [2004] 2 S.C.R. 551 (Can.).
13. Law Commission of India, **Report No. 267: Hate Speech**, (Mar. 2017), <https://lawcommissionofindia.nic.in/>.
14. Faizan Mustafa, *Secularism and Minorities in India*, 14 **NUJS L. Rev.** 1 (2021).
15. Upendra Baxi, *The Struggle for the Right to Religious Freedom*, 20 **Indian J. Const. L.** 77 (2017).

16. A.P. Shah, *Majoritarianism and the Indian Judiciary*, 9 **Indian Const. & Admin. L.J.** 23 (2020).
17. Rajeev Dhavan, *Minority Rights and the Indian Constitution*, in **Law and Society in Modern India** 171 (Sathe ed., 1995).
18. Ronojoy Sen, *Articles of Faith: Religion, Secularism, and the Indian Supreme Court* (Oxford Univ. Press 2010).
19. Gary Jeffrey Jacobsohn, *The Wheel of Law: India's Secularism in Comparative Constitutional Context* (Princeton Univ. Press 2003).