

Religious Crimes in Developing and Non-developing Countries

Dr. D.S. Thalore

Principal

Govt. P.G. Law College

Sikar, Raj.

Email: dsthalore@yahoo.co.in

Dr. Bharat Singh

Assistant Professor

Mahrshi Dayanand Law College

Jaipur, Raj.

Email: rajbharat.singh13@gmail.com

Abstract

Religious laws are something which has existed since times immemorial among humans and they wished to be governed by those laws. The importance of these laws has diminished from time o time and to date in most countries they are restricted to Personal and Family Laws. Practicing particular religion is now one of the essential Human Rights as per the Universal Declaration of Human Rights, 1948. But in many places, these rights come with many restrictions. Situations regarding Religious laws are different in developed and developing countries.

These religious laws and freedoms are sometimes susceptible to both the religious offenses and crimes in the name of religion. Many countries have decriminalized religious offenses (blasphemy, apostasy, etc.) while many still follow them strictly, while crimes in the name of religion are increasing day by day due to religious extremism and intolerance. Extremism in monotheism and polytheism and various other religions has been studied by various scholars. The situation is the same and extremism can be found throughout the world in any form. Not only poor but well-educated people are also affected. These crimes in the name of religion majorly include terrorism and mass shoot out.

The present article talks about the above-mentioned situations and problems. The research methodology involved is based on secondary research and is critical and descriptive in nature.

Keywords

Religious laws, religious freedom, religious extremism, developed countries, developing countries.

Reference to this paper should be made as follows:

**Dr. D.S. Thalore,
Dr. Bharat Singh**

*Religious Crimes in
Developing and Non-
developing Countris*

Journal Global Values,
Vol. X, No.II,
Article No.23,
pp.218-226
[http://anubooks.com/
?page_id=6195](http://anubooks.com/?page_id=6195)

What are Religious Laws?

Religious Laws are the code of ethics and morality which since time immemorial are supposed to be upheld and required by the Divine God who is the sovereign. These Religious laws majorly include ancient Mosaic Laws, Islamic Laws, Christian Canon Laws, customary Hindu Laws and other such laws.¹ These Religious Laws before the late 18th Century were supposed to control the administrative and legal systems of many countries. Laws were formed and enforced according to the respective Religious Laws. In the West, until the early 18th Century, Church and Clergy were considered as the Supreme and the rule of “God” was applied irrespective of its validity and legality. On the other hand, in the Middle East countries, Islamic Laws were at their peak and the Gulf countries were predominantly ruled under these Laws. The Ottoman Empire followed the Sharia and Islamic Laws in their territories. It was after the French Revolution in the year 1789-1799, the Law of Church in the form of monarchy was out throne by the people of France. It was a socio-political revolution by the people of France which also focused upon the Religious Freedom of the people. In the Western Europe and Western Asia, predominance of Islamic Religious Laws became unstable after the fall of the Ottoman Empire and Khilafat in the year 1924, which resulted in the formation of the Democratic State of Turkey. Before the happening of all these events, the Political, Legal and Administrative systems of majority territories were framed and governed under Religious Laws. These events thus brought out the turmoil in the administrative and legal systems of such territories and resulted in the formation of new States with new government systems. It can be derived from previous discussions that theocracy was a common form of political system worldwide.

The another facet of Religious Laws is that, after all the Revolutionary Events, the Religious Laws were then made the part of administrative and legal system. In many countries, the religious laws were framed and are now are governed by the Legal systems. These Religious laws no more lead the Government, but the government keeps check on the enforcement of Religious Laws. Therefore, this facet of Religious Laws includes, Personal Laws or Family Laws. Though, this is not true for all the Countries. Several Gulf Countries, like Saudi Arabia, Iran and various African Countries are still prominently governed by the Religious Laws.

Therefore, Religious Laws can be classified into two categories, viz.:

Religious Law which governs the functioning of the various organs of the Government,

Religious laws which are governed by the various organs of the Government.

The second category of Religious Laws is a kind of Religious Freedom and the State ensures the protection of these Religious Freedoms in the form of Fundamental Rights and Liberties. The Indian Constitution provides such protection under Articles 25-28 of Part III.

Scenario in Developing and Developed Countries

Religious Laws in developing and developed countries are not followed or implied evenly. Things and situations in developing countries are different from those of the developed countries. Ideologies of the people of the developing Nations are less liberal and more conservative than those of the people of the developed Nations. Religious Laws and the associated customs are strictly followed and are considered highly sacred and are generally not subject to amendments in developing countries while this is generally not the case in developed countries.

India and Other Developing Countries

As discussed before, in India, the Religious Laws are considered as the part of Religious Freedom and are protected and ensured by the Indian Constitution. Even they are provided protection against any amendment as they are not considered law² as per the definition of law provided in Article 13. But the religious customs do not fall under this category. The inhumane religious practices have been struck down through various legislations every time and now. India is a Socialist, Secular and a Democratic Republic. Also, it is one of those developing Countries which were left underdeveloped after the Independence from the Colonial rule. Most of the Indian population was and till now uneducated and illiterate. The majority population is religious and attached to spiritual superstitions. Therefore, sometimes the laws are framed keeping in mind the religious sentiments of the people of the Country. It has never been easy for Indian Government to strike down or penalize any inhumane Religious Practice. During the reign of the East India Company, it took the British 58 years to ban Sati Pratha in the year 1861 throughout India. In independent India, the ban was brought in the year 1988 through the Sati (Prevention) Act, of 1987. Likewise, the age-old practice of instant Triple Talaq among Muslims was struck down in the year 2017. But, the approach of India, just like other developing countries, regarding Religious Laws has always been to protect the institutions and basic ideology of various religions. Chapter XV of the Indian Penal Code penalizes acts done against the Religious Institutions and Religious Harmony.

The Indian Sub Continental developing countries have a similar approach. Pakistan though is a declared and proclaimed Islamic Country, but the constitution of Pakistan gives its citizen the 'right to profess, practice and propagate their religion', 'subject to law, public order and morality'. It is to be taken in note that the Blasphemy

Laws are still enforced in Pakistan by its Courts³. Pakistan is one of those Countries which functions according to the Islamic Law. Likewise, Nepal has declared itself a Secular Nation through promulgation in September 2015⁴.

Crimes against Religions/ Religious Offenses

Although developing countries are trying their best to promote and protect the religious laws, but there are certain offenses that occur in every country in one form or another against the religious laws. There are certain offenses which at one time were universally condemned and offenders were subject to capital punishments. Heresy, Blasphemy and Apostasy are some of the common offenses against the religion. But the laws penalizing these offenses have been repealed by many countries after the Human Rights Declaration of 1948. But not all the developing countries have repealed it.

As discussed before, in India chapter XV of the Indian Penal Code provides for the punishment for offences against the religion. Sec 295 of the Act defines punishment of description of imprisonment which may extend to 2 years or with a fine or with both for destroying, damaging, or defiling any place of worship, or any object held sacred by any class of persons with the intention of insulting the religion of any class. Any class of persons cannot be restrained from erecting any place of worship on the land belonging to such class of persons merely on the ground of annoyance to another class of persons⁵.

Sec 295 A was inserted in the year 1927 which majorly talks about the offence of blasphemy. It penalizes the intentional act of wounding or outraging the religious feelings of any class of people. The question was being raised against the constitutional validity of the provision⁶ and the Constitutionality was kept intact in the provision.

The provision imposes a punishment of imprisonment up to 3 years, or with a fine or with both. This provision has the same secular spirit as that of the Constitution. Sec 295 A has been intended to respect the religious susceptibility of persons of different religious persuasions or creeds⁷.

Blasphemy laws in Pakistan are very much similar to that of Indian Laws but with stricter punishments. The highest and gravest of all the punishments is the Capital Punishment for defiling the name of Mohammed (PBUH) or other Prophets, intentionally or unintentionally (Section 295 C of the Pakistan Penal Code 1860). According to a civil society report, at least 50 individuals were imprisoned on blasphemy charges, at least 17 of whom were sentenced to death⁸.

Another type of offense is a social crime, which includes religious persecution. These kinds of offenses occur mainly in underdeveloped countries. A recent (2017)

example is the ethnic cleansing of Rohingya Muslims from Myanmar. Myanmar has been declared as the world's least-developed country in the year 2014 in the report from the United Nations Conference on Trade and Development. Similar is the situation in African Predominantly Islamic Countries, where despite being the secular constitution, Religious (Christian) Persecution is evident⁹. These are the result of religious extremism and fear and discourse against multiculturalism which shall be discussed further.

Developed Countries

Generally developed countries have different approaches toward the Religious Laws. They have more liberal ideas and high tolerance level towards these laws. The developed countries in the West and Europe are majorly secular. Developed countries in Middle East Asia are still theocratic. Here, the Religious Islamic Laws control the functioning of the government. Shariah law is predominantly followed here.

The USA is one of the major developed countries in the world. Salem Witch Trials of 1692 was the last case in the USA which was tried according to the rule of the Church and over 150 men, women and children were accused in the trial. The trial was later condemned by the public. The Constitution of the USA clearly says that Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof (The First Amendment 1791). This amendment separated the State and the Church in the USA. Although after the decriminalization of homosexuality in the USA, various States have passed Religious Laws restricting and discriminating gay marriages. These included refusal of services or employment to the gay couples protecting sincerely held religious beliefs and moral convictions¹⁰.

In Europe, the member States of the European Union have entered into the Convention for the Protection of Human Rights and Fundamental Freedoms also known as European Convention on Human Rights in the year 1950 (4 November, 1950). Article 9 of the convention specifically protects and ensures the Freedom of thought, conscience and Religion which includes the right to change religion or belief either alone or in the community, in public or private and to manifest religion or belief in worship, teaching, practice and observance. This freedom is subject to such limitation prescribed by the democratic society of such State in the interest of public safety and protection of public order, health, or morals or for the protection of the rights of others¹¹.

47 States of Europe are members of this convention. The Convention established one European Court of Human Rights in the year 1959 where any individual who feels his rights are violated by any member State can take his case.

An application was sought by a student against the Order of the Vice Chancellor of the Istanbul University which stated that students wearing Islamic headscarves shall not be allowed to attend any lecture or take exams. The applicant was restrained from taking one exam and also restrained from taking lectures according to the said Regulation/Order. The European Court of Human Rights unanimously held the Order of the University non-violating the Human Rights of the Applicant stating that, the regulation on Islamic Headscarf was not directed against the applicant's religious affiliation but pursued the legitimating act of protecting order and the rights and freedom of others and were manifestly intended to preserve the secular nature of educational institutions.¹²

Crimes Against the Religion/ Religious Offences

According to the Report of the United States Commission on International Religious Freedom, 2017¹³ it was found that most of the First World Countries including the USA, China and the UK do not have Blasphemy Laws. There is utmost freedom of speech and expression to people and Blasphemy is not an offence against any Religion.

Whereas, the developed nations in the Middle East Asia including Saudi Arabia, United Arab Emirates and Egypt from Africa do have high levels of Blasphemy Laws. In fact, these Islamic Nations, along with other Countries including Pakistan, after the 1948 Declaration of Human Rights, had entered into the Cairo Declaration of Human Rights in Islam, in 1990 and decided to make laws regarding Blasphemy and punishing the offenders.

The social crimes against the Religion in Developed countries are mostly hate crimes, which also are not particularly against religion but majorly against race and ethnicity.

According to the Law enforcement agencies in the USA, hate crimes motivated by a victim's religion were 20.6% whereas those against race, ethnicity and ancestry were 59.6%¹⁴.

Religious Crimes under this head particularly means the crimes against the society by the people who are driven by their own version of religious beliefs. These crimes majorly include mass shoot out, mass suicide, terrorism, the holocaust, gas attacks, etc. Monotheism is generally considered as the genesis of these crimes. Most of these crimes are done in the name of Islam. Although no divine scripture promotes violence and crimes against the innocent.

“Do not take revenge, my dear friends, but leave room for God's wrath, for it is written: ‘It is mine to avenge; I will repay,’ says the Lord.”(*Roman 12:19*).

“...if anyone slew a person- unless it is for murder or for spreading mischief in the land- it would be as if he slew the whole people: and if anyone saved a life, it would be as if he saved the life of the whole people.”(*Al- Qurán 5:32*).

“...take not life, which God has made sacred, except by way of justice and law: thus doth He command, that ye may learn wisdom.” (*Al- Qurán 6: 151*).

“What causes fights and quarrels among you? Don’t they come from your desires that battle within you? You desire but do not have, so you kill. You covet but you cannot get what you want, so you quarrel and fight. You do not have because you do not ask God.” (*James 4:1-2*).

It is therefore somehow clear that the divine and Holy Scriptures do not spread the violence or the ideology thereto. Neither monotheism advocates violence and crime. Such crimes are mainly the outcome of individual interpretation of the scriptures and hatred towards multiculturalism. These crimes are mainly psychological and a result of frustration and intolerance which results in extremism.

“O mankind, indeed we have created you from male and female and we made you Nations and tribes that you may know one another.” (*Al- Qurán 49:13*).

Reason for Increasing Religious Crimes

The Religious Crimes can be seen in every nation irrespective of its economic status. Developed Nations have suffered from such crimes for some time and now but they have developed better control and surveillance mechanism while the rate is still higher in developing and underdeveloped countries. The most recent case of 2015 was in Paris, where the office of Charlie Hebdo newspaper was attacked by the terrorist group Al Qaeda in response to the publishing cartoon of Mohammed (PBUH). It was a kind of mass shooting that was the result of extremism.

Religious Extremism and Intolerance

Extremism as according to the Oxford Dictionary means political or religious or any other ideas or actions that are extreme and not normal, reasonable or acceptable to the most people. Religious extremism thus is a set of ideas that are extreme and according to the extremists, fundamental to their religion. Religious extremism, fundamentalism, violence, terrorism and intolerance can be found anywhere and around the world. Religious extremism basically targets and is prominently against the idea of secularism, religious tolerance, multiculturalism, and equality. Extremism is a psychology of an individual and the stringent belief of the mass extremists. It is the result of a lack of education, unemployment and unwillingness to accept foreign culture and to get involved in foreign cultures.

Some other factors are patriarchal ideology, bad childhood experience, poor family problems, psychological disorders, failure to represent oneself on a world

platform, negative responses and behavior towards modernization and cultural fraternity, etc.¹⁵

One age-old and very important incident of extremism can be remembered in the form of The Holocaust of European Jews by the German Nazis. It was a mass execution and persecution of Jews by the German Nazis during the rule of Hitler.

Again, extremism is correlated to monotheism many times because it is believed and seen that monotheists are intolerant towards the idea and notion of multiple Gods, but it cannot be denied that polytheism now stands at equal footing. In India, many incidents in the past few years have occurred including mob lynching over the rumor of cow slaughter. Extremism in Hinduism is a new phenomenon coming up where concepts of “*gharwapsi*, *love jihad* and mob lynching” are seen. Religious tolerance in secular nations is something that is expected from the minority. But majority is supposed to do well for the minority.

Conclusion

Religious laws are not new to the human society and politics. The difference is just that society in the early days was governed by the Religious Laws while today it is governed by Man-made Laws which also control the Religious Laws. Secularism and religious freedom are essential to every political system in the current era. But these religious freedoms are subject to certain restrictions in several countries. But in the light of what has been discussed above it is evitable that practicing religion reasonably is not creating chaos in Secular Countries, while unrestricted freedom of speech and expression and poor governance is leading towards increasing crime rates both in developed and developing countries. There is nothing wrong in my opinion to restrict the right to freedom of speech and expression to the extent of protecting the human rights of other individual. On the other hand, blasphemy laws should be struck down with immediate effect as no Holy Script asks for the man-made punishments and convictions for those. Rather Religious Books speak of religious diversity and freedom to practice whatever religion people want to practice. Also, it is high time that these crimes should not be associated with any Religion in particular and should be considered and tried as crimes against the whole humanity.

References

1. *Religious Law and Legal Definition*. Us Legal. (Feb. 26, 2019, 2:45 PM). <https://definitions.uslegal.com/r/religious/>.
2. Mali, V. NarasuAppa. State of Bombay. AIR 1952 Bom 84.
3. Pakistan 2017 International Religious Freedom Report. International Religious Freedom Report for 2017, United States Department of States. 1.

4. Nepal Adopts New Constitution Becomes a Secular State: 5 Facts. NDTV. September 20 201 at 20:26 IST. (Feb 26, 2019, 3:09 PM). <https://www.ndtv.com/world-news/nepal-adopta-first-full-democratic-charter-today-1219574>.
5. *Kharii v. Nanjiappa*, AIR 1939 Mad 642.
6. *RamjiLalModi v. State of U.P.*, AIR 1957 SC 620.
7. *State of Mysore v. Henry Rodriguez*, 1962 (2) Cri LJ 564.
8. Pakistan 2017 International Religious Freedom Report, supra, 3.
9. Rosalind, I.J. Hackett. (2011). *Regulating Religious Freedom in Africa*. 25. *Emory International Law Review*. 853.855.
10. Which US states have passed religious laws. Bbc News. 7 April. <https://www.bbc.com/news/amp/world-us-canada-35990353>.
11. Renucci, Jean-Francois. *Article 9 of the European Convention on Human Rights*. 20. *Human Rights Files*. 1, 5.
12. *LeylaSahin v. Turkey*. [GC]- 44774/98, ECHR 2005- XI, [2005] ECHR 819.
13. Joelle, Fiss., Jocelyn, Getgen Kestenbaum. (2017). *Respecting Rights: Measuring the World's Blasphemy Laws*. *United States Commission on International Religious Freedom*. 3.
14. FBI (2018). *Spike in US hate crimes for the third year in a row*. BBC NEWS. 13 Nov. <https://www.bbc.com/news/world-us-canada-46189391>.
15. Vexen, Crabetree. (2016). *Religious Extremism*. *The Human Truth Foundation*. (Feb 2017, 2018 3:10 PM) <http://www.humanreligions.info/extrimism.html>.