

4. The Freedom of Religion is the Basic Human Right

A. Subhashini

Assistant Professor,
Government Law College,
Salem, Tamilnadu, India.

Abstract:

This paper provides information about human rights specifically about freedom of religion as a basic human right. It consists of articles and other things related to the freedom of religion and furthermore how UNO has the human right recognized and enshrined it under its declaration.

Keywords:

Human rights, Freedom, Religions, Conscience, Practice, Secular.

4.1 Introduction:

The Human Rights is a right that everyone has no matter who we are and where we are, it is universal and it's not a privilege. Human rights are inalienable. The human rights got more recognition after the World War II when people realized that life is more than just surviving, it is to be able to live the way we want the way we like and it is a universal right.

So, the creation of UNO has one the main purpose that is to reaffirm the faith in fundamental human rights. And with the same spirit in 1948, the UNGA adopted the universal Declaration of human rights, it is also stated in the Article 18 that freedom of religion is human right. This also lays basis for modern international human rights law.

4.2 Statement of Problem:

Freedom of religion is a fundamental right given in the Indian Constitution. In fact, the Indian Constitution's preamble states that India is a secular country. The 42nd Constitutional amendment act of 1976 added the word 'secular' to the Preamble.

The word secular differs from region to region. The same word secular is present in France constitution but what France's secular means is that, there is no state religion and all the practices of religion must be kept in private not in public whereas it is not same in India.

India has secularism which means it gives freedom of religion and the people of India are free to practice, profess, propagate their religion in public as well as private, there is no state religion as well. India is a unique country with diversity beliefs, faith, tradition, custom and more... India respects and treat all religion equally

4.3 Analysis of Study:

The British believed India wouldn't last even a decade after independence due to the amount of diversity present in India but that's not the case in India despite the fact that India has more than 8 major world religions, sub religion, castes, sub castes and sects India never lost its glory. There are problems but it ends in the moment and people continue to enjoy their freedom of religion. The framers of Indian Constitution believed that if there is no freedom of religion guarantee to Indians who stayed back in Indian after partition then it will make the Indians feel insecure and therefore the freedom of religion is enshrined in the fundamental rights article 25, 26, 27 and 28.

Under Article 25, it is stated that all person has the right to freedom of conscience and freedom to profess, practice and propagate religion as long as their acts do not threaten public order, morality and health.

This article allows the people of India to have their freedom to choose whom to believe, worship, and perform prayer, read holy books and also propagate his religion which means to discuss or preach one's religion to another. The religious freedom in India includes wearing and carrying stuff related to religion such as Kirpans is part of profession of the Sikh religion and do not threaten public order, morality and health just like how the Hindus apply tilak, Muslims wear caps or hijabs and more. It is rights guaranteed to the people of India and there is no problem in practicing religion in India.

The government may interfere in religious rights and make reform for the welfare of the people such as reforms made in Hindu customs of abolition of sati system and triple talak practice of Muslims. It is done with the consent of society for the welfare of the people.

Article 26 provides the right to every religion's denomination including the sub sections or sects to

- Establish and maintain institutions for religious and charitable purposes
- Manage their own matters of religious affairs
- Own and acquire movable as well as immovable property.
- Administer such property in accordance with law.

These rights are conditional, they should not endanger public order, morality and health.

Article 27 prohibits forcing anyone to pay any taxes on revenues that are used in payment of expenses for the promotion or maintenance or any religion or section.

Article 28 prohibits religious institutions in educational institutions that are wholly maintained out of state funds. For example, Government run schools like Sainik schools and Kendriya Vidyalaya schools cannot impart religions instruction on students. However religious instructions are exempted from the rule those which are administered by state but are established by endowments or trusts that require religious instructional in such educational institutions.

Furthermore, state recognised or state aided educational institutions cannot force any student to take part in any religious instructions or to attend any religious worship conducted in such institution.

Bijoe Emmanuel and Ors. vs State of Kerala

In the above-mentioned case, three children belonging to a sect of Jehovah's Witnesses had been suspended from their educational institution as they refused to sing the national anthem stating it to be against their beliefs and faith. The court gave a verdict that such a suspension on such grounds is completely against the freedom of religion.

In this way the Indian Constitution protects the freedom of religion and makes sure it is not denied to any person, despite the amount of diversity of religions present in India. As there is no state religion no person can force their beliefs and practice on others, at the same time no person is denied to practice other religion, other than his own religion. Everyone has freedom of conscience and believe whatever they like such as to be atheist or theist and more...

Universal Declaration of Human Rights has also made it clear that freedom of religion is the basic human right which is mentioned in article 18 of its declaration... It states that

Article 18 Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

All the member countries of United Nations follow the fundamental human rights as declared and accept it as universal law.

4.4 Conclusion:

The freedom of religion is a basic human right as guaranteed by the world's largest organization that is UNO and also the largest democratic country that is India. Many other countries also have secularism and have different views on the concept of freedom of religion. Indeed, all independent religious freedom can't be fully realized unless other human rights are respected. And when the government violates their people's right to believe and worship freely, it will jeopardize all the other human rights. It is the religious freedom that is key element of an open and stable society.