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Religious Liberties in India and Indonesia: A Comparative Perspective

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ABSTRACT

The comparative study of India and Indonesia's right to freedom of religion is a significant area of research that examines the constitutional frameworks and legal provisions of both countries in relation to religious freedom. Moreover, it highlights the complexities and challenges that arise from the interplay between religious beliefs, cultural practices, and constitutional guarantees. This paper delves into the legal frameworks of India and Indonesia, two vibrant democracies grappling with the complexities of religious freedom. The analysis examines the constitutional provisions, legal and practical limitations, and the implications of these frameworks on the right to religion in both countries. The research highlights the significance of religious liberty as a cornerstone of liberal democracies, emphasizing its importance in the Indian Constitution's secular framework and Indonesia's constitutional recognition of the "one and only God." The study reveals the challenges faced by both countries in balancing the rights of religious majorities and minorities. In India, the majority Hindu population coexists with other religions, while Indonesia's majority Muslim population is accompanied by other faiths. The research recommends that both countries adopt a more inclusive approach to religious freedom, safeguarding that the rights of all religious communities are protected and respected. The study concludes that a nuanced understanding of the legal frameworks in India and Indonesia is vital for encouraging religious liberty and nurturing a culture of tolerance and respect for diversity.

Keywords: *Constitutional Framework, India, Indonesia, Religious Freedom.*

I. INTRODUCTION

The right to religion is a fundamental human right that is enshrined in the constitutions of many countries, including India and Indonesia. Despite their shared commitment to this right, the two countries have taken different approaches to its implementation and protection. This comparative study aims to explore the right to religion in India and Indonesia, examining the constitutional frameworks, historical and cultural contexts, and judicial decisions that shape the exercise of this right in each country.³ In India, the right to religion is enshrined in the Const.,

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³ Hanna Lerner, *Permissive Constitutions, Democracy, And Religious Freedom in India, Indonesia, Israel, And*

which guarantees “the freedom of conscience and the free profession, practice, and propagation of religion.”⁴ However, the country’s diverse religious landscape, with a majority Hindu population and significant minority communities, has led to tensions and conflicts over the years. In Indonesia, the right to religion is also protected by the Constitution, which declares the country to be a sovereign state founded on a belief in the “One and Only God.”⁵ However, the country’s majority Muslim population has led to concerns over the treatment of religious minorities and the balance between religious freedom and national unity.⁶

This study seeks to answer the following research question: How do the constitutional frameworks, legal and practical limitation and judicial decisions in India and Indonesia shape the right to religion and its exercise in each country? There are three objectives of this study. Firstly, to offer a complete overview of the constitutional frameworks and limitations that shape the right to religion in India and Indonesia. Secondly, to examine the role of judicial decisions in shaping the right to religion in each country, including the impact of landmark cases and the approaches of the courts to religious freedom. Finally, to compare and contrast the approaches of India and Indonesia to the right to religion, highlighting the similarities and differences between the two countries.

This study is significant for several reasons. Firstly, it provides a comprehensive analysis of the right to religion in two of the most populous and diverse countries in the world. Secondly, it highlights the challenges and opportunities that arise from the intersection of religion and politics in each country. Finally, it contributes to the broader debate over the role of religion in community life and the balance among religious freedom and national unity. This study is limited to a comparative analysis of the right to religion in India and Indonesia, focusing on the constitutional frameworks, historical and cultural contexts, and judicial decisions that shape this right. The study is also limited to a review of existing literature and does not involve empirical research or data collection. This study employs a qualitative approach, drawing on a review of existing literature and secondary sources. It includes a comprehensive analysis of the constitutional frameworks, legal and practical limitation of India and Indonesia, as well as an examination of landmark judicial decisions that have shaped the right to religion in each country.

Turkey, Vol. 65, No. 4 WORLD POLITICS, 609-655 (2013).

⁴ Neha Tripathi & Anubhav Kumar, *The Constitutional Struggle for Religious Freedom: A Comparative Study of India and Indonesia*, Vol.8 No.1 CONST. REV. (2022).

⁵ *Id.* at 27.

⁶ Yuksel Sezgin & Mirjam Kunkler, *Regulation of “Religion” and the “Religious”: The Politics of Judicialization and Bureaucratization in India and Indonesia*, 56(2) CSSH 448-478 (2014).

II. CONSTITUTIONAL FRAMEWORKS: INDIA VS. INDONESIA

The constitutional frameworks of India and Indonesia are two of the most significant documents in their respective countries, outlining the fundamental principles and structures of governance. Both countries have a rich history of democratic governance, with their constitutions playing a crucial role in shaping their political, social & economic system. Furthermore, both countries have constitutional provisions that safeguard the right to freedom of religion, reflecting their commitment to secularism, religious harmony, and the protection of individual beliefs within their diverse societies.

(A) Indian Framework

In India, the Constitution guarantees freedom of religion under Articles 25-28. The Supreme Court has affirmed that secularism is a fundamental feature of the Indian Constitution. Notably, the 42nd Amendment Act in 1976 explicitly added the term "Secular" to the Preamble. The Constitution supports religious harmony and prohibits discrimination based on religion. Various religions coexist peacefully in India, with specific laws for different faiths and a secular legal framework that respects diverse beliefs. Described as a "Secular Republic" in the Constitution's Preamble, the Indian Supreme Court, in one of the case interpreted this to mean a strict ban on any official state religion, endorsement, or bias towards any particular faith or belief.⁷ The Indian State is mandated to maintain impartiality and neutrality in its legal functions, serving as the ultimate authority in interpreting and upholding the laws, ensuring equal protection and respect for individuals' religious practices in the country.

The Fundamental Rights that are available and assured to citizens and even to those who are not citizens on the land of the republic of India are mentioned and codified in Part III of the Constitution. Any Act or enactment by legislature or executive order if violates this Part of the Constitution is established to be invalid by Art. 13 of India's Constitution. Under Art. 14, no person (citizen, non-citizen, or entity with legal personality) is denied equal treatment before the law or denied equally protection of the law. According to Art. 21, no one is to be deprived of their personal liberty as well as life. Since, right to religion is a fundamental right protected by the law, this article also prohibits any State action, such as incarceration, that is specifically intended to impede the exercise of a person's religious beliefs. According to Art. 29, the State cannot make any distinctions when extending the scope of constitutional equality, and it is also forbidden to give preference to someone based on their religious beliefs or lack thereof when exercising any freedoms guaranteed by the Constitution, any legal rights, or when applying for

⁷ Bal Patil and Another v. Union of India, A.I.R. 2005 S.C. 3172.

any of the office under the State.

The freedom of “conscience to profess, also to practice as well as propagate religion” is guaranteed to every person in India.⁸ In *Ratilal Panachand Gandhi and Others v. State of Bombay*⁹, the SC upheld that everyone, including foreigners and not just Indian citizens, has the “right to profess, practice the rites, rituals, and worship as well as to spread religion” of their choice by peaceful conversion. India’s SC clarified that ‘Religion’ is not specified in the Indian Constitution.¹⁰ It is a matter of subjective personal belief that influences moral, ethical, and spiritual decisions. It cannot be restricted to particular churches or dogmas or if it be creeds, and it need not even be it the theistic so that to be protected by the law. Article 26 grants all the religious denominations the freedom to head its affairs, also the right to purchase, hold, and manage all of the movable or immovable property or both in accordance with the law for commercial religious activity, including the construction of place for worship.¹¹ The SC ruled in *Aruna Roy v. Union of India*¹² - while religious prayers of any kind are prohibited in State-run Govt. Schools, "academic study of religions in public educational institutions" isn't in violation secularism which is constitutional, and may even be thought to be crucial for preventing fanaticism and communalism.

The Indian Constitution has given importance to this right by recognizing not just their right to create and oversee educational institutions, but also prohibiting the State from doing so. Art. 30 aims to prevent religious (and other) minorities from going extinct. This is in spite of the provisions concerning complete non-discrimination and in recognizing the actuality that more than 80% of India’s citizens profess one particular religion. In *SR Bommai v. UOI*¹³, Court reaffirmed that India is a country which is to be said a secular state, which means not only the lack of a State religion and the State’s full neutrality toward all other religions, but also the protection of any faiths, sects, or beliefs that may be in danger due to their uniqueness. This was carried out after a mob from the community destroyed an ancient mosque. In *Lata Singh v. State of Uttar Pradesh*¹⁴, it was ruled that social barriers that forbid and hinder inter-caste, inter-religious, and inter-faith weddings are contrary to constitutional secularism. The court also ordered that all unions consummated in the Special Marriage Act of 1954 (which takes place

⁸ INDIA CONST. art. 25, cl. 1.

⁹ A.I.R. 1954 S.C. 388.

¹⁰ Commissioner, Hindu Religious Endowments v. Sri Lakshmindra Thirtha Swamiar of Sri Shirur Mutt., A.I.R. 1954 S.C. 1005.

¹¹ INDIA CONST. art.26.

¹² A.I.R. 2002 S.C. 3176.

¹³ A.I.R. 1994 S.C. 1918.

¹⁴ A.I.R. 2006 S.C. 2522.

between individuals, regardless of their social status or religious beliefs), to encourage secularization and social brotherhood, the State should promote, safeguard, and preserve the Civil Registration of Marriage.

(B) Indonesian Framework

In Indonesia, the Constitution is based on the belief in "one and only God," emphasizing religious freedom and autonomy. While the country officially recognizes six religions, including Islam, Christianity, Hinduism, and Buddhism, there are indigenous minority groups not covered by these official designations. Indonesia's Constitution does not proclaim Islam as the state religion, allowing freedom to choose and practice one's religion. Since Indonesia gained its independence, there have been ideas regarding religious and philosophical freedom. "Freedom for all citizens to have a religion and to worship in conformity with their religions or beliefs" was a promise made in the 1945 Constitution under Art. 29. A wide range of laws and regulations, including as the Laws on Human Rights, Disaster Management (No. 24 of 2007), and Management of Social Conflict, introduced the most crucial concept for religious freedom, namely, non-discrimination on the basis of religion or belief (No. 7 of 2012).

The Indonesian Constitution's says that the nation is made on faith in the One and Only God, reiterating the sentiments expressed in the Preamble. Furthermore, it guarantees that everyone has the right to practice their religion or belief freely.¹⁵ Art. 9 stipulates that in accordance with their respective religions, the president and vice president must take an oath. Art. 28E guarantees everyone the right to freely select and practice their religion, as well as the freedom to hold beliefs and to articulate them in a way that is consistent with their conscience¹⁶. Since, the phrase "One and Only God" is specifically mentioned, it appears that Indonesia respects the idea of monotheism. Unquestionably, the tenets of Depending on an individual's commitment and religion personal religious belief are the foundation of the belief in a single deity. Art. 22 (1) of Law No. 39/1999 on Human Rights, which supplements constitutional guarantees, declares that "every person is free to choose their religion and worship in accordance with their religion and beliefs." The state is required under Art. 22(2) to protect each person's right to follow their chosen to practice one's faith and to worship according to religious conviction. Freedom of religion is acknowledged as a human right in Art. 28I and is guaranteed protection in all situations.¹⁷

Urges to convert Indonesia to Islam are loud and persistent emerged result of which the crucial

¹⁵ INDONESIAN CONST. art. 29, pt 6.

¹⁶INDONESIAN CONST. art. 28E.

¹⁷INDONESIAN CONST. art. 28I.

role that Muslim organization did in the 1945 victory for Indonesia's independence. However, the nationalists, who were composed of uniform representations, desired a unified, neutral state that distinguished between religion and the state.¹⁸ It was thought that the founding of a state religion would exacerbate political conflicts and make non-Muslim assimilation more difficult. Nationalist on June 1st, 1945, the state's founder, Soekarno, proposed Pancasila as the theoretical framework for the nation. Oneness with God, humanitarianism or internationalism, nationalism, achieving agreement via discussion and reasoning, and social justice for all are the five tenets that make up Pancasila, the state philosophy of Indonesia that Soekarno created. These guiding principles were developed to reflect Indonesian citizens' constitutional objectives. Soekarno believed that creating national unity was the ultimate goal, hence rejecting the Constitution's particular mention of Islam was necessary.¹⁹

The Indonesian Ministry of Religious Affairs issued a clarification outlining the requirements for classifying something as "religion," including acknowledging a prophet, studying a canonical text, such as a sacred book, adhering to a set of standardized ritual practices and beliefs, and clearly separating local both custom and religion. Later, a further requirement was added: The custom under consideration must be significantly recognized internationally rather than only being local or regional. Even though the six officially recognized religions receive varying degrees of respect, other religions including Judaism, Zoroastrianism, Shintoism, and Taoism are not barred from practice under Indonesian law. Indonesia is one of those Muslim-majority nations that has not made a clear proclamation in its constitution that it wants to be an Islamic state²⁰. Despite the constitution and law protecting the right to religious freedom, Indonesia has yet to fully experience this right's manifestation. Right to religion in Indonesia is one amongst the contentious human rights concerns. Indonesia is required to abide by the standards of international human rights because it is a UN member. Additionally, historical initiatives have been made to guarantee the proper recognition and application of human rights in the nation.

(C) Comparison Of Constitutional Frameworks

While both countries have a federal system of government, there are significant differences in their constitutional frameworks. The Constitution of India is a more detailed document, with a

¹⁸Dian A.H. Shah, *Constitutions, Religion and Politics in Asia, Indonesia, Malaysia and Sri Lanka*, Cambridge University Press (2017)

¹⁹Nadirsyah Hosen, *Religion and the Indonesian Constitution: A Recent Debate*, 36 J. SOUTHEAST ASIAN STUD. 419 (2005).

²⁰Robert C Blitt, *The Religion-State Relationship and the Right to Freedom of Religion or Belief: A Comparative Textual Analysis of the Constitutions of Predominantly Muslim Countries*, 115 USCIRF (2005).

longer history of amendments and revisions. In contrast, the Constitution of Indonesia is a shorter document, with a more limited number of amendments. Another key difference is the role of religion in the two constitutions. Both India and Indonesia, as democracies with diverse populations, face challenges related to religious majorities and minorities. While India proclaims itself as a secular state with a majority Hindu population, Indonesia's Constitution is based on monotheism without declaring Islam as the state religion.²¹ Both countries have ratified international human rights agreements, emphasizing the importance of religious freedom as a fundamental human right within their constitutional frameworks.

III. LEGAL AND PRACTICAL LIMITATIONS

The constitutional frameworks of India and Indonesia have undergone significant transformations since their inception, reflecting the dynamic nature of their respective societies and the challenges they face in ensuring democratic governance and protecting human rights. Both countries have made substantial progress in enshrining fundamental rights and freedoms in their constitutions, but they also continue to grapple with the complexities of implementing these provisions in practice. This chapter will examine the legal and practical limitations of these constitutional frameworks, highlighting the challenges that India and Indonesia face in realizing their constitutional ideals.

(A) Legal Limitations

The Indian Constitution itself grants the State the power to oversee, impose limitations on, and criminalize religious freedom. While the right to freedom of religion is affirmed in Art. 25 (1), whereas Art. 25 (2) gives the State the power to adopt laws that restrict, prohibit, or otherwise restrict the practice of religion in India in the name of "Public Order, Health, and Morality." All secular, non-religious activities, including as political, economic, and financial ones, are fully subject to government regulation (which are established by the government itself). The government asserts full regulatory authority over all political, economic, financial, and secular activities that it deems to be of a nonreligious nature, even though they may be related to or incidental to religious institutions and fall under the purview of secular legislation. In order to ostensibly prevent foreign powers from using financial intrusion to destabilize the State, the Foreign Contributions Regulation Act, 2010,²² for instance, was passed following the 2008 terrorist attacks, whose funding was later shown to have been routed through particular religious organizations. It requires religious organizations must declare any funds they receive and

²¹ Tripathi, *supra* note 2, at 11.

²² Deepthiman Tiwary, Explained: What is FCRA, the law related to NGO funding?, *The Indian Express*, July 14, 2022.

submit to an audit and scrutiny by Indian establishments. The Const. also gives the State the authority to adopt any actions that are in the interest of social justice, particularly those that aim to eradicate the repulsive social practice of casteism through reforming the Hindu faith and banning entrance restrictions at all Hindu temples. As a result, the Constitution of India guarantees religious freedom, but it also places structural restrictions on its unrestrained expression. Like Indonesia, right to religion is not absolute in India as we see in the constitution, like every religious group or division of a religious sect has “freedom of religion subject to public order, morality and health.”²³

In Indonesia, although the *Siracusa Principles* do not describe public morality in detail, they do accept that it is relative and that it "varies through time and from one culture to another." When the terms "moral" or "morality" are used in the Indonesian Constitution and laws, it is obvious that the ICCPR is the source of inspiration; nevertheless, the definition given to these terms does not always allude to the international community. Moral or morality is frequently associated with religion or religious values in Indonesian popular culture. The boundaries of human rights generally are mentioned in Art. 28J of the Indonesian Constitution, along with morality and "religious beliefs." Despite the fact that the 1945 Constitution assuring right to religion, the extent of that guarantee greatly varies depending on the denomination. The limitations literature focuses on the reasons and circumstances of limitations as they are stated in the ICCPR, rarely discusses restrictions that came about as a result of the concept of religion because they are never expressed directly in any norm. However, the definition is crucial in producing restrictions, greatly curtailing destroying religious people's rights, or both organizations that fall outside the concept's purview.

Religious freedom in Indonesia is guaranteed by the constitution, but there are significant limitations. The Presidential Decree of 1965 provides legal protection for only those six religions, as only those six are officially recognized by Indonesia. Islam, Hinduism, Buddhism, Protestantism, Catholicism, and Confucianism are among these religions. As was previously described in the section on the primacy of religion in Indonesia, the idea of public order is also influenced by respect for religion. In contrast to the *Siracusa Principles*, which state that "respect for human rights is part of public order", respect for religion, religious values, or religious groups appears to have merged with public order in Indonesia. In accordance with the *Siracusa Principles*, "public health may be cited as a cause for limiting certain rights to enable a state to take measures dealing with a substantial threat to the populations or a member of the

²³ INDIAN CONST., Pt. 3.

population's health." When it comes to public health, the fundamental issue is constraints that, in the opinion of women's rights activists, should have been enforced to safeguard public health but are not in place. This is in contrast to the grounds of limitations outlined above (especially public order and public morals). That instance, some groups oppose government efforts on public health because they have a different definition of religion.

Similar to India, Indonesia does not grant absolute or unrestricted religious freedom. It is under the authority of the State because Art. 28J of the Indonesian Constitution stipulates that exercising one's right to freedom of religion must comply with all legal requirements in order to prevent interference with or obstruction of the rights of others²⁴. Additionally, it is allowed to impose restrictions on freedom of right to exercising religion in the interests of sustaining democracy, public order, and "morality," which in Indonesian context is understood to entail religious principles.

(B) Practical Limitations

In India, it would make sense if the discussion, which is more broadly centered on issues of religious freedom, covered recent debates surrounding the Citizenship (Amendment) Act of 2019 (CAA), the alarming rise in "cow vigilantism", or mob-lynchings connected to the bogeyman of "love jihad." In general, it is unquestionably true that restricting one person's right to practice their religion negatively impacts institutional religious freedom as well. The subject matter of this piece, however, is clear and explicit institutional relevance. India does not mandate a rigid separation of religion and state or prohibit non-interference in religious matters. The Indian government has instead adopted the ideals of "celebratory neutrality" and "principled distance" regarding religion, aligning itself, perfectly, equally close to and aloof from all religions. This is done in recognition of the centrality and value of religion in Indian society. As was already mentioned, this viewpoint has encouraged Indian court regulation of religious matters and even permitted it. Indian courts have historically engaged in both "internal regulation" of religion and "external regulation," such as managing religious institutions. Internal regulation refers to determining the validity of specific religious beliefs or practices in light of the relevant religion's authoritative utterances, doctrines, and scriptures.

Indonesia from its independence in 1945, has never been a wholly secular state, but it has incorporated religious tolerance into its political ideology, known as Pancasila. The only six major religions that were acknowledged, together with certain distinct variations of each, were Islam, Hinduism, Buddhism, Protestantism, Catholicism, and Confucianism. However, this

²⁴Constitution of Indonesian, Article 28 J

tolerance was relatively tightly defined. (Muslims who practice Shiite or Ahmadiyya faiths, for example, have historically suffered prejudice since those faiths are seen as aberrant variations of the majority Sunni faith.)²⁵

IV. COMPARATIVE ANALYSIS OF RELIGIOUS FREEDOM IN INDIA AND INDONESIA

Religious freedom is a fundamental aspect of human rights and plays a crucial role in the societal fabric of nations. This part delves into a comparative analysis of religious freedom in India and Indonesia, exploring the legal and political frameworks, the role of religion in the public sphere, and the challenges and opportunities for religious freedom in these two diverse countries. India and Indonesia, as vibrant democracies with diverse populations, have distinct constitutional frameworks concerning religious freedom. India, a secular state, guarantees religious freedom to individuals of all faiths, including Hindus, Muslims, Christians, Sikhs, Buddhists, and others. On the other hand, Indonesia's constitution is based on the belief in "the one and only God," recognizing six officially recognized religions but posing challenges for indigenous minority groups outside these recognized religions.

The legal approaches in India and Indonesia differ in regulating religion. India leans towards judicialization, delegating religious matters to high courts, while Indonesia predominantly adopts bureaucratization, regulating religious issues through the Ministry of Religious Affairs. Despite these differences, both countries aim to promote religious tolerance through legal mechanisms, reflecting their historical and post-colonial experiences.²⁶

Religion holds significant importance in the public sphere of India and Indonesia. In India, where Hindus are in majority and others as minority, the interplay of religion and society is intricate. Similarly, in Indonesia, with a Muslim-majority population, the dynamics of religious diversity shape public discourse and governance. Both countries have ratified the ICCPR, emphasizing the importance of religious freedom in their societies. The public sphere in India and Indonesia grapples with issues of religious majorities and minorities, influencing policies and societal norms. The connection among the state & religion is a critical aspect of governance, impacting nation-building and democratization efforts.

Despite constitutional guarantees of religious freedom, India and Indonesia face challenges in ensuring full implementation and protection of this right. In India, historical tensions and communal conflicts pose obstacles to religious harmony, requiring continuous efforts to uphold

²⁵ Krithika Varagur, *Indonesians Allowed to Officially Identify with Indigenous Faiths*, VOA (Nov, 14, 2017) <https://www.voanews.com/a/indonesians-allowed-to-officially-identify-with-indigenous-faiths/4114242.html>.

²⁶ Tripathi, *supra* note 2, at 11.

secular principles and prevent discrimination. Indonesia, on the other hand, navigates the complexities of managing diverse religious communities within its constitutional framework, balancing recognition of official religions with the rights of minority groups. Opportunities for enhancing religious freedom in India and Indonesia lie in promoting interfaith dialogue, strengthening legal protections, and nurturing a culture of tolerance and respect for varied beliefs. By addressing historical legacies, colonial influences, and contemporary socio-political dynamics, both countries can create environments conducive to religious pluralism and freedom.

In conclusion, the comparative analysis of religious freedom in India and Indonesia reveals the intricate interplay of legal, political, and social factors shaping the landscape of religious rights in these nations. By critically examining their frameworks, roles of religion in the public sphere, and addressing challenges with proactive measures, India and Indonesia can progress towards fostering inclusive societies that respect and protect religious diversity and freedom.

V. CONCLUSION AND RECOMMENDATIONS

This study provides a comprehensive analysis of the right to religion in India and Indonesia, highlighting the similarities and differences between the two countries. It contributes to the broader debate over the role of religion in public life and the balance between religious freedom and national unity, and provides a nuanced understanding of the complex issues that arise from the exercise of this fundamental human right. The legal approaches in both countries reflect historical and post-colonial experiences, with India leaning towards judicialization and Indonesia towards bureaucratization in regulating religious matters. Religion plays a significant role in the public sphere of India and Indonesia, influencing policies, societal norms, and governance. Both countries face challenges in ensuring full implementation and protection of religious freedom, with historical tensions, communal conflicts, and the recognition of official religions posing obstacles. Despite these challenges, opportunities exist for enhancing religious freedom through interfaith dialogue, legal protections, and fostering a culture of tolerance and respect for diverse beliefs.

It is clear that Indonesia, a republic with a plurality of religions, and India, a constitutionally secular democracy, have different concepts of and methods for achieving religious tolerance. Indonesia is primarily concerned with Statist control of religion belief and practice; India is theoretically committed to maintaining equal distance from all religions while actively promoting social interfaith mingling. The key differences in the protection of religious rights between India and Indonesia are: India constitutionally guarantees the freedom of religion. The

government maintains a secular stance and does not give preferential treatment to any particular religion. In contrast, Indonesia officially recognizes only six religions stated previously. The government has a discriminatory attitude towards other minority religions, tribal faiths, atheism and agnosticism. These laws only protect the six officially recognized religions, leaving other faiths vulnerable to persecution. In Aceh province, Sharia law is officially applied, further marginalizing non-Muslim and non-Sunni Muslim communities. While both countries face challenges in fully upholding religious freedoms, India's constitutional secularism provides a stronger legal framework for protecting the rights of all faiths compared to Indonesia's more restrictive approach.

This comparison of Indonesia and India tells the story of religious freedom's declining constitutional significance in both nations. Because there is no precise definition of what constitutes "religion," religious freedom has come under India and Indonesian courts subject cases to rigorous judicial review. The Indian Supreme Court created the ERP test to determine if a particular religion's practices must be fundamental to be protected by the constitution, which supports the declaration of religious freedom in the constitution. The Blasphemy Law and its application in Indonesia have come under close judicial review and have drawn a lot of criticism for being in breach of human rights norms.

However, opportunities exist for enhancing religious freedom through legal reforms, interfaith dialogue, education and awareness, and comprehensive policy development. Future research should focus on inclusive governance structures, comparative studies, assessing the long-term impact of interventions, and international collaboration to strengthen efforts in protecting religious freedom globally. By implementing these recommendations and addressing the evolving dynamics of religious diversity, India and Indonesia can progress towards creating more inclusive societies that uphold the principles of tolerance, respect, and freedom for all religious communities.
