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## ***ABOUT US***

WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal providededicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

# **RELIGIOUS MINORITIES AND THE QUEST FOR EQUAL RIGHTS**

AUTHORED BY - ASHIMA SHARMA & DR. NEHA

Constitutional Safeguards for Religious Minorities India's constitutional design is built to insulate religious and cultural rights of minorities and, by that virtue, is an expression of a strong commitment to secularism and pluralism within the framework of democracy. In this conception, Articles 25 to 30 stand central, which together provide a legal foundation to protect and promote religious freedom and the rights of minorities. Article 25 gives every person the right to freedom of conscience and the right to exercise his religion freely, allowing a private right of conscience to function except when obstructed by public order, morality, or health. At the same time, Article 26 empowers all religious denominations and sects to manage their own affairs in matters of religion, to maintain institutions for religious and charitable purposes, and to administer such institutions. Articles 29 and 30 uphold the rights of minority communities to conserve their culture, language, and script, and to establish and administer educational institutions of their choice, free from any unwarranted interference thereby safeguarding minority identities in an extraordinarily diverse nation. Yet, the powers that intervene in the realization of minority rights become defective, for the majority on the socio-political front intervene within the sphere of electoral politics and communal influence, conspiring against the minority voices. For example, even with the law's protection, minority-run institutions are harassed by the bureaucracy with allegations of favouring their own, somehow revealing an inherent discomfort with their autonomy. The relationship between judicial interpretation and executive actions is sometimes marked by a contradiction between secularism and populist pressure, thus softening the implementation of these rights. Thus, while the Constitution is progressive in its approach to protecting religious liberty and culture, the process of meaningful realization is contingent upon an unfaltering commitment to secularism, judicial activism in defence of constitutional morality, and the formation of civic culture that embraces India's religious plurality not as a problem but as a defining asset central to the democratic ethos. Communal Violence and Discrimination India is culturally rich in many ways, and one major activity through which religious identities are constructed to inflict maximum suffering upon minority communities is communal violence. Such riots have, since pre-Independence times, become a mechanism through which, in riot after riot, the state is proven to



show collusion, apathy, or just indifference to its own constitution. This cycle is repeated, beginning with the 1984 anti-Sikh riots after Indira Gandhi's assassination when thousands were killed, through the demolition of the Babri Masjid and following communal riots all over the country in 1992, the 2002 Gujarat pogrom that left over a thousand people dead—most of them Muslims—and finally the 2020 Delhi riots. It is also very important to note that these riots are not spontaneous; they usually carry with them hate speech, slanderous remarks and organized campaigns that dehumanize communities and incite collective paranoia. Survivors in the aftermath of such violence are made to bear a double burden: the trauma of loss and long-term consequences, such as those of displacement, ghettoization, and economic exclusion, as specifically exemplified by the clustering of Muslim populations into poorly serviced urban ghettos due to security concerns and discriminatory housing practices. Time and again the failure to execute justice, represented in some of their many forms by long delays in trials, witness intimidation, and low conviction rates, deepens the feelings of alienation in affected communities and fuels a never-ending cycle of fear and resentment. Besides cases of episodic violence, everyday discrimination is meted out to religious minorities, especially Muslims and Christians, in employment, in recruitment for schools and colleges, and indeed in access to government schemes and programs, all of which are further entrenching socio-economic chasms. It is through such modes of structural and systemic exclusion that the evidence of poisonous religious hierarchies is exposed, thereby undermining any democratic aspiration. A credible approach will necessitate not only punishment of offenders and hate mongers by general law but also various institutional reforms that will depoliticize law enforcement agencies, grant independent judicial oversight, and commission large public awareness campaigns that will promote inter-faith dialogue and communal harmony as well as respect for religious plurality as inherent to the national identity of India. Personal Laws and the Uniform Civil Code Debate The UCC debate in India is a mirror image of the complex relationship between individual rights and religious freedom versus the constitutional ideal of equality. UCC traces its origin from Article 44 of the Directive Principles of State Policy, which envisions laws for all citizens, irrespective of religion, in matters of marriage, divorce, inheritance, and adoption. However, the fact remains that, along religious lines, personal laws in India still find application, that is, Hindus, Muslims, Christians, Parsis, etc., follow different sets of legal traditions, many of which are heavily marred with highly gender-discriminatory provisions. Proponents argue that UCC would foster national integration and gender justice, some patriarchal norms in certain religious laws, such as Muslim personal law's claims of male predominance in matters of inheritance, or procedural disparities across communities in divorce law, would be done away with. They contend that uniformity in civil law would reinforce the constitutional guarantee to equality



and would also tend to consolidate secularism. However, this perspective often finds itself at odds with minority groups' apprehensions about the UCC being a cultural assimilation project rather than a genuine legal reform. The opposition, especially in the Muslim community, says the discourse on UCC is majoritarian-tinged against a nationalist storyline questioning minority loyalty and autonomy. They maintain that reforming relationships ought to come through the informal processes of internal dialogue and legal evolution within communities, rather than externally imposed. Moreover, historical experience with selective reforms, like that in the Shah Bano case followed by the enactment of the Muslim Women (Protection of Rights on Divorce) Act, 1986, has aggravated suspicions and exposed the way political considerations outweigh genuine concerns for women's rights. Such concerns require a manner ahead that is sensitive, inclusive, emphasizes consensusbuilding, and appreciates religious diversity such that any uniform code eventually represents the plural ethos of the Indian Constitution. Therefore, it is not to be an imposition of sameness but an equitability relating to rights and responsibilities that assert for gender equality and yet recognize cultural plurality in a democratic setting.

Representation of Minorities in Governance and Public Life This indeed depicts minority representation in governance and public life in India as a major contrast with the ideals of inclusive democracy in the lived realities of the religious minorities, particularly Muslims. Though they constitute over 14% of national population, strange is their underrepresentation in all major institutions of power-Parliament, state legislatures, judiciary, and civil services. Such gross underrepresentation is a lot more than a statistical issue- it is symptomatic of deeper socio- political marginalization, because of historical neglect, deprivation in education and economy, and rising communal polarization. The historic Sachar Committee Report (2006) provided empirical evidence for socio- economic backwardness of the community, and this in itself indicated that Muslims fared worse than even Scheduled Castes and Tribes in several human development indicators. It contained recommendations of affirmative action, better access to quality education, fair employment opportunities including institutional structures like Equal Opportunity Commissions, among others. However, in several instances, the failure of these initiatives has been due to political apathy, lack of accountability, and an altogether communal rhetoric as if such demands would be sectarian politics. Only representation (like statistical representation) but also meaningful participation in the making of policies-for example, concern with genuine aspirations and cultural identities of minorities are reflected. Marginal presence of minorities in media, academia, and civil society also add to the invisibility of such narratives in national discourse. Structural reforms such as proportional representation, transparent recruitment in public services, inclusive curricula in education etc. could go a long way to redressing this imbalance. So is a political culture that values diversity while rejecting majoritarianism as the very

essence of strength in Indian democracy. When people must understand that strong representation for minorities is not just a social justice assignment but rather a prerequisite for democratic legitimacy and national cohesion. The Effects of Religious Nationalism on Equality In India, religious nationalism, most prominently expressed in the increasing weight of Hindutva ideology, has now had an important impact on the national identity in a way that is much at odds with the secular and egalitarian principles of Constitution. This ideology views India primarily as a Hindu nation, which has important implications concerning the principles of equality and religious freedom, as well as for democratic pluralism. Systematically marginalizing the religious minorities, especially Muslims and Christians, privileged Hindu culture and symbols in the public sphere, rendering their identities and practices alien or suspect. Such an ideological shift has been institutionalized through various state policies and law mechanisms, for instance, anti-conversion laws, which only apply to minority religious practices as if protecting the religious freedom of all and cow protection laws that have produced vigilante violence and criminalized livelihoods predominantly pursued by Muslims and Dalits. Another thing is educational reforms that erase or understate minority contributions to Indian history, deepening the lake of exclusion. All these things are coupled with a prevailing environment of fear and hostility, conditioned by hate speech, social media propaganda, and the politicization of religious festivals, justifying the normalcy of the othering of minorities. Its use of state apparatus in all ways possible-for surveillance, policing, and disenfranchisement as is what happens in the case of the NRC and CAA-raises some questions about the erosion of equal citizenship. These are changes not only in government policies but also going beyond that into an emerging cultural shift that seeks to increasingly delegitimize dissent and diversity. Thus, addressing the effects of religious nationalism is not simply a matter of legal safeguards but requires the revitalization of public life with constitutional values, judicial independence, and a vibrant civil society willing and able to challenge exclusionary narratives. Only reaffirming the foundation of secularism, justice, and equality can the nation hope to protect the democratic rights of all its people, regardless of their faith.

**Judicial Interpretation and Evolution of Constitutional Provisions** The Indian judiciary, predominantly the Supreme Court, played a significant role in giving life and progressive interpretation to the equality provisions of the Constitution so that the once static text could turn into a dynamic instrument for social justice. Owing to a series of landmark judgments, the judiciary expanded the dynamic meaning of Articles 14 to 21 so that they could always meet the changing needs of society and adapt to the basic ideals of justice, liberty, and equality. The evolution first began with the refinement of the doctrine of reasonableness and the principle of non-arbitrariness, especially as

expressed in the case of *E.P. Rajappa v. State of Tamil Nadu* (1974), wherein the Court propounded that equality runs counter to arbitrariness, laying the cornerstone of a much larger notion that administrative actions would, on the anvil of reasonableness, always be fair, just, and non-discriminatory. This interpretation marked a decisive departure from the formalistic notion of equality towards a dynamic one, where consequences and purpose of state action became key determinants. The Supreme Court, in a landmark judgment, further revolutionized constitutional jurisprudence in the *Maneka Gandhi v. Union of India* (1978) decision, where Articles 14, 19, and 21 were read in conjunction to bring the right to life and personal liberty into an intersection with the principles of fairness, due process, and dignity. Such a comprehensive interpretation raised the right to life far beyond mere biological existence to include the right to live with dignity, which also entails some basic socio-economic rights like those pertaining to education, health, and livelihood. Besides, the judiciary has reaffirmed the importance of Directive Principles for interpreting Fundamental Rights. For example, in *Minerva Mills v. Union of India* (1980), the Court observed that for the Constitution to achieve its objectives, a harmony between Fundamental Rights and Directive Principles is indispensable. The judiciary has upheld the affirmative action programs, welfare measures, and protective legislation for marginalized sections by invoking Directive Principles as constitutional imperatives that fill content in the formal rights. Such an interpretative technique practically has transformed non-justiciable principles into effective vehicles for justice. Furthermore, in cases like *Navtej Singh Johar v. Union of India* (2018), which struck down Section 377 of the IPC, and *Indian Young Lawyers Association v. State of Kerala* (2018), which concerned the entry of women into Sabarimala temple, the Court reaffirmed an interpretation of the Constitution aimed at dismantling deeprooted social prejudices. These judgements demonstrate how in an organized exercise of activism, the judiciary assured that the Constitution remains a living document adapted to the ever-evolving aspirations of society and meant to promote an egalitarian order.

Disparities in Educational Outcomes Based on Caste, Class, and Gender While India's reach and enrolment are expanding continually, the education system is very much aligned with the entrenched social hierarchies of caste, class, and gender where they manifest accentuated differences in educational access, quality, and outcome. Structural barriers to learning often faced by Scheduled Castes (SCs), Scheduled Tribes (STs), and Other Backward Classes (OBCs) comprise cultural alienation, language barriers, and discrimination by teachers and peers in general. They also come from poorly provided rural or remote areas with poorly established schools, where absence or insufficient training does not cater to the varied needs of students. Such



stigma and caste biases often make internalized inferiority in classes and result in lack of participation in the learning process, leading to massive dropouts and failure in education. Gender further complicates the entire scenario when girls, particularly those belonging to backward classes and low-income families, are subjected to restrictions related to early marriages, household work, and limitations on mobility, which hinders regular attendance at school and future dreams. Even if they are admitted to school, girls mostly experience a gender-bias in the curriculum; they have little access to proper facilities, including common toilets, depriving their dignity and safety as well. In addition, a number of children are said to have moved into child labour or irregular schooling due to economic constraints-of all kinds, especially in households which struggle with food insecurity or unstable income. Access to private coaching, digital learning tools, and English medium instruction, often very important in the competitive examination, is mostly available to a small segment of urban affluent households, creating deeper inequalities. The dismally low representation of students from such groups in higher education and professional sectors is a cumulative reflection of their disadvantage. Bridging these divides requires a multi-pronged approach that includes affirmative action in admissions and recruitment, inclusive and antidiscriminatory practices in teaching, enhanced budgetary allocations for marginalized populations, and community-driven initiatives to challenge regressive norms and empower families to prioritize education as a tool for upward social mobility.

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