

AN ERA OF DOOM OF DIVERSITY: RISE OF RELIGIOUS FUNDAMENTALISM IN INDIA FROM A LEGAL LENS

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ABSTRACT

This article delves into the burgeoning phenomenon of religious fundamentalism in India and its profound implications from a legal standpoint. Amidst India's rich cultural and religious diversity, the surge of religious fundamentalism presents a significant challenge to the nation's secular fabric and constitutional ethos. Through an extensive examination of legal frameworks, case studies, and socio-political dynamics, this study aims to uncover the multifaceted dimensions of religious fundamentalism and its impact on law, society, and governance in India. The article scrutinizes the historical roots and contemporary manifestations of religious fundamentalism, investigating its convergence with constitutional provisions, human rights, and legal jurisprudence. By analyzing pivotal legal cases and legislative responses, it elucidates the complexities involved in addressing religious extremism within a democratic framework while upholding fundamental rights and freedoms. Moreover, the article critically evaluates the roles of state institutions, law enforcement agencies, and civil society in ameliorating the adverse effects of religious fundamentalism and fostering communal harmony. Drawing upon interdisciplinary perspectives from law, sociology, and political science, this study provides insights into the underlying causes and catalysts of religious radicalization, encompassing socio-economic factors, political mobilization, and global influences. It emphasizes the necessity for a holistic and nuanced approach that integrates legal mechanisms with socio-cultural interventions to counteract the ascent of religious fundamentalism and uphold pluralism and tolerance in Indian society.

Keywords: Religious Fundamentalism; Socio-Legal Issues; Law In Society; Religion And Law.

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WHAT IS RELIGIOUS FUNDAMENTALISM?

Religious fundamentalism, a globally pervasive socio-religious phenomenon, embodies a fervent adherence to traditional beliefs, scriptures, and doctrines within various faiths. It promotes a stringent interpretation of religious principles, often in response to modernity, societal change, or perceived threats to core beliefs. This rigid adherence cultivates a distinctive worldview, asserting the absolute truth of its doctrines and a strong aversion to compromise or accommodation with differing beliefs. The roaring upsurge of religious fundamentalism in India reflects a socio-political response to diverse cultural, religious, and societal changes. It emerges amidst tensions between different religious groups, worsened by historical contexts, socio-economic disparities, and identity politics. Not a single day ends without some news on communalism. The question is what does it arise from? Any form of violence related to religious beliefs at all times has its roots in religious intolerance and religious fundamentalism. This resurgence manifests through fervent adherence to dogmatic beliefs, seeking to protect and assert traditional ideologies, often leading to societal polarization, intergroup conflicts, and challenges to the secular fabric of the nation.

THEORIES ON RELIGIOUS FUNDAMENTALISM: HOW DO THEY SUBSTANTIATE IT?

The study of religious fundamentalism in India from a sociological perspective involves exploring the complex interplay of various theories and factors that contribute to the rise and persistence of fundamentalist beliefs and movements within the country. Several sociological theories help in understanding the phenomenon of religious fundamentalism in India:

1. Social Strain and Anomie Theory: This theory, proposed by Emile Durkheim and later expanded by Robert Merton, suggests that societal strain or discrepancies between culturally defined goals and the means available to achieve those goals can lead to deviant behavior¹. In the context of religious fundamentalism in India, societal strain arising from socio-economic disparities, cultural clashes, and political instability can lead individuals or groups to seek solace in rigid religious doctrines, providing a sense of identity and stability in times of perceived social chaos or change.²

¹ Upadhyay, S. P., & Robinson, R., 'Revisiting Communalism and Fundamentalism in India' (2012) 47(36) Economic and Political Weekly 35.

² Emerson and Hartman, 'The Rise of Religious Fundamentalism' (2006) 32 Annual Review of Sociology 127.

2. Social Identity and Group Conflict Theory: Social identity theory, developed by Henri Tajfel and John Turner, explains that individuals derive part of their identity and self-esteem from the groups they belong to.³ When there are threats to these identities, especially in contexts where multiple religious, ethnic, or cultural groups coexist, it can lead to intergroup conflict. In India, religious fundamentalism often emerges in response to threats or perceived threats to a particular religious identity, leading to a more rigid and defensive stance, especially when faced with perceived challenges from other religious or cultural groups.⁴

3. Structural Functionalism: The structural-functionalist perspective examines society as a system with interdependent parts that work together to maintain social order and stability. Developed primarily by Emile Durkheim and later elaborated on by Talcott Parsons and Robert Merton, the structural-functionalism theory seeks to understand the functioning of society as a complex system of interrelated parts that work together to maintain social order and stability.⁵ In the context of religious fundamentalism in India, this theory aims to understand how fundamentalist movements might serve certain social functions within specific groups or communities. For instance, religious fundamentalism might offer a sense of solidarity, cohesion, and moral guidance to a community in times of social upheaval or rapid societal changes.

4. Rational Choice Theory: Rational choice theory focuses on the idea that individuals make decisions based on rational calculations of self-interest. In the context of religious fundamentalism in India, this theory could be applied to understand why individuals choose to adhere to fundamentalist beliefs. Individuals might see benefits in terms of security, social support, or a sense of belonging within religious fundamentalist groups, leading them to make a rational choice to join or support such movements.⁶ Sociologists and scholars like Rodney Stark, William Sims Bainbridge, and Roger Finke have utilized rational choice theory in understanding religious fundamentalism.

These sociological theories provide different lenses through which the phenomenon of religious fundamentalism in India can be understood. They underscore the complexity of

³ M. D. Litonjua, 'CONTENDING IDEOLOGIES: LIBERAL DEMOCRACY AND RELIGIOUS FUNDAMENTALISM' (2007) 33(1) *International Review of Modern Sociology* 21.

⁴ Amrita Chhachhi, 'The State, Religious Fundamentalism and Women: Trends in South Asia' (1989) 24(11) *Economic and Political Weekly* 567.

⁵ R. McDonough, 'Religious fundamentalism: a conceptual critique' (2013) 49(4) *Religious Studies* 561.

⁶ Dubey, R, 'New Hindu Religious Movements in Contemporary India: A Review of Literature' (2015) 64(2) *Sociological Bulletin* 152.

factors contributing to the rise and sustenance of fundamentalist beliefs, highlighting the socio-economic, cultural, and identity-related aspects that play a pivotal role in shaping religious movements and ideologies in the country.

SOCIO-LEGAL ANALYSIS OF RELIGIOUS FUNDAMENTALISM

On the most contemporary front, we observe the resurfacing of two of the oldest religions in recent times, namely Hindus carrying Sanatan Dharma and Muslims carrying Islam. What is starking is the sudden upsurge of this slow-stirring controversy and how Indian society is in a state of upheaval. The Constitution of India provides many safeguards as well as barricades to a citizen's ability to express their religion and simultaneously inculcate tolerance.

The implications of religious fundamentalism are far-reaching, affecting social cohesion, human rights, and democratic principles. Communal violence, such as the Gujarat riots of 2002 and the Muzaffarnagar riots of 2013, underscores the grave consequences of religious polarization and intolerance. Discriminatory practices, such as caste-based violence and religious conversions, perpetuate social divisions and undermine the principles of equality and secularism.

The Indian judiciary has played a crucial role in addressing religious fundamentalism through landmark legal pronouncements. While **Articles 25⁷, 26⁸, 27⁹ and 28¹⁰ of the Indian Constitution** provide for freedom of religious beliefs and freedom to act for its promotion, other provisions like **Article 19¹¹** 'reasonably restrict' the people of India from attacking the faith and sentiments of any religion.

The **Babri Masjid-Ram Janmabhoomi Dispute** is a contentious issue in India that revolves around the site in Ayodhya, Uttar Pradesh, where the Babri Masjid, a mosque, once stood. Hindu fundamentalists claim that the mosque was built upon the birthplace of Lord Rama, a revered Hindu deity, and advocate for the construction of a temple, the Ram Mandir, at the site. This dispute is emblematic of religious fundamentalism as it intertwines religious beliefs with political agendas. The dispute has been marred by acts of violence and religious tension, with both Hindu and Muslim fundamentalists engaging in aggressive rhetoric and actions to assert

⁷ Constitution of India, 1950, art 25.

⁸ Constitution of India, 1950, art 26.

⁹ Constitution of India, 1950, art 27.

¹⁰ Constitution of India, 1950, art 28.

¹¹ Constitution of India, 1950, art 19.

their claims over the site. The demolition of the Babri Masjid by Hindu extremists in 1992 triggered widespread riots and further deepened communal divisions.

Religious fundamentalism in this context has fueled extremism and intolerance, undermining the secular fabric of Indian society. The dispute has also become a focal point for political manipulation, with various parties exploiting religious sentiments for electoral gains. Efforts at reconciliation and legal resolutions have been protracted and challenging, reflecting the complex intersection of religion, politics, and law in the Indian context.

While, unfortunately, India has dealt with events like the **Babri Masjid Demolition (1992)** and **Gujarat Riots (2002)** which have been critically related to religious fundamentalism, it has also produced progressive judgments in cases like **Rev. Stanislaus v. State of Madhya Pradesh (1977)**¹² which directed severe actions against forced conversions with enforcement of laws like **Madhya Pradesh Dharma Swatantrya Adhiniyam (Freedom of Religion Act)**¹³, 1968.

In the **Shah Bano Case (Mohd. Ahmed Khan v. Shah Bano Begum, 1985)**¹⁴, a landmark decision in Indian jurisprudence, centered on the rights of Muslim women in matters of maintenance after divorce. The judgment, delivered by the Supreme Court of India in 1985, sparked intense debate and highlighted the clash between personal law based on religious principles and constitutional rights. The court ruled in favor of Shah Bano Begum, upholding her right to seek maintenance under **Section 125 of the Code of Criminal Procedure**¹⁵, irrespective of her religion.

However, the decision faced vehement opposition from conservative Muslim groups, leading to a political storm. Eventually, the Indian Parliament, under pressure from religious factions, passed the **Muslim Women (Protection of Rights on Divorce) Act in 1986**¹⁶, effectively overturning the Supreme Court's ruling and limiting the scope of maintenance for Muslim women. The Shah Bano case underscored the challenges of balancing religious practices with gender equality and highlighted the influence of religious fundamentalism on legal and social frameworks. It exposed the tensions between individual rights, particularly those of

¹² Rev. Stanislaus v. State of Madhya Pradesh [1977] 2 SCR 611.

¹³ Madhya Pradesh Dharma Swatantrya Adhiniyam (Freedom of Religion Act) 1968 (Act No. 20 of 1968).

¹⁴ Mohd. Ahmed Khan v. Shah Bano Begum [1985] 3 SCC 844.

¹⁵ Code of Criminal Procedure, 1973, s 125.

¹⁶ Muslim Women (Protection of Rights on Divorce) Act 1986 (India).

marginalized groups like women, and religious orthodoxy. The case remains a poignant example of the complexities surrounding the intersection of religion, law, and women's rights in pluralistic societies like India. The Supreme Court of India's decision led to widespread debates on the rights of Muslim women and religious laws. It was a vital change in Islamic Fundamentals. In another Landmark Judgement of **S. R. Bommai v. Union of India (1994)**¹⁷, the Supreme Court reaffirmed secularism as a basic feature of the Indian Constitution and held that secularism is essential for preserving the unity and integrity of the nation. The case revolved around the dismissal of the government in Karnataka state on the grounds of alleged communal considerations. The court's ruling upheld the principles of secularism enshrined in the Indian Constitution and emphasized the importance of maintaining the secular fabric of the nation. The judgment asserted that secularism is one of the basic features of the Constitution, essential for preserving the unity and integrity of India. It stated that any action or policy by the state that undermines secularism violates the Constitution and is subject to judicial review. Furthermore, the court held that the President's power to dissolve state governments should be exercised judiciously and not arbitrarily, with due regard to constitutional principles, including secularism. The S. R. Bommai case's ruling reaffirmed the foundational values of India as a secular, democratic republic and established important precedents for the protection of secularism in the country's governance and political processes. The Judiciary widened its scope and in **Aruna Roy v. Union of India (2002)**¹⁸ it gave the decision to uphold the constitutionality of the Right to Information Act reinforcing transparency and accountability in governance, countering opacity and corruption that may be exploited by religious fundamentalist elements. The case of **Danial Latifi v. Union of India (2001)**¹⁹ emphasized the need for gender-just interpretations of personal laws, reaffirming the rights of Muslim women to maintenance under the secular framework of the Constitution.

We see how there are judicial interventions and while the judiciary has made significant strides in upholding secular principles and protecting minority rights, sustained efforts are required to promote pluralism, tolerance, and equality in Indian society.

¹⁷ S. R. Bommai v. Union of India [1994] 3 SCR 1.

¹⁸ Aruna Roy v. Union of India [2002] 7 SCC 368.

¹⁹ Danial Latifi v. Union of India [2001] 7 SCC 740.

CONCLUSION

Binding it together, this article has tried to unveil the multifaceted nature of religious fundamentalism, highlighting its intricate interplay between faith, culture, and socio-political landscapes. Religious Fundamentalism's influence on individuals and societies is profound, impacting worldviews, politics, and social dynamics. It is crucial to comprehend the complexities and diverse manifestations of fundamentalism without succumbing to stereotypical judgments. Addressing religious fundamentalism requires nuanced approaches that respect religious diversity while promoting tolerance and understanding. By fostering open dialogue, education, and social inclusion, it is possible to navigate the socio-legal challenges posed by religious fundamentalism and work towards a more harmonious coexistence in a globalized world.

