JUDICIAL INFLUENCE ON RELIGIOUS PRACTICES: EXAMINING COURT INTERVENTIONS IN CONTEMPORARY HINDUISM

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Abstract

In the context of secular states, judicial intervention or involvement in religious affairs is a recurring phenomenon, primarily owing to two interrelated factors. First, modern legal frameworks do shape religious identities while simultaneously maintaining an artificial degree of separation from them.[1] Second, courts frequently act as arbiters of the extent to which governments can regulate religious practices and the centricity religion occupies in the public life.[2] As observed in India and the United States, judicial rulings have the tendency to often blur the distinction between the sphere of legislative action and judicial interpretation, having a direct influence on the public discourse and religious traditions, as observed.[3]

Legal scholars like Marc Galanter have proposed two fundamental ways in which the law interacts with the religion: "the limitation mode", which enforces observable public legal standards by deriding religious authority, and the "intervention mode", wherein the court steps in to reformulate religious traditions from within the structure.[4] This paper is set to explore how Indian courts, through the medium of both these mechanisms, reformulated religious practices and traditions, with a special emphasis on Hinduism. It proposes the argument that legal constraints which have their source in the common law principles inherently lead to deep interventions.[5]

This intersection of law and religion has been deeply pondered upon in India, with scholars analysing colonial-era policies that placed religious institutions under state control, the historical and political consequences of personal laws, constitutional provisions safeguarding religious freedom (Articles 25 & 26), and the role of the judiciary in implementing these mandates. The first part of this paper collates and synthesises existing research on the secular governance of Hindu temples. The second part examines a relatively unexplored dimension: the ways in which legal classifications and procedural formalities, completely independent of ideological or political motives, directly reformulate and shape religious practices.

The Hindu tradition lacks a direct equivalent for the Western concept of law (in both the ius and lex senses). It was only with the arrival of colonial rule that law, as a distinct category, was codified through the medium of translation of Dharmaśāstra texts. In the flux of time, dharma

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[1] Lambek, Michael. 2013. "Interminable Disputes in Northwest Madagascar." Pp. 1–18 in Religion in Disputes: Pervasiveness of Religious Normativity in Disputing Processes, edited by F. von Benda Beckmann, K. von Benda-Beckmann, M. Ramstedt, and B. Turner. New York: Palgrave MacMillan.

[2] Jurinski, James John. 2004. Religion on Trial: A Handbook with Cases, Laws, and Documents. Santa Barbara: ABC-CLIO Inc.

[3] Sen, Ronojoy. 2007. Legalizing Religion: The Indian Supreme Court and Secularism. Washington: East West Center.

[4] Galanter, Marc .1971. "Hinduism, Secularism, and the India Judiciary." Philosophy East and West 21 (4):467–87.

[5] Tarabout, Gilles. 2016. "Birth vs. Merit: Kerala Temple Priests and the Courts." Pp. 3–33 in Filing Religion: State, Hinduism, and Courts of Law, edited by D. Berti, G. Tarabout, and R. Voix. New Delhi: Oxford University Press

and religion became synonymous concepts,[6] while modern Indian languages adopted separate terms – such as **vidhi** (Sanskrit) and **qānūn** (Arabic-Persian) – to convey the idea of legal authority. This evolution symbolises how external legal frameworks have not only influenced governance but have also redefined the indigenous comprehension of law and religion.

Drawing from judgements delivered by India's highest courts, particularly those pertaining to religious institutions, this paper sets out to examine how legal mechanisms, irrespective of broader ideology or policy-driven motives, have fundamentally shaped Hindu religious practices in contemporary India.

I. THE INDIVIDUAL AND THE STATE: SECULARISM, LAW, AND RELIGION IN THE INDIAN CONTEXT:

While India possesses and has its distinct approach to secularism, it still shares numerous challenges with other secular democracies – specifically those where the legal interpretations of religions hinge upon a separation between the public and private spheres. This division or separation existed during the British colonial rule and was further solidified in the post-constitutional framework. According to one of the former Chief Justices of India, the architects of the Indian Constitution wilfully and deliberately placed the individual at the forefront of the nation's legal and political vision (Bhagwati 2005:40),[7] though this emphasis upon the individual did not go uncontested (Dhavan 1987:209).[8]

Under the preamble of the Constitution every citizen enjoy liberty in matters of thought, belief, faith, and worship. Article 25(1) reinforces this doctrine by declaring that all individuals, subject to considerations such as public order, morality and health, have the entitlement to freedom of conscience and the right to freely profess, practise, and propagate their religion. This focus upon the individual has been reflected in numerous Supreme Court rulings. For instance, a 1995 judgement[9] cited and quoted "Halsbury's Laws of England" to highlight that a religious community in its essence is essentially a voluntary group of individuals – a principle that extended to include more or less all religious organisations in India.

This legal hypothesis of religion being an aggregation of individuals stands in direct contrast to numerous religious traditions, wherein the emphasis is upon collective identity and holistic belonging. Focussing and emphasising individual rights has, in some instances, transformed religious behaviours and social expectations. Scholar Maya Warrier (2003:214)[10] provides a suggestion that the process of secularisation led to the withdrawal of religion from public life and its transformation into a more inward, personal, and self-fulfilling pursuit – less about shared cultural expressions and more about private belief and moral self-regulation.

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[6] Institutes of Hindu Law, or The Ordinances of Manu (W. Jones, trans., 1794); The Institutes of Manu (G. C. Haughton, ed. & trans., 1825); Lois de Manou (A. L. Deslongchamps, ed. & trans., 1830–1833); Yājñavalkya's Gesetzbuch (A. F. Stenzler, ed. & trans., 1849); The Ordinances of Manu (A. C. Burnell, trans., 1884); The Laws of Manu (G. Bühler, trans., 1886); The Code of Manu (J. Jolly, ed., 1887).

[7] Bhagwati, P.N. [1993] 2005. "Religion and Secularism under the Indian Constitution." Pp. 35–49 in Religion and Law in Independent India, edited by R.D. Baird. 2nd enlarged edition. New Delhi: Manohar

[8] Dhavan, Rajeev. 1987. "Religious Freedom in India." The American Journal of Comparative Law 35 (1):209–54

[9] Most. Rev. P.M.A. Metropolitan & … v. Moran Mar Marthoma & Anr, Supreme Court of India, on 20 June 1995 [1995 AIR 2001, 1995 SCC Supl. (4) 286, JT1995(5) SC1, 1995(4) SCALE1, [1995] Supp1SCR542]

[10] Warrier, Maya. 2003. "Processes of Secularization in Contemporary India: Guru Faith in the Mata Amritanandamayi Mission." Modern Asian Studies 37(1):213–53.

This trend found its reflection in a decision by the Bombay High Court, which defined religion from the perspective of personal conscience and ethical orientation. However, this limited view was deemed inadequate in capturing India's religious complexity. The landmark "Shirur Mutt"[11] case provided the platform for a broader understanding, wherein the Supreme Court acknowledged that religion is not only about internal belief but also about rituals, ceremonies, and codes of conduct that are part and parcel of the same, and it extends into areas such as dress and dietary customs. Therefore, in this context, the Constitution supports religious expression in public life, provided there is no conflict with public order, morality, or health.

Furthermore, Article 26 of the Indian Constitution recognises religious communities, granting them rights as "religious denominations". Though legal frameworks uphold individual freedom of belief, they also acknowledge that religion frequently manifests through the medium of collective practices and institutions. Nevertheless, the Constitution maintains an underlying individualistic orientation in its treatment of religion – a perspective that social science counts and critiques as overly simplistic, failing to comprehend the deeply intertwined nature of religion with societal, economic, political, and legal life.

In the context of Hinduism, this framework becomes even more complex. There is a direct contradiction and confrontation between the constitutional idea of equality and the certain hierarchical assumptions ingrained in Hindu upper-caste ideologies, specifically those which are based on Guna and Karma theory. As Coward (2005)[12] noted, the Constitution extensively replaces these traditional connotations with a modern, liberal conception of the individual rooted in the philosophies of Locke and the Utilitarians. This paradigm shift constitutes a fundamental reorientation – a form of legal revolution that repackages religious norms through the lens of constitutional equality and secular modernity.

The legal distinction between public and private domains has also enabled the state to regulate religious institutions, many of which are regarded as public entities. Since colonial times, and now under Article 25(2)(a), the state has had the authority to intervene in the economic, financial, and political activities of religious institutions—classified as "secular"—in the name of efficient governance. However, the Constitution does not precisely define what constitutes "secular" versus "religious" activity, leaving it to the judiciary to interpret on a case-by-case basis.

This has often proven challenging. Justice Gajendragadkar[13], in a 1963 ruling, acknowledged the difficulty of separating religious from secular practices in Hinduism, noting that nearly all actions in traditional Hindu life are religious in nature. Despite the complexity, he maintained that such distinctions had to be made. Gajendragadkar, known for his reformist outlook and background in Vedanta philosophy, later presented a broad interpretation of Hinduism grounded in monistic idealism, citing Sarvepalli Radhakrishnan's views and emphasising the centrality of the Vedas and the pursuit of moksha or spiritual liberation.

[11] The Commissioner, Hindu Religious Endowments v. Sree Lakshmindra Tirtha Swaminar of Sri Shirur Mutt, Supreme Court of India, on 16 April 1954 [1954 AIR 282, 1954 SCR 1005

[12] Coward, Harold G. [1993] 2005. "India's Constitution and Traditional Presuppositions Regarding Human Nature." Pp. 51–67 in Religion and Law in Independent India, edited by R.D. Baird. 2nd enlarged edition. New Delhi: Manohar.

[13] Gadbois, George H., Jr. 2011. Judges of the Supreme Court of India, 1950–1989. New Delhi: Oxford University Press.

This philosophical reading of Hinduism has influenced numerous judicial decisions, shaping how courts delineate religious practices from secular ones. In doing so, the judiciary often imposes a uniform framework over diverse religious expressions, filtering lived traditions through an abstract, legalistic understanding of faith. Such interpretations reflect an ongoing tension between constitutional ideals of individual freedom and equality and the plural, often collective nature of religious experience in India.

II. DRAWING THE LINE BETWEEN RELIGION AND SECULARISM:

The judiciary in India has been repeatedly called upon to demarcate the boundary between what constitutes religious practice and what falls within the secular domain. This line, though clarified over time through numerous judgments, remains dynamic and context-dependent. One area that illustrates this complexity is the dispute over priestly roles and appointments in temples across the country.

Due to administrative changes in the governance of both public and private temples, courts have frequently dealt with matters concerning the status, duties, and appointments of temple priests and other associated staff. For instance, in a landmark case concerning hereditary succession in Tamil Nadu temples, the Supreme Court ruled that appointing an Archaka (temple priest) was fundamentally a secular act. The hereditary nature of the appointment did not alter its secular character. While the priest may perform religious rituals after appointment, the act of appointing him was not deemed a religious rite (Seshammal, 1972).[14]

This interpretation was affirmed in subsequent rulings. The Court later expanded the scope of what was secular in the context of priesthood. It clarified that although conducting rituals is an intrinsic part of religious practice, the individual performing them is involved in a secular service. Thus, while the rituals may be sacred, the role of the priest as a service provider is not necessarily religious in nature (A.S. Narayana Deekshitulu, 1996).[15]

This marked a significant departure from traditional Hindu views, where ritual purity and caste-based qualifications were essential for temple service. A consequential 2002 Supreme Court decision[16] further liberalized access to priesthood, allowing individuals from all castes to serve in public temples, including those traditionally restricted to Brahmins.

III. THE DOCTRINE OF "ESSENTIAL RELIGIOUS PRACTICES":

A key instrument employed by Indian courts to navigate disputes involving religion is the concept of “essential practices”—a principle drawn from common law traditions but extensively developed in the Indian legal context. This doctrine provides a basis for judicial intervention into religious matters by distinguishing between core tenets of a religion and peripheral or non-essential practices.

[14] Seshammal & Ors, etc. etc v. State Of Tamil Nadu, Supreme Court of India, on 14 March 1972, p.832 [AIR 1972 SC 1586, (1972) 2 SCC 11, (1972) 3 SCR 815].
[15] A.S. Narayana Deekshitulu v. State of Andhra Pradesh, Supreme Court of India, on 19 March 1996 [1996 III AD (SC)135, AIR1996SC1765, JT1996(3) SC482, 1996(2) SCALE911, (1996)9SCC548, (1996)3SCR543]
[16] N. Adithayan v. The Travancore Devaswom Board & Ors., Supreme Court of India, 3 October 2002 [AIR 2002 SC 3538, 2003(1) ALD28(SC), 2002(4)ALLMR(SC)843, 95(2003)CLT504(SC), JT2002(8)SC51, 2002 (3)KLT615(SC), (2002)8SCC106, [2002]SUPP3SCR76]

In the 1954 Shirur Mutt case,[17] the Supreme Court, led by Justice Mukherjee, set the precedent by stating that religion should be understood in its strictest sense—excluding secular activities even if they are linked to religious traditions. Activities not forming an essential component of religious belief could thus be regulated without violating constitutional protections (Commissioner, Hindu Religious Endowments, 1954).

This approach evolved further in 1961 when Justice Gajendragadkar emphasized that even religiously motivated practices must be judged by whether they are integral to the faith. Practices deemed inessential, even if cloaked in religious form or derived from superstition, could be excluded from constitutional protection. This legal scrutiny opened avenues for courts to reform such practices under Article 26, which otherwise guarantees religious autonomy (Durgah Committee, 1961).[18]

To determine whether a practice qualifies as essential, courts often rely on the religious denomination's own tenets, typically in the form of written, authoritative texts—most often in Sanskrit. In the absence of textual support, a religious claim becomes more difficult to uphold. This reliance on normative texts reflects both a preference for textual proof and an elitist orientation in legal reasoning.

Consequently, rituals lacking textual basis are often labelled as "superstitious," a term with considerable social and political weight in India. This judicial stance has enabled reformist interpretations of Hinduism that differentiate between spiritually valid practices and those considered obsolete or regressive.

IV. BALANCING RELIGIOUS FREEDOM WITH SOCIAL REFORM:

The Indian Constitution explicitly mandates the State to promote social welfare and religious reform. Article 25(2)(b) empowers the State to ensure that public Hindu religious institutions are accessible to all segments of society. Thus, religious liberty is not absolute and must align with other fundamental rights. As Chief Justice N. Bhagwati observed, the aim was to break free from outdated, obscurantist traditions and promote rational social reforms. In his view, the secular State was entrusted with the historic responsibility of limiting religion to its essential sphere and regulating or discarding harmful practices when necessary (Bhagwati, 2005).[19]

Although this reformist impulse is grounded in the ideals of secular democracy, it often resonates with the goals of 19th-century Hindu reform movements such as the Brahmo Samaj and Arya Samaj, which aspired to restore a purified, Vedic form of Hinduism.

As scholar Sen[20] has argued, while the judiciary's drive to rationalize religious practice reflects the liberal-secular vision of early Indian leaders like Jawaharlal Nehru and Sarvepalli Radhakrishnan, it also inadvertently echoes the cultural nationalism embedded in Hindutva ideology. The shift from a broad, inclusive conception of Hinduism—rooted in tolerance and

[17] The Commissioner, Hindu Religious Endowments v. Sree Lakshmindra Tirtha Swaminar of Sri Shirur Mutt, Supreme Court of India, on 16 April 1954 [1954 AIR 282, 1954 SCR 1005
[18] The Durgah Committee, Ajmer and Anr. v. Syed Hussain Ali and Ors., Supreme Court of India, on 17 March 1961 [(1962) 1 SCR 383 at 411–412]
[19] Bhagwati, P.N. [1993] 2005. "Religion and Secularism under the Indian Constitution." Pp. 35–49 in Religion and Law in Independent India, edited by R.D. Baird. 2nd enlarged edition. New Delhi: Manohar
[2020] Sen, Ronojoy. 2007. Legalizing Religion: The Indian Supreme Court and Secularism. Washington: East West Center.

plurality—to a narrower, exclusivist narrative aligns, to some extent, with the ideological leanings of Hindu nationalist movements.

V. COURTS AND JURISDICTION IN RELIGIOUS MATTERS:

Though religious practices are generally outside judicial purview, courts in India do intervene when such practices involve civil rights, such as disputes over property, religious office, or the right to worship. These are treated as civil matters, thus falling within the jurisdiction of civil courts.

Right to Religious Office as Civil Right: Courts consider religious offices under Hindu law as a form of property, thereby making disputes over them subject to civil litigation, as per Section 9 of the Civil Procedure Code (CPC).[21] Even if the issue involves rituals or ceremonies, it can still be treated as a civil suit if it affects property or office.

Worship Rights and Property Access: The right to worship in a temple is equated to the right to use land and buildings, and is protected under Sections 145 and 147 of the Criminal Procedure Code (CrPC).[22] This interpretation allows the courts to intervene when denial of worship threatens public peace or infringes on an individual's right to use religious premises.

VI. PRECEDENTS ON WORSHIP AS A CIVIL RIGHT:

Madras High Court affirmed that denying temple entry or specific forms of worship is not just a ritual concern but a civil issue related to property use.

The 1916 Thirumalai Alwar Aiyangar case[23] supported that the right to worship is enforceable in civil courts like the right to hold a religious office.

Case Example – Jain Sect Dispute: In Ugamsingh & Mishrimal (1970),[24] a conflict arose between Digambara and Svetambara Jains over idol modifications and temple additions. The Supreme Court ruled in favor of the Digambaras, stating that the proposed changes interfered with their established right to worship. The court emphasized that such rights are protected under civil law, and any obstruction to them is subject to judicial remedy.

Judicial Intervention in Ritual Practices: While courts refrain from prescribing rituals, they often assess the consequences of ritual changes if they infringe upon others' worship rights. This leads to involvement in ritual-related matters when civil rights are affected.

Balancing Different Forms of Worship: Courts strive to protect all forms of worship provided they are genuine and non-intrusive:

In Rattan Singh (1951),[25] the Punjab and Haryana High Court supported bareheaded worshippers, holding that being bareheaded didn't impact others' rights or constitute a ritual violation.

[21] Code of Civil Procedure of 1908 (The). 2002.
[22] Code of Criminal Procedure of 1973 (The). 2014.
[23] Thirumalai Alwar Aiyangar … v. Lakshmi Sadagopa Aiyangar And …, on 24 August 1916, AIR 1917 Mad 903; 36 Ind Cas 568; (1916) 31 MLJ 758
[24] Ugamsingh & Mishrimal v. Kesrimal & Ors, Supreme Court of India, on 26 November 1970 [1971 AIR 2540, 1971 SCR (2) 836]
[25] Rattan Singh and ors. v. Beli Ram and ors., on 6 July 1951, AIR1952P& H163.

In Syed Farzand Ali (1980),[26] the Allahabad High Court upheld the right of Ahl-i-Hadith Muslims to say "Amen" aloud in mosques, despite opposition from Hanafi Muslims. The court stressed that religious freedom includes individual styles of worship unless they disturb public peace.

Complexity in Distinguishing Ritual vs. Right: The judiciary acknowledges the thin line between a ritual act and the right to worship. As noted in Gopanna (1944),[27] it can be challenging to determine what counts as ritual and what qualifies as a legal right, making judicial intervention both necessary and cautious.

VII. CONCLUSION:

The intricate interplay between civil law and religious practices in India reveals the judiciary's delicate balancing act in upholding constitutional rights without encroaching upon religious autonomy. While the general principle holds that courts refrain from adjudicating purely religious matters, they are empowered to intervene when such issues involve civil rights like the right to property, access to religious office, or the right to worship. These rights, recognized as being of a civil nature, fall within the jurisdiction of civil courts, even when they are entwined with religious customs and rituals.

The courts have, time and again, protected individuals' rights to worship according to their beliefs, as long as such practices do not infringe upon the rights of others or disrupt public order. By treating religious offices and acts of worship akin to civil entitlements, Indian jurisprudence has effectively provided legal recourse to aggrieved individuals or communities without necessarily dictating doctrinal interpretations or rituals. The judiciary's nuanced approach is evident in landmark rulings—from the right of Digambaras to worship an unadorned idol to the entitlement of Ahl-i-Hadith Muslims to say "Amen" aloud in mosques—where civil courts have intervened to prevent infringement upon worshippers' rights while refraining from redefining religious doctrines themselves.

Furthermore, the judiciary has acknowledged the fine line between regulating access to worship and determining how worship is conducted. Cases like Rattan Singh and Syed Farzand Ali underscore the principle that freedom of worship is sacrosanct but must coexist with communal harmony and mutual respect. These judgments reinforce the courts' role not as arbiters of theology but as protectors of individual freedoms within a pluralistic society.

In essence, the Indian legal framework, while rooted in secularism, accommodates the diversity of religious expressions by recognizing civil dimensions within religious disputes. This judicial approach upholds both the sanctity of religious belief and the supremacy of constitutional rights, ensuring that the spirit of coexistence and the rule of law prevail in the complex socio-religious landscape of the country.

[26] Syed Farzand Ali v. Nasir Beg And Ors., on 28 February 1980, AIR 1980 All 342.
[27] J. Gopanna v. K. Ramaswami, on Feb–04–1944, AIR1944Mad416.

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- *N. Adithayan v. The Travancore Devaswom Board & Ors.*, 3 October 2002 [AIR 2002 SC 3538, (2002) 8 SCC 106, JT 2002 (8) SC 51].
- *Seshammal & Ors. v. State of Tamil Nadu*, 14 March 1972 [AIR 1972 SC 1586, (1972) 2 SCC 11, (1972) 3 SCR 815].
- *The Commissioner, Hindu Religious Endowments v. Sree Lakshmindra Tirtha Swaminar of Sri Shirur Mutt*, 16 April 1954 [1954 AIR 282, 1954 SCR 1005].
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