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Criminal Aspects Relating to Religion: An Overview

Mahek Asrani

ABSTRACT

Religion is a frequent human pursuit, affecting many one of a kind cultural parameters, ethical concepts, and ideals, and influencing human questioning and behavior by imparting answers on the that means of human existence. Religion affords a comprehensive and sympathetic insight on the human orientation in the world and is an necessary thing of human culture. The practice of dealing with the sacred sphere of ritual or nonritual , the interpretation of daily and extraordinary experiences, the concordance with social norms, the contact with aesthetic and artistic expressions and symbols, as properly as many other existence domains, are all comparably embedded in this character and complex system. Religion affect behaviour through the channel of rules and restitution. Religious commitment and involvement help youth from negative behaviour and divergent activities. Religious involvement may lower the risks from minor to serious form of criminal behaviour. Religion play a central bonding role between each of four elements at the Hirschi social contract theory- attachment, commitments, involvements and beliefs. Religion and crime are individualist subject that receives significant attention in most society. The relationship between religion and crime discusses that how religion faith groups and religious institution may play a more practical and central role in effectiveness and enhance the criminal justice system. The majority of hate crimes in Internet is based on religion politics and girls. Nowadays religious crimes are taken easily and accept in very unpretentious manner. Inhumanity in the name of religion is becoming a part of daily activity. Day by day the hate crimes and minorities is increasing. But religion has been a important piece of the nation way of life. This paper concentrate on the religion law and crimes to accept the inadequacy and getting unity among the people. To understand the religious norms , laws and crime in India.

INTRODUCTION

India is a nation of religious fair variety and religious flexibility inn set up in both custom and law. Religious law is division of legal study and comparative law. It is passed down from generation to generation. Religion is categorized in different aspects such as religion and spirituality, religion and politics and religion and phycology. Religion have different view and belief and everyone approaches with different beliefs. According to the Isaak Sevansson “Religion has come to play an increasingly important role in shaping today’s world” It is a powerful connection between all of humanity. Religion is a belief system that unified with teaching, culture, practice’s and personal experience. According to Emile Durkheim “Religion is a unified system of beliefs and practices relative to sacred thing which unite in to one single moral community. Each society has ideas about good or bad behaviour. Every human society has a system of religion, values and belief. The relationship between religion and crime is based on “social contract function” social control contain the complete range of legal and causal pressure that directed to make people behave according to social and legal rules. social contract capacity it function for both society and individual. Religious is a set of values that influence religious rules and regulations. The relation between religion and crime is not so straightforward. On the one hand there are varied factors and reason that cause criminal behaviours. And on the other hand it is related to religious values that become crime and prevent factor that affect individual and society from different proportion. According to old concept religion can be viewed as the belief system and relationship with action. Religious involvement not only provides meaning to ones life but standard set of action’s. crime and criminal behaviour that are related with law. Law deals with two aspects. Firstly it is aspect of government the responsibility of government is maintenance of law and order. And secondly the aspect of social control. The correlation of criminal and immoral behaviour become important for the relationship with religion and crime. Religion have effect on people to make them avoid crime and criminal behaviour through fulfilling some functions on formal and informal and individual attitudes and social control tool of society. Religious people have strongly bond with the society and their values and norms and anathematize criminal behaviour. The relationship between religious values and inner motive. Religious gains its power to form the individual and aspects of groups. Religion is inspect from two element the belief feature of religion and formal dimension of religion. Religion build up social heritage of group and transference of values and beliefs to future generations. Crime defined as “violation of criminal law” criminal law is part of legal system which is affect by the right conduct of society. It means that the they have pressure types like both religious and law make people or behave through with social expectations. Religion is

defined as social control mechanism. Social control have total scope which directed for making rules and regulations by the way of social expectations. Social control mechanism is important for all societies but all societies have both formal and informal groups. Law is the legal control mechanism but it have no social control. There are so many patterns of authority in the society. There is no monopoly control in society, Authorities will have try to control in society and behaviour of people in the group. For example- teachers, parents and leaders. ¹

OFFENCES REALTING TO RELIGION

All societies have had criminal offences which related to religion. In the Christian west, the most religious criminal offences are defamation of Christianity (blasphemy) heresy expression of unacceptable religious views and damage to or destruction of sacred objects and building. Moreover In Britain the only left over element of the old offences is the crime of blasphemy and all other offences which are related to religion and other offences which are deal with ordinary criminal law.

As per the Indian penal code there are certain provisions and sections which deals with offences relating to religion. The principles on which this it would be recommendable that all governments should act, but from which the british government in india cannot depart without risking the dissolution of society that every man should be suffer to announce his own religion and that no a man should be suffered to insult the religion of other.

Section 295 of Indian penal code 1860 whoever destroys damage or defines any place of worship or any object held sacred by any class of persons with the intention of thereby insulting the religion of any class of persons is likely to consider such defilement damage or destruction as an insult to their religion shall be punished with imprisonment of either description for a term which can reach two years or with fine or both.

Section 295 (A) whoever with deliberate and malicious intention of outraging the religious feelings of his majesty's subjects in India, by words, either spoken or written or by visible representation insults or attempts to insult the faith or the religion of that class, shall be punished with imprisonment of either description for a term which can reach ten years or with fine or with both.

Religion is a protective factor that forestalls people from becoming involved in crime. There are separate theories on why religion protects people from involvement in crime .Religious

¹ criminal-justice.iresearchnet.com/crime/religion-and-crime

tends to have family members and friends who are also religious events reduces the chance of becoming involved in crime. Religious beliefs also called as internal beliefs. Every religion is established to form the society and drive the rules and regulation of society.

In the case **Kutti Chanami Moothan v. RanaPattar**,² it lays down that “ The Constitution of India grants freedom of religion and the Indian Penal Code lays down provisions for offences relating to religion. These offences are often classified into three broad categories: defilement of places of worship or objects of veneration, outraging or wounding the religious feelings of persons, disturbing religious assemblies. This paper discusses the varied offences defined under these categories.”

‘It is that the cardinal principle of excellent government that each man should be suffered to profess his own religion which no man should be suffered to insult the faith of another.’

It makes any conscious acts perpetrated by persons of one religious persuading for the insult or annoyance of persons of another persuasion punishable. The principle of secularism which falls in line with the Preamble of the Constitution of India along side Articles 25 to 30. Article 25 of the Constitution of India guarantees the right to freedom of religion. All persons are thereby entitled to practice, profess and propagate a faith of their choice. This freedom, though quite vast, isn't a vast one. It is one that's subject to public order, morality and health.

Concurrently, the State has to ensure that the religious beliefs of individuals do not become causes of hostility, tensions, controversies or violence of any manner amongst the people. Chapter XV of the Indian legal code ostensibly helps the State in maintenance and continuation of spiritual harmony within the country.

This chapter contains five sections – ss 295, 295a, 296, 297 and 298. The offences under this chapter are often broadly classified under three divisions:

1. Defilement of places of worship or objects of veneration (ss 295 and 297)
2. Outraging or wounding the religious feelings of persons (ss 295A and 296)
3. Disturbing religious assemblies (s 296)

² (1978) 19 Cri LJ 960

DEFILEMENT OF PLACES OF WORSHIP OR OBJECTS OF VENERATION

Section 295. Injuring or defiling place of worship with intent to insult the faith of any class
Whoever destroys, damages or defiles anywhere of worship, or any object held sacred by
any class of persons with the intention of thereby insulting the faith of any class of persons
or with the knowledge that any class of persons is probably going to think about such
destruction, damage or defilement as an insult to their religion, shall be punishable with
imprisonment of either description for a term which can reach two years, or with fine, or
with both.

Section 297. Trespassing on burial places, etc however, with the intention of wounding the
emotions of a person , or of insulting the faith of a person , or with the knowledge that the
emotions of a person are likely to be wounded, or that the faith of a person is probably
going to be insulted thereby, commits any trespass in anywhere of worship or on anywhere
of sculpture, or anywhere set aside from the performance of funeral rites or as a depository
for the remains of the dead, or offers any indignity to any human corpse, or causes
disturbance to any persons assembled for the performance of funeral ceremonies, shall be
punished with imprisonment of either description for a term which can reach one year, or
with fine, or with both.

INGREDIENTS

Section 295 compels people to respect the religious susceptibilities of persons of various
religious persuasions or creeds by making destruction, damage or defilement of an area of
worship or an object held sacred, with the intent to insult the faith , by a category of
persons, punishable.[ii] Section 297 extends the principle in Section 295 to places which are
treated as sacred. It punishes an individual who, with the intent to insult the faith of another
or hurt the religious feelings of an individual , commits trespass in anywhere of worship or
of sepulture, or anywhere of burial or place set apart for burial rites.[iii]The essential
ingredients of this section are:

1. Intention or knowledge.
2. Destruction, damage or defilement of a place of worship, a place of veneration
3. An object held sacred
4. Trespass into a place of worship a place of sepulchrea place set for performing
funeral rites or a depository of remains of the dead

Intention or knowledge

The essence of the offence under Section 295 is that the intention to destroy, damage or defile an area of worship or an object held sacred. Without the requisite malice aforethought, mere defilement of an area of worship isn't an offence. The intention to insult may be a question of fact which may be judged counting on the facts and circumstances of the case.

In the case of **Jan Mohammed v. Narain Das**³ the accused removed some rubble and old building materials belonging to a mosque that was in rotten condition and consequently in disuse. The accused was held not liable under these sections as he had no intention of insulting the Mohammedan religion or any of its practitioners. He also had no knowledge that his actions may cause insult or hurt to any class of individuals.

But, throwing a lit cigarette by a Mohammedan on the 'Viman', an object sacred to the Hindus can't be said to be an unintentional act or one without guilty knowledge. Such an action is an insult to the Hindu religion and its practitioners. Hence the accused was held guilty. Also, committing sexual activity within or inside a mosque or a temple is an offence under Section 297.

Destruction, damage or defilement

The words destroy or damage usually mean an act physically or materially affecting the property concerned but it should even be understood within the sense of making property dirty, unclean or foul. The word 'defilement' wouldn't only mean physical destruction but also situations wherein the place of worship or the thing of worship would be rendered ritually or ceremonially impure. The presence of an individual belonging to a lower caste during a Hindu temple hospitable only those of upper castes were held to not be defilement under the ambit of Section 295

Place or Object to be Sacred

A fundamental ingredient of this section is that the destruction precipitated need to be of a place of worship or an otherwise sacred place. Whether or now not a unique vicinity or object is sacred is a question of fact and as a everyday rule, temples, churches, mosques, synagogues, kyaungs are all viewed sacred by way of virtue of them being places of worship. In *Joseph v. State of Kerala*[viii] the accused got bona fide possession of a hut on agricultural land by a court

³(1883) AWN 39

order. This hut used to be used as a place of worship by means of people. The accused took possession and razed the hutment and took down the pix of the Hindu Gods. He was charged underneath Section 295. The High Court held that he had the right to use the land as he thrilled and had now not intended to hurt the non secular sentiments of others and therefore acquitted him .Books like the Bible, the Koran and the Granth Sahib are all held to be sacred even although they are now not worshipped per se.

Trespass into Place of Worship or Place of Sepulchre

Section 297 makes any trespass into a location of worship or a region of sepulture a crook offence. This potential that the trespass dedicated needs no longer amount to criminal trespass for it to come within the scope of Section 297. The word ‘trespass’ has been used in this part to indicate an unjustifiable intrusion upon a property in the possession of another.[x] Sexual intercourse within a area of worship would make the actors accountable underneath this section.

Indignity To Human Corpse And Disturbing Funeral Rites

Showing any manner of disrespect to a human corpse annoying the overall performance of funeral rites is a crook offence under Section 297. The phrase ‘disturbance’ potential any shape of energetic interference or the trouble to the overall performance of the funeral ceremonies.

In **Basir-ul-Huq v. State of West Bengal**⁴ the mother of one Dhirendranath Bera died. He along with others took the corpse to the cremation grounds. In the meantime, the accused filed a complaint with the police pointing out that Dhirendranath had throttled his mom to death. When the pyre was ablaze, the accused along with the sub-inspector arrived at the crematorium. The accused persuaded the policeman that if the flames had been extinguished that the marks of injury would be observed on the body. The fire was once consequently extinguished but no marks had been found. Dhirendranath filed a grievance against the accused under Section 297 and mentioned that a prior enmity brought about a mala fide intention to damage his non secular sentiments which brought on him to trespass on the cremation grounds and motive the useless body to be desecrated. The accused was convicted and sentenced to three months rigorous imprisonment.

Outraging Or Wounding Religious Feelings

Section 295A. Deliberate and malicious acts, intended to outrage non secular emotions of any class by insulting its faith or religious beliefs

⁴ 1953 AIR 293, 1953 SCR 836

Whoever, with deliberate and malicious intention of outraging the religious emotions of any classification of citizens of India, by words, either spoken or written, or with the aid of symptoms or with the aid of visible representations or otherwise, insults or attempts to insult the faith or the non secular beliefs of that class, shall be punished with imprisonment of either description for a time period which may prolong to three years, or with fine, or with both.

Section 298. Uttering, words, etc., with deliberate intent to wound the non secular feelings of any person

Whoever, with the deliberate intention of wounding the non secular feelings of any person, utters any word or makes any sound in the hearing of that man or woman or makes any gesture in the sight of that person or places, any object in the sight of that person, shall be punished with imprisonment of both description for a term which may additionally lengthen to one year, or with fine, or with both.

in *S.R Bommai v. Union of India*⁵, Supreme Court of India ruled that India was a secular state from the time it adopted its constitution, what actually was done through this amendment is to state explicitly what was earlier contained implicitly under article 25 to twenty-eight . Every citizen of India features a right to practice and promote their religion peacefully.

Disturbing Religious Assembly

Section 296. Disturbing religious assembly

Whoever voluntarily motives disturbance to any assembly lawfully engaged in the performance of non secular worship, or religious ceremonies, shall be punished with imprisonment of both description for a time period which might also lengthen to one year, or with fine, or with both.

INGREDIENTS

The indispensable substances of this area are:

1. There must be an meeting which is engaged in the overall performance of non secular worship or spiritual ceremony
2. Such assembly and overall performance of such ceremony ought to be lawful
3. The accused must cause disturbance to such assembly
4. The accused need to do so voluntarily

⁵ [1994] 2 SCR 644 : AIR 1994 SC 1918 : (1994)3 SCC1

This part affords exceptional safety to congregational worship. It does not cowl person worship. A religious procession is viewed as a lawful assembly except it interferes with the ordinary use of the streets through the public or contravenes any policies or regulations.

Where a mosque located on the banks of a highway, passing by way of in a procession with song enjoying loudly at a time when prayers are going on will be an offence as such music would always disturb the congregation engaged in prayer.

SUGGESTIONS

1. Developing the economy as religious groups play a measurable role within the human and social development of countries
2. Religion is one of the important factors influencing the practices and policies of organisation.
3. There are nine aspects of religion or traditions such as text, ritual, individual spiritual experience, beliefs, ethics, symbol, stories, social structure, spaces time and place should be fulfilled.
4. Helping to reduce violence and religious crimes by allowing faith-based ethics to be voiced

CONCLUSION

India referred to as the land of spirituality and philosophy, was the birthplace of some religions, which even exist today within the world. The foremost dominant religion in India today is Hinduism. About 80% of Indians are Hindus. Hinduism may be a colourful religion with a huge gallery of gods and goddesses. Hinduism is one among the traditional religions within the world. It's alleged to have developed about 5000 years ago. Then, in ancient period other religions developed India.

“RELIGION AND GOVERNMENT WILL BOTH EXIST IN GREATER PURITY, THE LESS they're MIXED TOGETHER.” – Madison

Around 500 BC two other religions developed in India, namely, Buddhism and Jainism. Today only about 0.5% of Indians are Jains and about 0.7% are Buddhist. In past Jainism and specially Buddhism were very fashionable in India. Indians who accepted Buddhist philosophy spread it not only within the Indian sub-continent but also to kingdoms east and south of India.

These three ancient religions, Hinduism, Buddhism and Jainism, are seen because the moulders of the Indian philosophy. In 'modern period' new religions were also established in India. Along side the religions that developed in India, there are followers of non-Indian religions. The most important non-Indian religion is Islam. They're about 12% of the India's population. Christians are quite 2% of India's population. There also are Zoroastrians who albeit who albeit make but 0.01% of India's population, are known around India.

Religion fill up a important place in the Human lives. Freedom of religion allow different belief, opinion and deduction that people have in there own religion to perfection that as well as develop in the society. It play an integral part in influencing the convictions and minds of the people. It also plays an important role especially in the Indian society in govern the conduct as well as behaviour of the people. Indians are very possessive when it come to their religion and they become alert as soon as any person tries to hamper it or creates an obstacles in the creating or journey of religious worship.