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After India gained independence in 1947, the country's leaders promised its diverse constituents citizenship rights that extended across religion, gender, and caste. Distinct from its previous British rule, India's constitutional law guarantees citizens the right to religious freedom and associated cultural practices, and prohibits gender and caste-based discrimination. However, in ensuring freedom of religion, the constitution also effectively affirms gender inequality through patriarchal religious and cultural practices. This article examines how the constitutional rights of religious freedom and gender equality have been negotiated among each other in contemporary Indian society. I draw upon three landmark Indian Supreme Court cases that navigate the terrain of affirming both women's civic rights and religious freedom. Findings suggest that the Supreme Court is working toward a more inclusive definition of citizenship, particularly one that supports women's civic rights within the context of religious personal law.

**Keywords: Religion, gender inequality, discrimination****INTRODUCTION**

India is famous worldwide as a democratic, republic, secular, and sovereign country. It is popularly known for its rich, and royal culture, sacred traditional customs, and rituals. In Hinduism, women are worshipped as goddesses. Our religious scriptures believe that a woman represents the strength of emotions, balance in life, high intellect and defines aesthetics. She is the creator, very important element of the whole life cycle. Freedom of Religion is the person's right to choose which religion to follow and what to worship without any interference. Religion is a matter of belief or faith. The Constitution of India recognizes the fact, of how important religion is in the life of the people of India, and provides for the right to freedom of religion under Articles 25 to Article 28. The Constitution of India envisages a secular model and provides that every person has the right and



freedom to choose and practice his or her religion.<sup>1</sup> There is a constant conflict between the tenets of personal law and to ensure gender inequality. Religious traditions and norms treat women differently from men.

However, there is a constant conflict between the tenets of personal law and the need to ensure gender equality. The irony is a place like India where a woman is considered equal to the goddess, not only slays innocent unborn lives based on their identity of being a girl (a woman) but also makes her suffer throughout her life by restricting her liberties, committing various violent offenses against her, abusing her identity and existence, questioning her purity and what not?<sup>2</sup> A woman faces societal pressures, gender discrimination, and, suffering in the name of culture and customs throughout her life. She is even forbidden to retain her fundamental right to participate in religious activities and rituals. It is believed that a woman is impure when she is menstruating and that is why women are barred from participating in and practicing religious rituals and entering the temple during their menstrual cycle.

### Literature Review:

- 1) **Pangri Mehta** in her article “**Religious freedom and gender equality in India**” stated how the constitutional rights of religious freedom and gender equality have been negotiated among each other in contemporary Indian society.<sup>3</sup>
- 2) **Saumya Uma** in her article “**Clash of the Titans or Friendly Bedfellows? Freedom of Religion or Belief and Women’s Rights in India**” uses a case study of India to examine the contested relationship between two sets of human rights—freedom of religion or belief on the one hand, and women’s rights to life, dignity, equality, non-discrimination, sexual autonomy, and bodily integrity on the other.<sup>4</sup>
- 3) **Ajit Singh Chahal** in his article “**Right to religion and dignity for women in India: Constitutional and judicial articulation**” stated that “The societal attitudes too center and revolve around the patriarchal mindset thereby derogating the status of women in the social and religious milieu. The framers of the Indian Constitution have made a conscious effort to provide women with an adequate level of protection which would uplift and strengthen their position in society and their intention and effort are reflected in many articles of our constitution. The Constitutional framers by granting Fundamental Rights under Articles 14, 15, 16, 17, and 25 have tried to convert the equality of women from de

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<sup>1</sup> <https://www.universal-rights.org/womens-rights-and-freedom-of-religion-or-belief/>

<sup>2</sup> [https://www.humanrights.dk/files/media/document/Brief\\_no4\\_03%20FINAL-a.pdf](https://www.humanrights.dk/files/media/document/Brief_no4_03%20FINAL-a.pdf)

<sup>3</sup> <https://onlinelibrary.wiley.com/doi/abs/10.1111/ijsw.12188>

<sup>4</sup> Uma, S. (2022). Clash of the Titans or Friendly Bedfellows? Freedom of Religion or Belief and Women’s Rights in India. *The Review of Faith & International Affairs*, 20(2), 81–95.

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jure to de facto. But some orthodox people in the society are not able to digest this liberty and equality for women.”<sup>5</sup>

## OBJECTIVES

1. To study the causes of gender inequality in religious practices.
2. To find out the challenges in the relationship between freedom of religion or belief and gender equality.

## HYPOTHESES

1. In India there is discrimination due to religious points of view and that creates consequences in the development process.

## METHODOLOGY

For analysis this study is based on mainly secondary sources and information and issues are collected from different books, journals, and internet, etc.

## CAUSES OF GENDER INEQUALITY IN RELIGIOUS PRACTICES: -

Gender equality between women and men refers to the equal rights, responsibilities and opportunities for women and men and girls and boys. Equality does not mean that women and men will become the same but that women's and men's rights, responsibilities, and opportunities will not depend on whether they are born male or female.<sup>6</sup> Gender equality implies that the interests, needs, and priorities of both women and men are taken into consideration recognizing the diversity of different groups of women and men. Gender equity that provides a level playing field for men & women so that they have a fair chance to realize equal outcomes is a precondition for ensuring gender equality and human rights. The ultimate goal of gender equality is to ensure that women and men have equitable access to, and benefit from society's resources, opportunities and rewards. And, as part of this, women need to have equal participation in defining what is valued and how this can be achieved. Equity is a means. Equality is the result. Gender equity denotes an element of interpretation of social justice, usually based on tradition, custom, religion or culture, which is most often to the detriment to women. The Convention on the Elimination of All Forms of Discrimination against Women, also known as the Women's Bill of Rights, declares that countries should: • Act to eliminate violations of women's rights, whether by private persons, groups, or organizations, • Endeavour to modify social and cultural patterns of conduct that stereotype either gender or put women in an inferior position, • Ensure that women have equal rights in education

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<sup>5</sup><https://www.lawjournals.org/assets/archives/2021/vol7issue2/7-3-72-824.pdf>

<sup>6</sup> <https://www.universal-rights.org/womens-rights-and-freedom-of-religion-or-belief/>



and equal access to information, • Eliminate discrimination against women in their access to health care, • End discrimination against women in all matters relating to marriage and family relations.

Religious inequality is a term that refers to how individuals and groups suffer from systemic marginalization, exclusion, and, in extreme cases, genocide on account of their religious beliefs and affiliation. The basic causes are:

1. Uneven access to education
2. Lack of Religious Freedom
3. Societal Mindsets
4. Gender Stereotypes

### **SOME CASES THAT REFLECT THE RIGHT TO RELIGION AND GENDER EQUALITY: -**

1. **Sabarimala Temple Case<sup>7</sup>**: - The custom of excluding women aged 10-50 from entering the temple was declared unconstitutional by the Supreme Court in 2018 as it was violative of the fundamental rights of the women worshippers to pray.
2. **Shani Shingnapur Temple Case<sup>8</sup>**:- A division bench of Chief Justice D H Waghela and Justice M S Sonak gave the directions while hearing a public interest litigation by senior advocate Nilima Vartak and social activist Vidya Bal, challenging the prohibition of entry of women in temples like Shani Shingnapur in Maharashtra. The Bombay High Court held that women can no longer be barred from entering temples in Maharashtra and it is their fundamental right to go into places of worship and the government's duty to protect it.
3. **Haji Ali Dargah Trust Case<sup>9</sup>**:- The Bombay High Court allows entry of women inside the sanctum sanctorum of Haji Ali. This was a historic judgement and it was a great step towards gender justice to Muslim women.

### **CHALLENGES IN THE RELATIONSHIP BETWEEN FREEDOM OF RELIGION OR BELIEF AND GENDER EQUALITY:**

Some religions, religious scholars, and religious persons have argued that "gender inequality" exists either generally or in certain instances, and have supported a variety of remedies. Discrimination based on gender and religion is frequently the result of laws and practices that are justified by religious beliefs. Religious inequality is a term that refers to how individuals and groups suffer from systemic marginalization, exclusion and, in extreme cases, genocide on account

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<sup>7</sup>Indian Young Lawyers' Association vs State of Kerala ((2019) 11 SCC 1)

<sup>8</sup> <https://www.deccanherald.com/india/fundamental-right-of-women-to-enter-temples-in-maharashtra-bombay-high-court-518141.html>

<sup>9</sup>Dr. Noorjehan Safia Niaz vs State Of Maharashtra (AIR 2017 (NOC) 45 (BOM.))



of their religious beliefs and affiliation. This right is available to everyone including foreigners and even a corporation or a company. Article 15 says there cannot be any discrimination among citizens (not foreigners) on the grounds of religion, caste, sex or their place of birth. Articles 25 and 26 ensure freedom of religion to everyone in India. India is a pluralistic society and a country of religions. It is inhabited by people of many religions. The framers of the Constitution thus desired to introduce the concept of secularism, meaning state neutrality in matters of religion.

They also wanted to confer religious freedom on various religious groups. Religion has been a very volatile subject in India both before and after independence. Religious tolerance and equal treatment of all religious groups are essential parts of secularism. Secularism in India does not mean irreligion. It means respect for all faiths and religions.

The state does not identify itself with any particular religion. India being a secular state, there is no state or preferred religion as such and all religious groups enjoy the same constitutional protection without any favor or discrimination. Articles 25 to 28 of the Indian Constitution confer certain rights relating to freedom of religion not only on citizens but also on all persons in India.

These constitutional provisions guarantee religious freedom not only to individuals but also to religious groups. Arts. 25 to 28 seek to protect religion and religious practices from state interference. India has no preferred or state religion, as such; all religions are treated alike and enjoy equal constitutional protection without any favor or discrimination.

No specific protection has been accorded to any religious group as such. However, the policy of non-interference with religious freedom has not been taken to the length of allowing religion to impinge adversely on the secular rights of the citizens, or on the state's power to regulate socio-economic matters.

The constitutional provisions have raised several problems of interpretation. On the whole, the Supreme Court has interpreted these provisions intending to promote inter-religious amity, harmony, and accord. The court has, on the whole, leaned towards the minority groups and has conceded to them certain rights over and above the majority rights. Major challenges are:

1. Gender-based violence
2. Harmful Practices
3. Non- participation of women and leadership in religious institutions
4. Discriminatory family laws

## CONCLUSION:

When analyzing and addressing challenges related to Freedom of religion and gender equality, it is imperative to bear in mind this complexity and openly explore the different roles that religion can play in struggles for gender equality, rather than presume an inherently positive or negative



role of religion. It is the duty of the Parliament as well as the Religious Leaders to look into the matters of gender inequality reform such necessary laws and engage in awareness-raising and education to address gender equality in religion.

One must always consider religious freedom as a human right and the need to accord special protection to religion. It considers the implications of a single-minded pursuit of equality for human rights and the principles of democracy, along with the idea of a secular state that is neutral to all religions.

It looks at modern human rights law and how it is supposed to protect religious beliefs as well as religious conscience, the failure of courts in different jurisdictions to respect the apparent dictates of conscience when they conflict with public policy, and the profound connection between religious understandings and human nature. It argues that real sticking points of conscience, and especially objections arising from important religious beliefs, must be respected in a democracy.

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