There is no doubt that India is far from perfect when it comes to religious freedom. Indeed, India’s religious freedom problems have become an increasing focus of scholarly and policy attention. However, almost all of this attention is directed at one particular subset of religious freedom problems—i.e., restrictions imposed on the religious freedom of India’s minority communities, and particularly Muslims and Christians. Meanwhile, serious religious freedom challenges experienced by members of India’s Hindu majority population tend to be ignored. In this article: (1) I first describe the religious freedom situation in India as a complex terrain that requires a multi-dimensional mapping. (2) I then survey existing, influential studies of the religious freedom situation in India and identify their tendency to generate flat, one-dimensional mappings, and their consequent failure to analyze restrictions on the religious freedom of India’s Hindus, including both Hindu individuals and institutions. (3) I briefly analyze India’s regime of “Hindu Erastianism”—i.e., its extensive system of state regulation and control of Hindu institutions—and suggest how and why this regime amounts to a direct attack on core features of institutional religious freedom. (4) I conclude by briefly suggesting that the whole range of India’s religious freedom problems—including its “other”, less discussed problems—can be traced to a longstanding and destructive pattern of ideological polarization that owes as much to an uncompromising statist secularism as to Hindu nationalism. The existence of this now deeply ingrained pattern bodes ill for improvements in India’s religious freedom situation in the short term, and suggests that it is the country’s public culture, rather than its political balance of power, that must change if the world’s largest democracy is to enjoy greater religious freedom and tolerance in the future.

Keywords: India; religious freedom; religious restrictions; institutional religious freedom; religious autonomy; Erastianism; secularism; Jawaharlal Nehru; Hinduism; Hindu nationalism

1. Introduction

There is no doubt that India, soon to be the world’s most populous country, is far from perfect when it comes to religious freedom circa 2021. Indeed, as elaborated below, India’s religious freedom problems have become an increasing focus of scholarly and policy attention. However, almost all of this attention is directed at one particular subset of religious freedom problems—i.e., restrictions imposed on the religious freedom of India’s minority communities, and particularly Muslims and Christians, whether by state or non-state actors. Meanwhile, another and entirely distinct subset of religious freedom challenges is almost universally ignored, particularly in public and policy-related discussions of India. This subset is the wide range of serious religious freedom challenges and restrictions experienced by members of India’s Hindu majority population.

Consider one illustrative instance. In 2018, the Indian Supreme Court intervened in a remarkably assertive way in the internal affairs of a major Hindu temple. This particular Hindu temple, the Sabarimala Temple in the southwestern state of Kerala, is devoted to a specific and (to non-Hindus) lesser-known deity, Lord Ayappa, a youthful male god known for his asceticism and especially for his celibacy. To honor the deity’s virtues, the temple traditionally prohibited entry by women of menstrual age (i.e., aged between 10 and 50). This has not been because of a horror of menstruation but because of a desire to maintain a respectful distance between a young male deity consecrated to celibacy and what (at the
risk of indelicacy) may be termed occasions of temptation—i.e., the presence of women of reproductive age presumed to be sexually active or eligible for sexual activity. Also out of respect for Lord Ayappa’s chastity, men who visit Sabarimala are expected to take their own vow of celibacy before and after their pilgrimage (a vow male pilgrims reportedly take seriously).

Despite the sincerity and fervor of the visitors to Sabarimala—which in pre-COVID years saw around 50 million pilgrims a year, making it one of the most popular religious pilgrimage sites in the world—and despite the fact that Sabarimala is the only “Ayappan” temple (among dozens of such temples in India) that bans entry by women of reproductive age, India’s highest court ruled against the temple and its assertions of religious freedom rights under the Indian constitution. While many of the world’s constitutions lack provisions that clearly safeguard the rights of religious organizations, protecting only the religious freedom and conscience rights of individuals, the Constitution of India prima facie provides explicit protections for the autonomy of religious institutions and denominations (particularly through Article 26, while also explicitly safeguarding the right of all individual persons, not just citizens, to profess, practice, and propagate religion through Article 25). Notwithstanding all of this, the Supreme Court issued a judgment that was anything but deferential to the autonomy and internal affairs of the Sabarimala Temple. The Court not only ruled that Sabarimala’s strictures violated the fundamental rights and dignity of women but also declared—in a remarkable assumption of quasi-magisterial theological authority—that the temple’s revered and longstanding practices did not reflect or belong to the core or “essential practices” of Hinduism.1 (Strikingly, The only woman judge on the bench, Justice Indu Malhotra, offered a sweeping and compelling dissent.2)

In effect, therefore, the Court went beyond balancing competing rights from the perspective of the Indian Constitution to reinterpret the very meaning and credibility of Sabarimala’s practices—and therefore the weight of Sabarimala’s religious freedom rights—from a religious perspective internal to Hinduism. In doing so, the Court raised profound questions and issues concerning the state of religious freedom in India—questions and issues often ignored or marginalized in standard religious freedom reports. Was the Court’s intervention an isolated instance of judicial and more broadly state intervention in what are ostensibly the internal affairs and practices of religious institutions? Or is it part of a wider pattern? If it represents a wider pattern, what kind of pattern does it represent? For example, is the Supreme Court more likely to institute a kind of supervisory and even quasi-Erastian theological oversight and control over Hindu organizations than non-Hindu ones? If so, why would such a pattern of downgrading (and thus failing even to weigh and place in the balance) the religious freedom rights of India’s majority Hindu community—and particularly the autonomy of Hindu organizations and institutions—not be better known?

The ensemble of religious restrictions exemplified by the Indian Supreme Court’s Sabarimala verdict is so serious and so neglected that it amounts to what might reasonably be termed India’s other religious freedom problems. Fortunately, a focus on the freedom of religious institutions—the theme of this special issue of Religions—helps to cast a bright light on this other, widely ignored cluster of religious freedom challenges. For, as we shall see, many of the most sweeping and severe limitations on the religious freedom of the Hindu community in India are in the form of systematic government restrictions on Hindu religious institutions, including Hindu temples such as Sabarimala.

In what follows, in which I provide a line of analysis that complements the rich treatment of many of the same issues Chad Bauman offers in this same special issue of Religions (Bauman 2021):

(1) I first describe the religious freedom situation in India as a complex terrain or landscape—a terrain that is at least three-dimensional—and therefore one that requires a multi-dimensional mapping. In the process, I identify the distinct dimensions any adequate account or mapping of the religious freedom situation in India (and by extension other large and complex societies) must illuminate, and in doing so
highlight the significance of the institutional dimension of religious freedom as well as note the importance of attending to the religious freedom conditions of majority as well as minority populations.

(2) I then survey existing, influential studies of the religious freedom situation in India and identify their tendency to generate flat, one-dimensional mappings, and their consequent failure to analyze or even notice restrictions on the religious freedom of India’s Hindus (including Hindu individuals and institutions). In this section, I also offer an explanation of why these mappings generally fail to focus on religious restrictions affecting Hindus in India.

(3) I proceed to provide no more than a sketch of India’s remarkable and neglected regime of Erastianism—i.e., its extensive system of state regulation and control of Hindu institutions. I indicate how and why this Erastian regime of state control over Hindu institutions creates and legitimates sweeping temple-state entanglements that appear to be in significant tension with India’s own professed secularism. More importantly for my purposes, I suggest how and why this regime amounts to a direct attack on core features of institutional religious freedom.

(4) I conclude by briefly suggesting that the whole range of India’s religious freedom problems—including its “other”, less discussed problems—can be traced to a long-standing and destructive pattern of ideological polarization that owes as much to an uncompromising statist secularism as to Hindu nationalism. The existence of what I will characterize as a now deeply ingrained pattern bodes ill for improvements in India’s religious freedom situation in the short term. This pattern also suggests that it is the country’s public culture, rather than its political balance of power, that must change if the world’s largest democracy is to enjoy greater religious freedom and tolerance in the future.

2. Core Desiderata of Any Complete Religious Freedom Mapping

Any useful mapping of religious freedom in India must begin with a proper understanding of the “what” of religious freedom. It must identify the nature of religious freedom, as well as the core features and dimensions of religious freedom that are most important and in need of measurement. What exactly is religious freedom? How should religious freedom be conceptualized and operationalized? At a minimum, religious freedom contains both a freedom dimension and an equality dimension. In terms of the freedom dimension, a satisfactory mapping of religious freedom should make sure to measure the extent to which people are free to embrace and express whatever beliefs about religion (including unorthodox beliefs or beliefs that are hostile to traditional religious claims) are most in accord with the dictates of their own conscience, without direct, coercive interference by government or non-government actors. In terms of equality, it should measure the extent to which people are free from arbitrary discrimination or unequal treatment because of their beliefs about religion, because such discrimination is unjust and incompatible with human dignity—the proximate ground of religious freedom—even when it does not directly block or limit one’s freedom of choice or practice in religious matters.

The equality dimension of religious freedom requires that people be free from arbitrary discrimination or unequal treatment because of their religious beliefs or identities. Violation of religious equality—as through the infliction of systematic discrimination on particular individuals or groups merely because of their religious beliefs or identities, or the creation of a climate of hatred or intolerance of certain people because of religion—is unjust and illegitimate even when it does not directly block or limit one’s free exercise of religion. One reason is that arbitrary discrimination or unequal treatment is incompatible with the demands of human dignity, which all human beings equally share by virtue of their common humanity. For example, the Universal Declaration of Human Rights begins with a reference to the “inherent dignity” of all human beings as the implicit foundation of human equality and human rights; the Basic Law for the Federal Republic of Germany makes its cornerstone proposition that “[h]uman dignity shall be inviolable” the basis of
the immediately following acknowledgment that all human beings possess “inviolable and inalienable human rights” (Articles 1.1–1.2); and the Declaration on Religious Liberty of the Second Vatican Council of the Roman Catholic Church declares that “the right to religious freedom has its foundation in the very dignity of the human person as this dignity is known through the revealed word of God and by reason itself” (Section 2). Another reason is that a healthy and dynamic social and political pluralism—in which people of all religious perspectives can draw on their distinct convictions and unique “spiritual capital” both to contribute to the common good and to enrich the perspectives of their fellow citizens—is possible only within a framework of mutual respect and basic equality.

A second and closely related desideratum of an adequate religious freedom mapping is that it addresses the **“who” of religious freedom.** Which kinds of agents and entities enjoy (or fail to enjoy) the key dimensions of religious freedom? Who are the subjects or bearers of the right to religious freedom—understood as combining the right to religious free exercise and the right to religious equality? Some analysts tend to see religious freedom only in terms of the rights of minority groups, neglecting the fact that the majority also possesses religious freedom rights, and that, in many countries (including India, as we shall see), majority communities experience significant religious restrictions. In addition, many analysts ignore the evidence that state-sponsored religious discrimination as well as violent religious persecution by non-state actors tend to victimize women in ways that are quantitatively and qualitatively more systematic and vicious than they do men. Likewise, does religious freedom belong only to individuals qua individuals, or does it also belong in an irreducible way to communities and institutions?

In fact, the irreducibly social nature of human beings requires that communities per se also be treated as the proper subjects or bearers of the right to religious freedom. Indeed, both the Universal Declaration of Human Rights and the Indian Constitution explicitly recognize that not only individuals but also religious communities or groups bear the right to religious freedom and that they too rightfully enjoy immunity from undue interference and equality of treatment in religious matters. According to the Universal Declaration of Human Rights (1948), 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”. The Constitution of the Republic of India devotes a distinct article, Article 26, to safeguarding the freedom of “every religious denomination” to “establish and maintain institutions for religious and charitable purposes” and to “manage its own affairs in matters of religion”. In addition, Article 30 defines the right of minorities, including religious minorities, to establish and administer their own educational institutions. Moreover, despite the ways in which individual and corporate religious freedom are related and mutually reinforcing, history and contemporary global reality suggest that they are distinct—with one sometimes receiving basic protection while the other sometimes suffers restriction, even in the same context—and thus each requires deliberate analytical attention and measurement. In many contexts, including in India, individuals may enjoy significant freedom to practice their faith, especially in private, while at the same time religious communities and institutions—as we shall see—may face significant restrictions in their public religious exercise and activities, such as in the formation and funding of faith-based non-governmental organizations for charitable purposes, or in the administration of religious institutions, such as Hindu temples.

Because different kinds of agents—such as individuals and communities, minorities and majorities, women and men—bear the right to religious freedom but often experience or enjoy this right in very different ways and to very different degrees, a good mapping of religious freedom must go beyond a binary analysis of the state of religious freedom in a given context like India—e.g., as being one of “high” religious restriction or persecution versus “low” restriction or persecution—to a differentiated analysis that probes the extent to which these different agents may enjoy (or fail to enjoy) the right to religious freedom to different degrees.
Third, a satisfactory mapping of India’s religious freedom environment must also incorporate the “how” of religious freedom. Insofar as religious freedom is being undermined, how is it being undermined, and insofar as it is being protected, how is it being protected? By what predominant mechanisms—governmental, social, or the two in interaction—is religious freedom being limited, whether for people in general or particular groups? Agents playing an important role in shaping the religious freedom environment in India include a variety of formal government agents, including the police and state-level authorities, but numerous non-state actors.

An important contribution of the Pew Research Center’s annual reporting on global religious restrictions—the groundbreaking methodology for which was first developed by the sociologist Brian Grim, under the supervision of his doctoral supervisor, Roger Finke, at Pennsylvania State University—is that it distinguishes between government restrictions on religion, on one hand, and social restrictions on religion (or religion-related “hostilities” emanating from non-state actors), on the other. A great service of Grim’s methodology and Pew’s report is that they have made this distinction central in religious freedom research and analysis by both scholars and advocates, whereas it had often been obscured or elided in previous work.

The “what”, “who”, and “how” dimensions of religious freedom noted thus far constitute the core ontology of religious freedom—i.e., the three-dimensional contours of what religious freedom is, what it looks like, and how it is experienced. This three-dimensional ontology may be likened to the bedrock features or substratum of a physical landscape, and can be represented using the following matrix or table (Table 1):

Table 1. The WHAT, WHO and HOW of Religious Freedom: Core Dimensions.

| WHAT: Freedom and Equality | WHO: Individuals and Institutions | Freedom | Equality |
|---------------------------|----------------------------------|---------|----------|
| HOW: Govt vs. Society     | HOW: Govt vs. Society            |         |          |
| Gov’t and Law:            | Society:                        |         |          |
| Individuals               | Individuals enjoy equality       |         |          |
| Institutions              | Institutions enjoy equality      |         |          |

Fourth, a religious freedom mapping must also address the “when” or time frame of religious freedom. On one hand, it is crucial that a good mapping be sustained over time in order to yield a historical picture of the trajectory of religious freedom in India. Such longitudinal information is essential because it provides a dynamic “motion picture” of the condition of religious freedom, indicating where it has come from and where it appears to be headed. On the other hand, a good religious freedom mapping must also provide an accurate and up-to-date “snap shot” of India’s current religious freedom environment if it is going to provide a useful road map and guide for effective advocacy in the here and now. The religious freedom environment in India today is not what it was ten
years ago, and, in fact, not what it was ten months ago (due to recent watershed events such as the passage of the Citizenship Amendment Act in December 2019 and the religious violence in Delhi in February 2020). If road maps, topographical maps, and political maps need regular updating lest they become obsolete, any religious freedom mapping for a society as large and dynamic as India must be built to reflect significant new developments.

Fifth, a good religious freedom mapping must also address the geography or “where” of religious freedom. It should provide information and insight concerning local or regional variations (including at the state and district level) in religious freedom protections and restrictions. In a homogeneous society (e.g., Japan), a geography of religious freedom that maps local variation is less important because it is likely to exhibit little variety in religious freedom levels from region to region. India, however, is less a nation-state than a “state-nation”—a polity that forged a nation from enormous cultural, linguistic, and religious diversity, rather than a polity that emerged from a pre-existing ethno-religious unity (Stepan et al. 2012). More a continent than a country, not only in its diversity but also in the size of its population and vastness of its geography, India contains a sprawling internal variety of faith traditions and practices, culture, history, and levels and experiences of religious pluralism. Furthermore, the Republic of India is a federal union consisting of 29 states and 8 union territories, each of which exercises significant authority on matters of law and order closely related to religious affairs. In particular, India’s federal system accords state governments exclusive jurisdiction over law enforcement and the maintenance of order, which, among other things, limits the central government’s authority to deal with state-level abuses of religious freedom. The result is that India does not exhibit diversity so much as layer on layer of diversity, and these layers, in turn, create a multiplicity of “religious freedom regimes” from state to state.

Sixth, a satisfactory mapping must also address the “why” of religious freedom. If the “how” of religious freedom identifies the proximate sources, agents, and mechanisms of religious freedom variation, the “why” provides insight into deeper causes. What attitudes, beliefs, forces, and trends might constitute the deeper, wider, and more ultimate causes—and thus provide a higher level of explanation? By way of analogy, a comprehensive, useful, and up-to-date weather map goes beyond providing a check list of current or imminent weather conditions, such as temperature and precipitation, or indicating what storm is striking which location right now. Instead, it provides a literal map that visually represents larger dynamics—like ocean currents, air patterns, or storm systems—and in so doing helps explain current conditions as well as helps predict what new conditions one might expect in the short and long term.

Likewise, even when it remains on an empirical (as opposed to an interpretive or hermeneutical) plane, a comprehensive and useful religious freedom mapping must go beyond the country’s static religious freedom “facts” (such as the number of incidents of religious persecution) to a framework of interpretation capable of explaining and predicting wider and deeper dynamics. It is these dynamics that help account for the country’s current and expected religious freedom conditions. Furthermore, this framework should focus not just on negative patterns that threaten “stormy weather”, but positive forces and dynamics that have the potential to improve the religious freedom climate. A close-up is helpful and necessary, but so is a wide-angle perspective that includes critical historical background.

Seventh, a useful mapping of religious freedom must pass the “whence” test. To be useful and effective, a mapping of religious freedom in India must come from a transparent, credible and reliable source, and, furthermore, a source that enjoys basic respect and credibility, not least in India itself. If a religious freedom mapping is to be truly practical and useful—including as a road map and instrument of persuasion that Indians themselves might use with their fellow citizens to advocate for greater religious freedom—then Indians must be convinced that it comes from a source that is reasonably trustworthy (or, better yet, a multitude of credible and corroborating sources) and not associated with an agenda that is implacably hostile to the interests of India or to major groups (such as the majority Hindu community) in India.
3. The Gap in Existing Mappings of Religious Freedom in India: Restrictions on Hindus and the Freedom of Hindu Institutions

3.1. A Mapping of the Mappings

There are several notable efforts to provide insights into some of these issues and dimensions of religious freedom in India today. Broadly speaking, current work touching on the primary dimensions of religious freedom falls into five main groupings, with the first grouping including studies conducted by Western governments. The most significant and respected of these are the annual reports by the US State Department’s Office of International Religious Freedom and the US Commission on International Religious Freedom. These reports have appeared every year since 1999.9

A second is mappings or studies by researchers affiliated with universities, research centers, or non-partisan think tanks outside India and mostly in the West. While some of these projects do not make religious freedom a primary or direct focus, they have produced data that have important implications for understanding the dynamics, causes, and consequences of restrictions on religious freedom in contemporary India. The most significant of these studies are the Pew Research Center’s annual report on Global Religious Restrictions (which have appeared every year since 2009) (Pew Research Center 2020); the Religion and State (RAS) research project directed by political scientist Jonathan Fox at Israel’s Bar-Ilan University (covering all the world’s countries between 1990 and 2014);10 the Varshney–Wilkinson Dataset on Hindu–Muslim Violence in India, 1950–1995;11 the large body of qualitative and quantitative work on Indian religious violence by Butler University scholar Chad Bauman; the large body of empirical work and statistical analysis on religious freedom and religious violence around the world (including in India) by Singapore-based political scientist Nilay Saiya; the Religion and Economic Empowerment Project (REEP) formerly based at Baylor University and now housed at the Archbridge Institute in Washington, D.C., directed by economist Rebecca Shah;12 a USAID-funded research project at the United States Institute of Peace on the political and economic consequences of global variations in religious freedom (with significant attention on India) directed by Jason Klocek;13 and, finally, research initiatives on the nexus of law and religion conducted by Brigham Young University’s International Center for Law and Religion Studies, including its restricted-access Encyclopedia of Law and Religion (published by E.J. Brill)14 and its open-access (and fairly regularly updated) database, ReligLaw, which provides basic information on the legal frameworks governing religion and religious freedom for every country in the world.15

A third grouping is studies and mappings produced by researchers affiliated with the Indian government or with Indian universities, research centers, and think tanks (whether purely private or government-related). These studies include the significant empirical work on issues of religious conversion and religious violence by individual Indian scholars such as Rowena Robinson, Sarbeswar Sahoo, and Ashis Nandy, as well as large-scale opinion surveys conducted by the Centre for the Study of Developing Societies (CSDS) in New Delhi. Particularly noteworthy CSDS surveys are the National Election Study (NES), conducted concurrently with India’s national parliamentary elections and therefore every five years (since 1967), and the State of Democracy in South Asia surveys (conducted in 2005–2006 and 2012–2013, covering not only India but also Bangladesh, Pakistan, Nepal and Sri Lanka). Though not focused on religious freedom per se, these large-N studies (the nationwide sample for the 2004 NES was 27,189 respondents) contain abundant information and insight on related issues, including data on religious identification, commitment, and intensity of religious practice, as well as how these and other religious variables correlate with political variables, such as tolerance and support for democracy.16

Another grouping includes mappings and studies by Western-based advocacy organizations, including the granular (though tending to be crisis-driven and episodic) reports on anti-minority religious violence compiled by Human Rights Watch, the respected New York-based human rights NGO; annual reports focused exclusively on the persecution of Christians by the evangelical group, Open Doors International (ODI), and the Catholic
group, Aid to the Church in Need (ACN); and analysis of the religious freedom landscape and major trends as they affect members of both majority and minority communities in India conducted over the years by the US-based Religious Freedom Project (RFP) at Georgetown University and its successor organization, the Religious Freedom Institute (RFI), particularly through its South and Southeast Asia Action Team based in Bangalore.

A final grouping includes the work of India-based advocacy organizations, several of which produce useful reports on religious freedom or closely related issues. Perhaps the premier example is the Centre for the Study of Society and Secularism (CSSS), founded by the late Asghar Ali Engineer, the distinguished Indian Muslim activist and scholar, in the immediate aftermath of the destruction of the Babri Masjid by Hindutva cadres in December 1992. Now led by Engineer’s son, Irfan Engineer, CSSS provides the most thorough annual accounting of Indian “communal” violence available, based on reports in leading Indian daily newspapers—a service that is especially valuable given that the comparable Varshney–Wilkinson dataset has not been updated since 1995.17 Two other sets of advocacy organizations reporting on religious freedom issues and religion-related violence are the Centre for Equity Studies and its subsidiary, the Misaal Foundation, which produce periodic reports on violence inflicted on India’s minority communities, particularly Muslims and Christians; and a consortium of Christian organizations—particularly the Evangelical Fellowship of India (EFI), the United Christian Forum (UCF), and Alliance Defending Freedom-India (ADF-India)—that publishes an annual report as well as a regularly updated mapping of anti-Christian violence throughout India, called “MapViolence”.18

3.2. What the Mappings Do Tell Us

Though there are good reasons to think that the picture of religious freedom that emerges from these studies may be skewed and distorted in several different ways because of a prevailing narrowness of focus or limited methodologies (on which more below), there is little doubt that they converge on some significant and inarguable conclusions, with the most central one being that at least some of India’s citizens are experiencing serious and growing challenges to their religious freedom. Perhaps most tellingly in this regard, the latest Pew Global Religious Restrictions Report—which was released in November 2020, but covers the year 2018—gave India the highest score for social or society-based restrictions on religion in the world (a 9.6 on a 10-point index). Astonishingly, this makes India’s level of “grassroots” religious persecution, or persecution “from below”, higher than the level in countries with notoriously intense sectarian violence such as Syria, Iraq, and Pakistan (Pew Research Center 2020). While there is reason to take these figures with a pinch of salt, as we shall see, they are an indicator—even if imperfect—of the fact that some Indians acting of their own accord inflict remarkably high levels of informal (i.e., non-state) religious violence and persecution on fellow Indians.

A second fact that emerges from the available mass of studies is a clear finding concerning the trajectory of India’s problem of “popular persecution”. Socially generated religious restrictions, or religious restrictions from below, have been chronically high in India for decades.19 The data strongly indicate that intense religious persecution from below has been a chronic and pervasive feature of Indian society since the 1990s (if not the late 1960s), and is thus not a mere function of Narendra Modi’s post-2014 dominance of national politics. For example, according to Pew, both India’s social hostilities index (SHI) score and government restrictions index (GRI) score have remained at stubbornly high levels ever since 2007, the first year for which Pew tracked global religious restrictions. Even then—in the third year of what was ultimately an unbroken ten-year period of Congress-led rule in New Delhi—India’s GRI score was in the “high” range, at 4.8, and its SHI score in the “very high” range, at 8.8. After a couple of years of BJP dominance, India’s scores were only slightly higher: 5.1 for GRI and 9.7 for SHI in 2016, and 5.4 for GRI and 9.5 for SHI in 2017, as already noted (Pew Research Center 2019). In short, especially when it comes to popular or non-state persecution, India has been at Himalaya-level heights for a long time.
Third, available studies of religious restrictions and religious violence strongly suggest that their incidence and severity are subject to significant regional variation. One failing of the available body of studies is that too few of them track religious restrictions and religious violence by state or region, as we will discuss at greater length below, despite the enormous responsibility and power of Indian state governments vis-à-vis religious affairs and law and order. However, available state-wise information suggests that the most serious non-state or social religious restrictions and violence are concentrated in a relatively small number of northern, western, and central Indian states, and particularly in Uttar Pradesh, Rajasthan, Maharashtra, Chhattisgarh, Madhya Pradesh, and Jharkhand—often collectively known as India’s “cow belt”, i.e., the country’s Hindi-speaking and somewhat more ethnically and linguistically homogeneous and conservative heartland.

For example, of the 25 communal riots occurring in the country in 2019 as recorded by the Centre for the Study of Society and Secularism (CSSS), 17 took place in four northern or western states—Uttar Pradesh, Maharashtra, Madhya Pradesh, and Rajasthan. The analysis of cow-related vigilantism conducted by Human Rights Watch found a similar geography of violence, with Uttar Pradesh, Rajasthan, Haryana, and Jharkhand seeing the largest concentration of cases (Engineer et al. 2020). Interestingly, anti-Christian violence shows a similar pattern, though with a twist. From 2011 to mid-2020, the United Christian Forum and the Religious Liberty Commission of the Evangelical Fellowship of India verified 1676 incidents of anti-Christian intimidation, harassment, or violence. In total, 846 or 50% of these incidents occurred in just the five states of Uttar Pradesh, Chhattisgarh, Madhya Pradesh, Jharkhand, and Maharashtra, with Uttar Pradesh and Chhattisgarh seeing particularly large numbers (with 303 and 248 incidents, respectively). Another 161 incidents—10% of the national total—occurred in the four northern and central states of Odisha, Rajasthan, Haryana, and Bihar. The twist with anti-Christian violence is that two south Indian states also saw numerous incidents: Tamil Nadu, with 232 incidents (almost as many as in Chhattisgarh), and Karnataka, with 140 incidents (more than in Madhya Pradesh). Along with Andhra Pradesh, which also saw a significant number (51), these southern Indian states accounted for about a quarter of anti-Christian incidents between 2011 and mid-2020. At the broadest level, however, the violent harassment of religious minorities by non-state actors is clearly far from uniformly spread across the Indian Union but is rather most acute in a relatively small number of northern and central states, with Uttar Pradesh consistently seeing the largest number of incidents in almost every category.

A fourth and final fact is that the available studies yield little clear consensus concerning the root causes (the “Why”) of religious freedom violations in India. Of course, one should be skeptical of any moncausal explanatory proposals that purport to name a single dominant source or cause of India’s ills when it comes to religious restrictions and religious violence. Dynamics as large and complex as religious freedom violations in a vast country of 1.3 billion people are never the result of a single, simple cause. In terms of the search for causes, it is important to note that there are two distinct approaches to causal explanation: agent-centered and structure-centered. Both are important and valuable. We hinted at the importance of both approaches when we noted in our enumeration of the eight religious freedom “desiderata” that good religious mappings should, among other things, help us grasp both the How and the Why of religious freedom: they should tell us something about the agents and methods whereby religious freedom is restricted or protected (the “How”) as well as something about the underlying causes, systems, and rationales that provide a deeper, structural explanation of why these agents are restricting or protecting religious freedom (the “Why”).

Overall, it is fair to say that available mappings of religious freedom in India provide rich and textured insight into much of the “How”, but somewhat less clarity concerning the “Why”. Why do some particular actors, whether they belong to non-state groups or to government structures, appear to be so intent on restricting the religious freedom of minority communities?
One common, popular explanation we can safely discount is an essentialist or primordialist explanation that attributes Hindu-nationalist violence to deep-seated features of Hinduism or religious fanaticism. In other words, so the essentialist hypothesis proposes, as some Hindus have become more “extreme” or “fundamentalist” in their religious beliefs and practices, they have become more extreme and authoritarian in their political attitudes and behavior. In fact, as Yogendra Yadav, Alfred Stepan, and Juan Linz pointed out, data from the National Election Study and the State of Democracy in South Asia Survey we mentioned earlier directly contradict this causal hypothesis. For the 2004 National Election Study, Yadav, Stepan, and Linz constructed an index of religious intensity to determine if growing religious intensity correlates with “growing undemocratic attitudes and practices”. It turns out that for Hindus as well as other religious groups they studied (Muslims, Sikhs, and Christians) the “exact opposite” is true. Specifically, “[f]or all four major religions in India, for each increase in religious intensity, there is an increase in support for democracy” (Stepan 2011, p. 136; the emphasis is in the original). Broadly confirming and updating these findings, but in a way even more directly relevant to the issue of religious freedom, the Religion and Economic Empowerment Project (REEP) directed by Rebecca Shah surveyed nearly 10,000 individuals in India and Sri Lanka between 2017 and 2019 and found that Hindus with higher self-reported levels of religious commitment and practice (based on several distinct metrics) were more likely to be tolerant of people from other religious communities than Hindus with lower levels of religiosity. The same basic causal finding—that higher religiosity correlates with higher religious tolerance—holds for almost every religious community sampled, including Muslims, Sikhs, and Protestants.

If religion or religiosity per se is not the cause of religious conflict and persecution in contemporary India, what about other explanations? Space does not permit in-depth exploration, but it is worth simply noting that several of the scholars and studies noted above offer explanations of the drivers of religious violence and religious persecution that are plausible and in some cases powerful, and that merit further exploration. Ashutosh Varshney, using the Varshney–Wilkinson dataset, argues that a leading explanation of Hindu–Muslim violence in particular is the breakdown of inter-ethnic or inter-religious associations—what Robert Putnam calls “bridging social capital”, or social networks that draw otherwise separate communities into cooperative relationships and that take the edge off of otherwise rigid and exclusive identities. Contrary to Varshney’s Tocquevillian stress on the importance of voluntary inter-religious associations, Stephen Wilkinson, using the same dataset, proposes what might be considered a Machiavellian explanation—namely, that anti-minority religious violence is a deliberate strategy employed by Hindu-nationalist politicians to communalize the Indian electorate and increase the vote share of the BJP (Wilkinson 2006). Though Wilkinson’s methods and conclusions have been sharply criticized, including by Varshney, and though Bauman and Leech have provided evidence that the occurrence of anti-Christian violence in particular states tends to reduce support for the BJP in subsequent elections (Bauman and Leech 2012, pp. 2195–216), a recent analysis of the Varshney–Wilkinson dataset has found that Hindu–Muslim riots occurring in the year preceding an election increase the vote share of the Bharatiya Janata Party by at least 5 percentage points, suggesting that the provocation of religious violence is a “rational” political strategy for the BJP, and thus perhaps explains the rising incidence of religious violence concurrent with the BJP’s political ascendancy (Iyer and Shrivastava 2016).

A social-science explanation of a similar ilk is what might be called a Malthusian or “demography-made-me-do-it” approach to explaining India’s growing problem of religious violence. Several scholars have argued that India’s increasingly skewed sex ratio as a consequence of widespread sex-select abortion—around 950 women to 1000 men, or worse, in many parts of north India—creates a “bare branches” security problem. That is, tens of millions of young Indian men, without any possibility of marrying, and in many cases with little hope of gainful employment, are increasingly angry, frustrated, and ready to be recruited into violent causes of varying sorts, including extremist religious ones. This bare-branches problem, which is far more acute among Hindus than Muslims, could
help explain the growth in Hindu-extremist anti-minority religious violence from below, particularly in India’s north-central cow belt where gender ratios are especially skewed (Hudson and Boer 2005).

In a less reductive and ultimately more persuasive approach, Bauman argues that any causal explanation of the trajectory and intensity of India’s religious violence and religious freedom violations must take seriously the timing of the rise of Hindu-nationalist political mobilization and campaigns against religious minorities. These efforts, and all the violence they unleashed, only took off around 1990–1991, when the collapse of India’s patron state, the Soviet Union, forced the country’s leaders to liberalize the economy and open itself up to global trade and exchange. The result was a dramatic and unforeseen transformation—and disorientation—of India’s cultural and political center of gravity. Among other things, Bauman notes, the dizzying effects of liberalization and globalization generated a heightened sense of existential insecurity among many members of India’s Hindu majority community. With the influences of Western-backed secular modernity flooding into India at an accelerating pace, many members of the Hindu-nationalist movement began to go to war against groups inside India that seemed appropriate (and convenient) proxies for a secular modernity too diffuse to battle directly—particularly the Christian community and its embrace of a more voluntaristic and individualistic understanding of religion of a piece with secular modernity. Bauman’s nuanced, historically contextualized, and constructivist account of the causes of anti-minority violence in India—particularly anti-Christian violence—constitutes an essential piece of the explanatory puzzle.

3.3. The Invisibility of Hindus and Hindu Institutions in Existing Mappings

What can be said, objectively and critically, about this array of reports and mappings in terms of their quality, scope, comprehensiveness, relevance, and credibility, as well as their most significant lacunae? Space does not permit a comprehensive accounting of the high and low points of each study we have surveyed with respect to all eight of the religious freedom desiderata we identified earlier. Several broad patterns readily emerge, however, with the first being that it is abundantly clear that available religious freedom mappings overwhelmingly focus on the direct restriction and persecution half of the “what” of religious freedom to the neglect of the discrimination and inequality half. Yet anecdotal evidence—along with some direct and credible testimony—suggests that vast areas of Indian life are rife with systematic and severe religion-based discrimination. The systematic underrepresentation of religious minorities (particularly Muslims, it seems) appears to be particularly severe in the Indian military, security services, intelligence services, police, and administrative and civil service. At the same time, in many cases, religious discrimination is tightly bound up with caste-based discrimination, and often victimizes Hindus of Dalit or lower-caste backgrounds (effectively excluding them from Hindu temples, for example, even though such bans on temple entry are unconstitutional and illegal). Yet most available studies—including Pew and the reports of most advocacy organizations—neglect or altogether ignore the crucial issue of religion-based discrimination. The systematic underrepresentation of religious minorities (particularly Muslims, it seems) appears to be particularly severe in the Indian military, security services, intelligence services, police, and administrative and civil service.

At the same time, in many cases, religious discrimination is tightly bound up with caste-based discrimination, and often victimizes Hindus of Dalit or lower-caste backgrounds (effectively excluding them from Hindu temples, for example, even though such bans on temple entry are unconstitutional and illegal). Yet most available studies—including Pew and the reports of most advocacy organizations—neglect or altogether ignore the crucial issue of religion-based discrimination in society and economic life in favor of the easier-to-measure and more attention-grabbing incidents of religious “restriction”, “persecution”, and “violence”.

Second, when it comes to the “who” of religious freedom, it appears that most studies of religious freedom in India focus overwhelmingly on genderless individuals within religious minority communities as the most relevant or important subjects and bearers of the right to religious freedom. When we say “genderless”, we mean simply that even where the religious persecution and violence perpetrated against individuals is described in great empirical and analytical detail, almost no studies pay attention to the ways in which women and men may experience religious persecution in different ways, to different degrees, or with different consequences. While the deliberate targeting of women’s bodies in the Gujarat pogrom of 2002 was a major theme in some studies of that horrific episode, few studies since have undertaken any systematic effort to ask whether and how women may be subject to particular forms of religious restriction or religious discrimination across
India as a whole. A partial exception here is Rebecca Shah’s Religion and Economic Empowerment Project (REEP), which deliberately focuses on the religious lives of poor Dalit women. Shah’s work illuminates how women in particular exercise the freedom of religion, what the experience of religious free exercise means to them, and the particular ways religious freedom can serve as a social and developmental “force multiplier” for them in contexts in which they are otherwise shunted to the margins and lack voice and agency (Shah 2016, pp. 176–93).

Another way in which the “who” of religious freedom is treated with a remarkable lack of precision and appropriate disaggregation is with respect to religious institutions. An overwhelming tendency of religious freedom studies, on India and in general, is to focus on individuals and to neglect institutions and communities. To a remarkable degree, even a highly sophisticated and influential study such as Pew’s annual Global Religious Restrictions Report, in both its government restrictions index and its social hostilities index, is explicitly and repeatedly focused on the impact of religious restrictions on “individuals”. Because the Pew report is so influential and widely cited, including on India, its systematic failure to attend to the importance of religious institutions in its analysis of religious restrictions warrants further discussion.

3.4. The Invisibility of Religious Institutions in Pew’s Global Religious Restrictions Analysis

The Pew Research Center is a self-described “nonpartisan fact tank” that seeks to inform the general public about global issues, attitudes and trends. Beginning in 2009, Pew has released an annual report on “Global Restrictions on Religion”. Pew’s regularly updated analysis of global religious restrictions is based on a data-coding project that uses ideas and methods originally developed by the sociologist of religion and former Pew Research Center senior researcher Brian J. Grim. These ideas and methods, in turn, build on a methodology that Grim and Professor Roger Finke developed at the Pennsylvania State University’s Association of Religion Data Archives (ARDA). According to Pew, “The goal was to devise quantifiable, objective and transparent measures of the extent to which governments and societal groups impinge on the practice of religion” (Pew Research Center n.d.). The project therefore seeks to measure two types of restrictions around the world: government restrictions on religion and social hostilities involving religion. It uses an index for government restrictions and an index for religion-related social hostilities to rate nearly 200 countries and self-governing territories.

The Government Restrictions Index (GRI) is based on 20 indicators of ways in which national and local governments restrict religion, including coercively. The indicators for government restrictions, which are in the form of questions, include items such as:

- Does any level of government interfere with worship or other religious practices?
- Is public preaching by religious groups limited by any level of government?
- Is proselytizing limited by any level of government?
- Is converting from one religion to another limited by any level of government?
- Is religious literature or broadcasting limited by any level of government?
- Are foreign missionaries allowed to operate?
- Is the wearing of religious symbols, such as head coverings for women and facial hair for men, regulated by law or by any level of government?
- Was there harassment or intimidation of religious groups by any level of government?25

The Social Hostilities Index (SHI) is based on 13 indicators of ways in which non-state groups and individuals may infringe on religious beliefs and practices. These acts or incidents of religion-related hostility include religiously biased crimes, mob violence, and efforts to prevent religious groups from growing or operating. The indicators for social hostilities involving religion, which are also in the form of questions, include:

- Has there been any harassment or intimidation of religious groups by social groups motivated by religious hatred or bias?
• Has there been any destruction of personal or religious property motivated by religious hatred or bias?
• Have there been any detentions or abductions motivated by religious hatred or bias?
• Was there mob violence related to religion?
• Were there acts of sectarian or communal violence between religious groups?
• Were religion-related terrorist groups active in the country?
• Was there a religion-related war or armed conflict in the country?

For any given country, a wide range of sources is used to answer these questions, including country constitutions or basic laws, U.S. State Department annual reports on International Religious Freedom, U.S. Commission on International Religious Freedom annual reports, U.N. Special Rapporteur on Freedom of Religion or Belief reports, Human Rights Watch topical reports, and International Crisis Group country reports.

It is notable that Pew’s main source, however, has been the U.S. State Department’s annual report on International Religious Freedom. This remarkably detailed document, containing an entry on every nation and self-governing territory in the world with the exception of the United States, appears in the middle of any given calendar year and reports on the religious freedom situation in the areas it covers through the end of the previous calendar year (i.e., the 2017 report covers calendar year 2016). The fact that the State Department report, partly by virtue of its detail and global comprehensiveness, is one of Pew’s main sources generates additional lag time for the appearance of Pew’s report. For example, the report Pew published on global religious restrictions in 2017 relies on the 2016 U.S. State Department annual report on International Religious Freedom, which covered the global religious freedom situation through 2015.

What, then, does this massive effort reveal about the state and trajectory of institutional religious freedom across the world’s countries? While there is little question that Pew’s Global Restrictions on Religion project has contributed enormously to our general understanding of the state and trajectory of global religious restrictions and global religious freedom, making it possible to pursue quantitative research and analysis of unprecedented depth and sophistication, it appears that institutional religious freedom is left out of most of Pew’s indicators of government and social restrictions. Even on a generous reading, only three of Pew’s 20 indicators of government restrictions on religion address some aspect of institutional religious freedom. These indicators are: GRI Question 16, “Does any level of government formally ban any religious group?”; GRI Question 17, “Were there instances when the national government attempted to eliminate an entire religious group’s presence in the country?”; and GRI Question 18, “Does any level of government ask religious groups to register for any reason, including to be eligible for benefits such as tax exemption?”

This is a generous reading because in fact only one of these questions—GRI Question 18—directly, explicitly, and unequivocally addresses an issue of institutional religious freedom, i.e., the issue of a religious community’s freedom to acquire formal entity status through some kind of registration, which is a crucial aspect of institutional religious freedom. However, it is possible and reasonable to infer that wherever a government formally bans a religious group or seeks to eliminate its presence in a particular country, that government is ipso facto engaging in activities that severely limit the institutional religious freedom of the religious group in question. So, on a generous interpretation, it is possible to view Pew’s GRI Q. 16 and GRI Q. 17 as providing some indication—albeit very broad and indirect—of whether institutional religious freedom is being restricted in societies where governments formally ban particular religious groups or are seeking to eradicate a group entirely. At the same time, for the majority of the world’s societies in which governments are not engaging in this kind of extreme religious restriction, these two questions are not designed to shed direct light on the level or kind of institutional religious freedom groups might (or might not) be enjoying.

Pew’s Government Restrictions Index poses other questions that may—or may not—indirectly relate to issues of institutional religious freedom. One such question is GRI Q. 14: “Does the national government have an established organization to regulate or manage
religious affairs?” It is certainly reasonable to expect that a government with a dedicated ministry or organ dedicated to the regulation of religious affairs is likely also to impose a variety of controls and restrictions on institutional religious freedom. Often, it seems, precisely the purpose of such entities is to exercise far-reaching oversight and management of religious institutions. Indeed, well-known cases of countries with government offices of religious affairs—such as Turkey, with its Directorate of Religious Affairs, or Diyanet İşleri Başkanlığı—are witness to extensive and systematic restrictions on institutional religious freedom. While the association is reasonable, however, it is far from being direct and automatic. Some governments with an office or ministry of religious affairs, such as that of Sri Lanka, do not impose Kemalist-style restrictions on religious institutions, and, even if they impose some restrictions, they do not necessarily impose them uniformly across religious communities. Furthermore, it is obvious that governments do not need an established organization dedicated to the regulation of religious affairs in order to impose severe restrictions on religious freedom in general and institutional religious freedom in particular. Russia, for example, though it had the fourth highest levels of government restrictions of religion in the world in 2015, according to Pew’s most recent global religious restrictions report, does not have a formal government ministry or directorate of religious affairs. So this indicator, by itself, is at best a highly indirect and unreliable reflection of the actual state of religious freedom—including institutional religious freedom—in any given country.

What is true of Pew’s GRI Q. 14 is also true of GRI Q. 19 and GRI Q. 20. One part of GRI Q. 19 asks whether “any level of government use[d] force toward religious groups that resulted in individuals having their personal or religious properties damaged or destroyed?” Though, rather oddly, the question specifically asks whether “individuals” have suffered damage to their personal or “religious” property, it is clearly construed and applied so as to determine whether governments use force in particular countries in a way that damages the property of religious institutions as well as individuals. And sub-questions of GRI Q. 20 ask whether a country’s constitution favors one religion or more than one religion and whether the government provides access, privileges and funds to religious groups, and, if so, whether it does so on an equal or unequal basis? In many cases, undoubtedly, government favoritism and the granting of government privileges and funding bear systematic and far-reaching implications for institutional religious freedom. Government “privileges” for religious groups in numerous contexts may come in the form of access to basic dimensions of institutional religious freedom, such as the right to entity status, the right to the autonomous selection of religious leadership and personnel, the right to own and transfer property and construct buildings, the right to secure funding without undue external interference, etc. And in some cases, governments may dispense these rights and privileges unequally with the result that some religious groups may enjoy a significant level of institutional religious autonomy while other groups may enjoy only a very low level of institutional freedom. At the same time, significant government funding of a religious group—even when the funding is welcome and even sought by the group in question—may come almost automatically with significant government control and limits on the group’s institutional autonomy.

However, just as is true of whether a country has a government bureau of religious affairs, indicators such as access to government funding, favoritism, or privileges are a highly indirect and unreliable marker of institutional religious freedom. For example, significant funding by the U.S. federal government of certain religious NGOs to advance American objectives in the areas of international relief and development as well as domestic welfare (such as Catholic Charities, Catholic Relief Services, and World Vision) does not bring the kind of far-reaching government oversight and limitation on the autonomy of religious institutions that significant government funding of religious groups often seems to bring in other contexts. Likewise, the extent to which government favor for particular religious groups translates into higher or lower levels of institutional religious freedom is highly path-dependent and inextricably related to complex historical, political, cultural, and religious dynamics. An established religion or state church in one context, such as
the Anglican Church in England and Wales, may enjoy significantly greater institutional autonomy than an established religion in another context, such as Sunni Islam in Malaysia. So while several of Pew’s GRI indicators probably pick up some underlying patterns and dynamics in governmental restrictions on religious institutions, these indicators in and of themselves cannot tell us anything definite or precise about the nature or level of government restrictions on—or protections of—religion’s institutional autonomy in any given context or, for that matter, across contexts and across time.

An analysis of the relationship between Pew’s Social Hostilities Index (SHI) and institutional religious freedom can be much briefer and simpler. None of Pew’s 13 indicators of social restrictions on religion directly and explicitly addresses institutional religious freedom. At most, as with many indicators in the Government Restrictions Index, there are some SHI indicators that may indirectly pick up various kinds of attacks and restrictions on religious institutions, even though they do not directly ask about them. For example, there are indicators that probe the extent to which social groups are engaging in harassment or intimidation of religious groups in general, and whether particular religious communities (Muslims, Buddhists, Christians, Jews, etc.) are targets of religious hatred and violence (SHI Q. 1.). Numerous indicators probe the presence and prevalence of religion-related mob violence (SHI Q. 2), sectarian violence between religious groups (SHI Q. 3), religion-related terrorism (SHI Q. 4), religion-related armed conflict (SHI Q. 5), and violence resulting from inter-religious tension (SHI Q. 6). Two questions probe whether organized groups—religious or non-religious—used coercion “to dominate public life with their perspective on religion” and attempted to prevent any religious groups from operating in the country (SHI Q. 7–8). A couple of questions ask about “incidents of hostility” over proselytizing and religious conversion (SHI Q. 12–13). And there are questions that explicitly probe acts of religion-related violence or harassment aimed at “individuals”, including individual women, rather than institutions (SHI Q. 10–11).

Except for the indicators that explicitly probe attacks on individuals, it is possible and probably inevitable that many of these indicators are capturing attacks, acts of violence, and incidents of hostility that have the intention and the result of damaging religious institutions, perhaps in systematic and far-reaching ways. But none of the SHI indicators probes this kind of intention and consequence in a direct and unequivocal manner. Therefore, the social hostilities portion of the Pew Global Religious Restrictions index yields no clear and definite information whatsoever concerning the restrictions or attacks social groups may—or may not—be inflicting on religious institutions and their autonomy around the world.

We can, therefore, derive relatively little direct information and insight from the Pew data on government and social religious restrictions with respect to the global state or trajectory of the religious freedom of institutions, including in a large and significant country such as India. Pew’s Global Religious Restrictions project tracks only one part of one dimension of institutional religious freedom, i.e., the religious registration subdimension of the horizontal dimension of institutional religious freedom. This major lacuna in Pew’s work on religious restrictions appears to result from three main factors.

First, Pew’s Global Religious Restrictions coding is quantitative—up or down—rather than qualitative. Any given indicator probes whether and to what extent a particular religious restriction is occurring, but it is not asking how or where it is occurring. We can therefore learn, for example, whether and to what extent a government or social group is harassing and intimidating a religious community, but we cannot learn what form such harassment may be taking and whether and how it may affect a community’s religious institutions. As we have noted, several indicators may and probably do track attacks or restrictions on religious institutions, but the general formulation of these indicators means that we cannot know for sure how much and to what extent they are picking up attacks on religious institutions. Therefore, except on the narrow issue of religious registration, tracked by GRI. 18, the Pew data cannot tell us anything definite or precise about institutional religious freedom.
Second, to a remarkable degree, the Pew GRI and SHI indexes are explicitly and repeatedly focused on the impact of religious restrictions on “individuals”. Numerous questions ask exclusively about attacks on or intimidation of “individuals”. In fact, the term “individuals” appears 41 times in Pew’s Global Religious Restrictions Codebook; the term “institutions” appears exactly once, and only with reference to “government institutions”.

Third, Pew’s codebook is incident-focused, not structure-focused or policy-focused. Both the GRI and SHI are focused largely on tracking the occurrence of incidents, acts, and events—outbreaks of violence, incidents of hostility, episodes of harassment and intimidation, etc. However, much of what determines the level and quality of institutional religious freedom in any given society is the result of legal structures, public policies, and cultural patterns. Such structural phenomena the Pew indicators are generally not designed to track.

3.5. Sources and Consequences of the Widespread Gap in Religious Freedom Studies of India

One significant source of the widespread neglect of these crucial dimensions of religious freedom in India is that a large number of the available reports and mappings are—by deliberate design and intention—not interested in the condition of religious freedom in India per se but are interested only in the persecution and victimization of particular groups and minority communities. This raises the “whence” dimension of religious freedom mappings: the fact is that a large proportion of religious freedom mappings have an American or Christian provenance, or very often both, and, therefore have a broad tendency to ignore or neglect the treatment of non-Christians in their analyses. Even if one casts one’s analytical net beyond American organizations, a large number of “religious freedom” or “religious persecution” advocacy organizations—Open Doors International (ODI), Human Rights Watch, Misaal Foundation, United Christian Forum (UCF), the Religious Liberty Commission of the Evangelical Fellowship of India (RLC-EFI), Alliance Defending Freedom-India (ADF-I), and the Centre for Equity Studies—focus only on the persecution of religious minorities. Indeed, the focus of several of these organizations is even more narrow—in the case of ODI, ACN, UCF, RLC-EFI, and ADF—insofar as it is restricted to anti-Christian persecution in particular. Worse, because these organizations produce many of the reports that are important sources for the US State Department, the US Commission on International Religious Freedom, and Jonathan Fox’s Religion and State (RAS) project, a tendency to under-report restrictions and violence targeting Hindus is detectable even in these latter studies as well.

While ideologically charged animus prevents Hindu nationalists as well as other Indians from taking the religious freedom reports of these organizations seriously, some of their distrust is an understandable consequence of the fact that these studies consistently neglect restrictions and violence targeting Hindus. Too often, therefore, it is inevitable, whatever the underlying intentions, that many of these religious freedom mappings themselves become weapons in India’s counter-pluralistic ideological cross-fire rather than useful contributions to the promotion of authentic freedom and pluralism.

Among the other lacunae in the available mappings, consider their treatment of the “how” dimensions of religious freedom. As the foregoing analysis clearly demonstrates, most available studies take the form of persecution case reports that focus overwhelmingly on social or informal acts of violence or harassment rather than government-imposed, legal restrictions, and they particularly neglect how formal government policies impact institutions. For example, even as highly sophisticated a framework as Pew’s Global Religious Restrictions Codebook is not only individual-focused rather than institution-focused, as noted earlier, but also incident-focused rather than structure-focused. Both Pew’s GRI and SHI are focused largely on tracking discrete incidents and events such as outbreaks of violence or episodes of harassment. However, except in cases where there has been a substantial breakdown of political order and the rule of law, what largely determines the level and quality of religious freedom in any given society is its established legal structures, public policies, and cultural patterns. But such structural phenomena
Pew’s indicators are generally not designed to track. Instead, because Pew focuses so heavily on discrete incidents, a country with a population as large as India’s as well as with a reasonably open civil society and free flow of information (despite some serious attrition in press and other freedoms in recent years), will almost inevitably record a large number of incidents, even though the number of incidents per capita may remain very small or geographically isolated. In other words, the fact that India has a higher level of religion-related social hostilities than Syria and Iraq, according to Pew’s index, may mean less than it appears, and may present a distorted—and at best incomplete—picture of the multi-dimensional reality of religious freedom as it is lived by most Indians most of the time.

The picture is further distorted because Pew pays no attention, as suggested earlier, to the geography or “where” of religious freedom. Indeed, this lacuna is characteristic. The vast majority of religious freedom studies collect and analyze data on religious freedom restrictions only on an aggregated, national level, even though, as we have indicated, there is good reason to believe that at least some—though by no means all—of India’s religious freedom challenges are concentrated in a relatively small number of north-central “cow belt” states. This is problematic because it almost certainly paints a much darker picture of the country as a whole than it deserves. Consider, for example, that a recent Open Doors International report listed India as the world’s tenth most dangerous country in which to be a Christian—more dangerous and restrictive than Saudi Arabia (Open Doors 2020). This is partly a result of the fact that the ODI study, like Pew, is highly sensitive to raw numbers of reported incidents, and makes no effort to contextualize these numbers by creating something like a “persecution-per-capita” index.

It is problematic also, however, because it not only exaggerates the darkness but ignores the light. The fact that many forms of religious freedom restriction are concentrated in fewer than ten Indian states means that something like twenty Indian states as well as eight Union territories have relatively low religious freedom restrictions and relatively few incidents of religion-related violence. In other words, it is not that India is a country of high religious persecution and violence with just a few pockets of peace and pluralism. More like the reverse is true (though of course there are problematic national-level policies and patterns, as we have noted). If so, the goal of understanding the causes of religious restriction and advancing the principles of religious freedom would be greatly advanced if more mappings attempted to study India’s vast zones of relative religious freedom, religious peace, and religious pluralism. In fact, however, virtually no existing religious freedom studies even attempt to provide a kind of inventory of what could be termed India’s religious freedom capabilities, strengths, and success stories.

In terms of the “when” of religious freedom, there is a serious time lag issue even with some of the most comprehensive studies, though there is often less of an issue with advocacy-oriented studies focusing on particular communities. For example, Pew’s lag time is about two years, so that its 2020 report, for example, covers the year 2018, and this is largely because it relies heavily on the annual US State Department Report for its coding, and this report is released the year after the year it covers. This is a serious problem given the volatility of India’s religious freedom dynamics.29

A particular argument for the value of tracking real-time developments as much as possible is the global spread and acceleration of what human rights lawyer Chrystie Swiney terms a “counter-associational revolution”. It is only in the last decade that several major democratic governments—India’s included—have imposed severe restrictions on civil society organizations, including religious ones (Swiney 2019). Particularly if research on the nexus of religion and politics in soon to be the world’s largest country is to serve not just scholars and those with strictly theoretical interests in knowledge for its own sake, it is essential to develop more timely knowledge of India’s religious freedom dynamics.
4. The Important though Neglected Reality of Restrictions on Hindu (and Other) Religious Institutions in India

The widespread and systematic failure even to observe and register restrictions on Hindu and other religious institutions in India would be trivial and hardly worth noting if institutions, organizations, and communities did not bear important and distinctive religious freedom rights, or if they were not core components of any society’s infrastructure of religious freedom and civil society. But they do, and they are. Furthermore, there is abundant evidence that the rights of religious institutions and organizations are vulnerable to serious and systematic legal restrictions in India and have been facing increasingly stringent controls in recent years.

For example, federal law empowers the government to ban religious organizations that provoke “intercommunity friction”, are involved in terrorism or sedition, or violate laws governing foreign contributions to NGOs (for more on government regulation of foreign financial contributions, see below). India’s Religious Institutions (Prevention of Misuse) Act prohibits the use of religious institutions for political activity. Articles 5 and 6 prohibit the use of a religious institution’s funds, or a religious gathering or ceremony, for the sake of political activity. The Places of Worship (Special Provisions) Bill prohibits the “conversion” of places of worship from one religion to another “in order to foreclose any controversy in respect of any place of worship that existed on 15th day of August 1947”. At the state level, Uttar Pradesh has a law regulating the construction and use of public religious buildings. All construction and utilization of public buildings for religious worship needs to be approved by the government. Similarly, the states of Madhya Pradesh, Rajasthan, Uttar Pradesh, and West Bengal have laws regulating the construction of public religious buildings and the use of public places for religious purposes.

This thicket of regulations potentially constitutes a massive structural impediment to the full-fledged freedom of religious institutions insofar as they evidently invite expansive interpretation and a high level of intervention on the part of both national and state government officials in religious affairs. Yet, again, precisely how such regulations are interpreted and enforced to regulate and restrict institutional religious freedom in India receives little attention in the available religious freedom mappings.

In one area—the freedom of religious (and non-religious) NGOs to access foreign funding—governmental and administrative restrictions on the freedom of religious institutions have become significantly more severe in recent years. With increasing frequency since 2014, Indian authorities have frozen the bank accounts of organizations using the 2010 Foreign Contributions Regulations Act (FCRA). The FCRA, significantly, was passed by the Indian parliament while a Congress-led coalition government was firmly in power, and four years before the BJP achieved dominance at the center, in 2014. With the FCRA as a tool, the central government has been able to prevent growing number of NGOs from accessing funding to carry out their operations. Many activists believe that the current government has used the FCRA selectively to target certain kinds of NGOs—particularly leftist and minority NGOS deemed “anti-national”—with the shuttering of Compassion International’s operations in India in late 2016 being only the most prominent case.

In fact, existing regulations rooted in the Indian Penal Code may authorize the government to treat religious NGOs with greater—and inequitable—severity. The Ministry of Home Affairs may reject an organization’s FCRA application if the recipient is judged to be engaged in creating communal tensions or disharmony. The ministry may also reject an application if it judges that foreign funding would be detrimental to “harmony between any religious, social, linguistic, or regional group, caste, or community” (United States State Department 2021). Presumably as a direct result of the application of these and other restrictive criteria, it was reported in late 2018 that the central government had revoked the FCRA licenses of some 20,000 NGOs receiving foreign funds. In some cases, organizations lost their licenses simply because they were deemed “anti-national”. The result, according to a Bain and Company report, is that philanthropic NGOs in India suffered a 40% decline in foreign funding between 2015 and 2018.
Another major lacuna in the available studies when it comes to “who” enjoys (or fails to enjoy) religious freedom protections concerns members of the Hindu religious majority. Hindus, of course, bear the right to religious free exercise and religious equality just as much other members of Indian society. However, exceedingly few studies or mappings of religious freedom in India—including studies of religious violence—even attempt to catalogue the respects or instances in which Hindus may be the victims of religious violence, persecution, and discrimination. Of course, reports consciously designed to analyze attacks or restrictions on members of minority communities cannot reasonably be expected to analyze attacks or restrictions on members of the Hindu majority, or be criticized for failing to do so. But reports that are ostensibly designed to analyze religious persecution in general or restrictions on religious freedom per se should be expected to include attacks on Hindus. With respect to non-state or social restrictions, while grassroots religious violence in India is often asymmetric in that it disproportionately victimizes members of religious minority communities, innocent Hindus often suffer during episodes of religious violence and communal rioting.

For example, a Hate Crime Watch study of nearly 300 religion-related hate crimes occurring across India between 2009 and 2019 found that Hindus were about as likely to be the victims of these crimes as Christians (14% of the victims were Hindus, and 15% were Christians, while 59% were Muslims). In addition, Bauman and Ponniah have noted in their studies of the explosive Hindu-Christian violence in Odisha in 2008 that many Hindus were deliberately targeted. While most victims were Christians, “many Hindus were also attacked and driven out of their homes”. In just one incident, “a Christian mob destroyed 120 Hindu homes”. Moreover, some Hindu victims of the violence reported that post-violence relief efforts largely ignored them, and that they did not feel safe in the refugee camps populated mostly by Christians (Bauman and Ponniah 2016, p. 233).

With respect to state-generated or official religious restrictions, significant evidence supports the conclusion that here, too, Hindus are subject to serious and systematic violations of their religious freedom in domains largely ignored by most available studies. The first domain is in what could be termed communal self-definition. Numerous religious communities in India have sought permission to self-identify as non-Hindus, while also continuing to draw spiritual inspiration from the broad Hindu tradition. That is, these communities do not seek to “convert” to an existing, formally non-Hindu or extra-Hindu religious tradition, such as Islam or Christianity, but simply seek the freedom to create and identify explicitly with what could be termed a religious “third option”—a “Hindu-ish” variant of Hinduism that they consciously and deliberately wish to place outside the boundaries of what is generally considered Hinduism. One example is the Lingayat community, originating in the twelfth century, which is fervently opposed to caste distinctions. When presented with such petitioners, the Indian courts have consistently closed the door. The result is that court rulings have made it difficult if not impossible for individuals and groups to exercise what could be called a right of exit from the broad Hindu family. That is, even groups belonging to the broad family of indigenously Indic religions but do not consider themselves Hindu—even for grave reasons—are not permitted for official purposes to be anything other than Hindu (Dhavan 1987; Sen 2019). So, remarkably, even neo-Buddhists—who, following B.R. Ambedkar, famously and insistently demand to be anything but Hindu—have come to be classified by the government as Hindus. What makes the refusal to give “Hindus” (broadly conceived) a right of self-definition and a closely conjoined right of exit particularly egregious in the eyes of many is that the government and the courts do not subject minority communities to equivalent restrictions, which is to say that an issue of inequitable treatment adds insult to injury.

Yet this entire issue—an issue that could hardly be more fundamental to religious freedom insofar as it touches on one’s ability, or the ability of one’s community, to define and understand one’s religious convictions and religious identity on one’s own terms—is generally ignored in the available mappings and studies of religious freedom in India. It is particularly unfortunate that this issue is systematically ignored or neglected (except, to an
extent, by specialists in Indian law) because the freedom to self-define and construct one’s own alternative to mainstream spiritual traditions is central to the meaning of freedom in general and religious freedom in particular. Though he is generally supportive of some government role in the regulation of religious affairs under the Indian Constitution, political theorist and public commentator Pratap Mehta recently observed, “The state has consolidated Hinduism in one homogenous legal identity. While we strike a blow for freedom we forget that in India communities do not have the freedom of self-identification”. Mehta adds, yet more sharply, “If God should not hold the state hostage, neither should [the] state become God” (Mehta 2018). The freedom of religious self-definition, moreover, is indispensable to a culture of spiritual innovation and free and fluid religious competition. And as I have noted elsewhere, self-definition—or the substantive dimension of institutional religious freedom—is one of three core components of the freedom of religious institutions. If religious institutions cannot define the substance of their identity and beliefs, it is not so much that they are less free. It may be more accurate to say that they do not exist as distinct actors and agents at all.

Another significant government limitation on the religious freedom of Hindus generally ignored by available religious freedom mappings concerns the administration of Hindu temples and other institutions. Though as we noted earlier, Article 26 of the Indian Constitution expressly protects the freedom of religious denominations to govern their own affairs, judicial rulings dating back to the 1950s have carved out so many exceptions to this fundamental freedom that there is not much left of it—especially (ironically) when it comes to the self-governance of the religious institutions of the Hindu majority. “It is not an exaggeration to say that Hinduism has been nationalised [sic] through the agency of the state”, to quote Pratap Mehta again. “The state now runs tens of thousands of religious institutions. If you look at the case law, it is hard to argue that temples are autonomous creatures outside the state in the way in which churches might be in the US” (Mehta 2018).

The story of how India came to practice a form of Erastianism vis-à-vis Hindu institutions is long and complicated, but the upshot is that the prioritization of other constitutional imperatives such as the liberation of Dalits from caste-based exclusion and oppression prompted Indian politicians and judges to downgrade the freedom of Hindu institutions to govern their own affairs relative to these other priorities. Furthermore, as the recent Sabarimala Temple case illustrates, Indian judges have even arrogated to themselves the right to identify which theological doctrines and practices within any given religious tradition (including Hinduism) are “essential”, regardless of what the community itself might say, in order to justify and expand the state’s regulatory reach and power over any doctrines and practices it deems non-essential. In the damning judgment of distinguished Indian jurists Rajeev Dhavan and Fali Nariman, “Few religious pontiffs possess this kind of authority” (Dhavan and Nariman 2000, p. 259).

While Indian judges have exercised a plenipotentiary power over Hindu institutions with particular abandon, as the recent and highly controversial Supreme Court judgment concerning the Sabarimala Temple demonstrates, as noted at the beginning of the article, they have generally refrained from wielding “essential practice” jurisprudence to limit the freedom of minority religious institutions with the same eagerness or lack of restraint (on which point, see the next section). Despite the enormous importance of this issue for assessing the quality of religious freedom in India, however, even studies with the express purpose of tracking the nexus of religion and law, such as ReligLaw, have paid relatively little attention to the deep-seated structural limitations Indian law imposes on the self-definition and institutional self-governance of religious communities.

5. Injury and (the Insult of) Inequality?

So notwithstanding the general silence of the major religious freedom reports on the matter, is there a widespread and problematic pattern of Hindu Erastianism in India—a pattern in which the state exercises a significant and even invasive level of oversight and control over Hindu religious institutions, including Hindu temples? Moreover, is there a
pattern in which Hindu institutions not only suffer this kind of injury but do so in ways and to degrees that non-Hindu institutions do not? In other words, do Hindu institutions suffer not only the injury of sweeping and excessive state oversight but also the insult of unequally suffering what other communities do not (or at least not to the same degree)?

This paper is not the place to offer comprehensive answers to these questions, but the following points are in order. First, these questions have been ably explored by other scholars, at least to some extent, most recently and most ably by Chad Bauman in this special issue of *Religions* (Bauman 2021). And the emerging consensus among these scholars, and even among those relatively liberal scholars sympathetic to the Court’s conclusions on specific cases such as Sabarimala, is that government controls on religious institutions in general and Hindu institutions in particular have simply gone too far. A focus of criticism for many of these scholars is the Indian Supreme Court’s “essential practices” doctrine, which, as *Sabarimala* has shown, has invited court rulings authorizing ever-increasing levels of state-initiated control, reorganization, and even redefinition of religious institutions, religious communities, and religious practices. When combined with the general tendency of the Indian state ever since the early years of Nehru’s long tenure as prime minister to treat fundamental constitutional rights as of little account when compared with government interests and imperatives (Anderson 2015; Singh 2020), India has seen what could be described as an overall and probably overdetermined tendency to reduce the autonomy of religious and particularly Hindu institutions.

Second, it is also the case, ironically perhaps, that Indian authorities and judges appear to have been far more adventurous or perhaps reckless about applying the logic of the “essential practices” doctrine to Hindu institutions than to minority institutions. It is true that an Indian court infamously ruled that worshipping in a mosque is not essential to being a Muslim on the grounds that a Muslim can worship in the open air, and the Supreme Court’s recent ruling on the longstanding Babri Masjid dispute was hardly an unqualified victory for the rights and freedoms of minority institutions. At the same time, in the Babri Masjid case, the Court at least acknowledged that the judgment in favor of permitting construction of the Ram temple needed to be balanced by a compensatory grant of an alternative plot of land for the construction of a new mosque. In general, the relevant judges and political decision makers appear to recognize that they—particularly as they are invariably from mostly Hindu backgrounds—are liable to be on thin ice if they make theology-laden pronouncements about what may or may not be “essential” practices and doctrines within Islam, Christianity, Sikhism, Buddhism, or Jainism. And in the one instance when the Supreme Court was adventurous in the extreme in issuing authoritative pronouncements and reinterpretations concerning doctrines and practices internal to Islam, the 1985 *Shah Bano* case, the immediate and long-term political consequences were so tumultuous that India’s highest Court has since generally avoided similar hermeneutical adventures when it comes to evaluating the meaning and weight of minority religious doctrines, institutions, and practices.

The upshot of all this is that Hindu institutions do indeed appear to be in a situation that many Hindus as well as relatively disinterested analysts consider simultaneously injurious and insulting. Whatever may be the ad hoc and often entirely plausible justifications offered in particular instances, as with the *Sabarimala* case, the net result is an oppressive and invasive reality that is simply out of step with what Hindus have a right to expect from a Constitution that declares on its face that they possess an equal right to maintain and control their own religious institutions. And it is an invasive reality that other religious institutions and communities, particularly Muslim and Christian ones, generally do not have to experience, at least not to the same degree. For anyone who genuinely cares about religious freedom as a normative principle, rather than as a political weapon for strengthening one’s own tribe at the expense of competing tribes, this fact should serve as an impetus to long-term reflection and action with a view to bringing the reality into at least somewhat greater alignment with the principle. It is perhaps a hopeful sign of a growing recognition that reality has in fact strayed much too far from any sound understanding of the principle.
6. What Explains India’s “Other” Religious Freedom Problem—And Can It Be Solved?

Rather than a reductionist or monocausal approach, it is crucial to situate the steady deterioration of religious freedom in India within a wider historical framework. This deterioration, after all, long predates the BJP’s accession to a dominant national political position post-2014. I propose that this decline must be attributed at least in part to dynamics of political and ideological conflict that were set in motion decades ago, and in fact begin in the commitment of India’s first post-independence prime minister, Jawaharlal Nehru, to an uncompromising vision of statist secularism that left little possibility for constructive engagement and competition with Hindu tradition or Hindu nationalism. In other words, a deep-seated matrix of zero-sum ideological conflict in post-independence India helps to explain both the rise of an extreme form of Hindu nationalism and the decline of religious freedom, rather than the reverse explanatory approach that holds that Hindu nationalism is to blame both for India’s ideological polarization and its deterioration in religious freedom.

To see the plausibility of this suggestion, consider the fact that three of the most widely bemoaned vehicles of religious freedom restriction in India today—anti-conversion laws, the FCRA law that authorizes extensive government limitations on NGO access to foreign funding, and the “essential practices” judicial doctrine that authorizes sweeping government redefinition and regulation of religion—were all originally formulated and instituted by secular-leaning Congress Party governments, legislators, or judges.

In other words, the real source of India’s wide range of religious freedom problems is a much deeper and wider set of dynamics. This applies to both the ones already widely noted as well as the country’s “other” religious freedom problems, including its systematic and extensive regime of government controls and limits on majority religious institutions. Among these dynamics is a longstanding and indeed decades-in-the-making ideological polarization, which has long pitted secularism against Hindu nationalism. This matrix of conflict undermines religious freedom insofar as the latter is a state of affairs in which all individuals and communities can embrace and express their best judgments of conscience on religious questions without either unreasonable interference or unjust discrimination on the part of the government or non-state agents.

The sad though often neglected reality is that Indian politics since independence has seen an increasingly destructive, uncompromising, and zero-sum conflict or dialectic between increasingly militant and even weaponized ideologies. As suggested earlier, Hindu nationalism is by no means the sole or even primary cause of this ecology of ideological polarization and zero-sum conflict. It takes two to tango, and it is crucial to recognize that this ideological conflict in particular is intense and polarized also because of sometimes authoritarian, arrogant, and exclusivist forms of high modernism and secularism advocated and embodied by the Congress Party of Jawaharlal Nehru and his daughter, Indira Gandhi, and their many descendants and representatives in Indian political and cultural life today. If this conflict has spun out of control on more than one occasion in India’s relatively short history as an independent state, this has sometimes been a consequence not of Hindu-nationalist militancy acting on its own, but also of an uncompromising and opportunistic secularism.

The first thirty years after Indian independence saw the nearly unchallenged and often ruthless dominance of Indian political and cultural life by the Congress Party. Politically, India was a one-party state in which the Congress held virtually unchallenged sway over national politics, society, and culture (and, indeed, as we shall see, over the Indian Constitution itself). Ideologically, the Congress leadership, and Nehru in particular, expressed little warmth for Hindu religious traditions or cultural nationalism. In fact, it is difficult to exaggerate Nehru’s contempt for religion throughout his life; his personal philosophy could be mistaken for a caricature of narrow scientism and anti-religious preju-
dice. “I have no patience left”, Nehru wrote in 1927, “with the legitimate and illegitimate offspring of religion”. This antipathy to religion was not merely personal but decisively shaped his public philosophy. A year before his death, he declared, “The [real] danger to India is Hindu right-wing communalism” (Tharoor 2003, pp. 233–34). The astute Indian public intellectual Gurcharan Das, though a sharp critic of Hindu nationalism, laments that Nehru’s charismatic example helped to produce generations of Congress politicians, often inspired by Marxism, who adopted a “strident kind of secularism” that tended to mock religion. “In well-meaning efforts to limit religion to the private life”, Das wrote in 2003, “they behave as though all religious people are superstitious and stupid”. Furthermore, the Congress leadership, under Nehru and later under Indira Gandhi, did not hesitate to resort to naked authoritarianism to crush, marginalize, or silence their political and ideological opponents. Frequently those opponents were the Hindu “communalists” Nehru loathed and feared.

The zenith of the Congress Party’s resort to the weaponization of secular ideology and to bald authoritarianism was reached when Indira Gandhi imposed an 18-month “Emergency” suspension of constitutional democracy in 1975–1977. From the beginning of the Emergency, as Christophe Jaffrelot notes, Gandhi made it clear that the RSS was a primary target of her repressive measures, and the available data demonstrates that the vast majority of those she illegally imprisoned who were identifiable connected to particular organizations or political parties were members of the RSS or the Bharatiya Jana Sangh (the predecessor party to the BJP). It was precisely “as part of her battle against communalism”, Jaffrelot notes, that “Indira Gandhi had secularism written into the Constitution”, employing entirely extra-democratic mechanisms to do so, at the high point of Emergency authoritarian rule in 1976 (Jaffrelot 1998, p. 273). Once Gandhi had weaponized secularism so brazenly, her Hindu-nationalist opponents—as well as many other Indians—could be forgiven for doubting its benevolence. Unsurprisingly, then, the 30-year period of dominance enjoyed by the Congress Party and its secular ideology, from 1947–1977, was followed after the lifting of the Emergency by a period of fierce ideological contestation. A particularly salient feature of this period is that the political secularism associated with the Nehru-Gandhi era suffered a steady hemorrhaging of legitimacy, leaving a growing vacuum at the heart of Indian politics and even of Indian national identity. And surely one factor in the dramatic ascent of the Hindu nationalist movement since 1980 was not only that it won for itself a certain amount of political capital and legitimacy as a collective martyr in the cause of democracy during the Emergency, but also that it offered a coherent ideological alternative that a growing number of Indians found plausible and attractive when compared with a secularism that appeared morally bankrupt and opportunistic.

Though many non-Indians do not know this history of authoritarian and weaponized secularism, and while many Indians have forgotten it or have chosen to forget it, it is unlikely ever to recede from the consciousness of Hindu nationalists—as my own interviews with Hindu nationalist leaders over several years startled me into recognizing. And it must be adduced as one factor explaining the extreme ideological polarization that has increasingly defined and divided India over the last nearly two generations. In other words, on top of an undeniable strain of Manichean militancy in extreme versions of Hindu-nationalist political theology, the severe repression the Hindu-nationalist movement experienced in the very name of secularism backed by unaccountable power—not as a distant datum of ancient history but during the lifetimes of the vast majority of today’s Hindu-nationalist leaders—serves to lend their activism an additional sharp edge of militancy.

Furthermore, this militancy is given additional impetus by what many Hindus regard as the manifest injustice that many of their temples and sacred spaces remain under extreme forms of state control and regulation. Though of course the political power of the Congress Party and other secular-leaning political forces has waned dramatically in recent years, the political and judicial apparatus of routine Erastian control of Hindu
institutions—put in place largely by secular Nehruvians bent on state-driven national integration and liberal reform in the 1950s and 1960s—remains intact. Particularly galling for many Hindus, as we have noted, is that minority religious institutions, such as churches and mosques, are generally free from such control, or at least do not experience them to the same systematic degree, while, at the same time, the religious freedom violations under which Hindus labor seldom receive attention in human rights reports or treatments of religious freedom in India.

From a wider explanatory perspective, if we are looking to understand the full range of causes of India’s growing limitations on religious freedom, it would be myopic, then, to fail to see that the Hindu-nationalist movement emerged when it did, and in the form it did, within a wider framework of causes and dynamics. Martha Nussbaum, no friend of religious conservatism and a strong advocate of a secular approach to politics, acutely observed that Nehru’s antipathy to religion was not merely a lamentably narrow personal choice. “[Nehru’s] disdain for religion”, Nussbaum comments, “together with his idea of a modernity based upon scientific rather than humanistic values, led to what was perhaps the most serious defect in the new nation: the failure to create a liberal-pluralistic public rhetorical and imaginative culture whose ideas could have worked at the grassroots level to oppose those of the Hindu right” (Nussbaum 2008, p. 82).

In Nussbaum’s wise rendering, Nehru’s India made a fateful choice. Under his leadership, the country could have cultivated a “liberal-pluralistic” public culture, one that might have invited Hindu nationalists into constructive ideological competition. Instead, Nehru and his daughter doubled down on a narrowly secularist public philosophy enforced and imposed when necessary by forms of authoritarian repression—forms of repression that also included efforts to bring Hindu institutions under sweeping state control and regulation. The tragic reality, then, is that India has long failed to cultivate a “liberal-pluralistic” public culture that invites all points of view—and all communities and institutions, including religious ones—into competitive, peaceful, productive mutual exchange. From this wider perspective, it is reasonable to conclude that the militancy of the extreme wings of the Hindu-nationalist movement is far from the sole or even primary cause of India’s retreat from pluralism. More likely, Hindu-nationalist supremacism is better viewed as one of its more lamentable consequences.

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Notes

1 The case was Indian Young Lawyers Association v. The State of Kerala (Sabarimala), and the full judgment is available online: https://indiankanoon.org/doc/163639357/?_cf_chl_jschl_tk__=68357291d91a2a25100045890194064aef68d-1623273937-0-AeNG5dCNALZOSyBKho9sT4y-IInizCIcJvz51PyXU-u_13vo7mTscxvAZW-ORY8n6EmiJ8phdBnNn9iDQHv2XIPg5dqFZtstTu-_3LgyQZY7LolMwP2zC7PdAp9-11-OP3wYZKMRzK5PVEAUPWZEES5-yXiQ-0eWknX-eIF6kIsZoyTh5PX71vXaSNILkLFvd4aPlyGUMdT7KHriNg1yVK3xa_xxUKMaKCZ42MyjYtYzP7XCKhV3SrWqaUaaOcL4gPNBoxaGYUpFxuxWGNz0dteCZTWXDSCE8SKTN7D1zn02vyqwTEQzM6o8hpbG1z-uh-rR2qttaZaeu9fUVCH126MCWwG13gaSaqYp9QCAI6ezDjFB-aKlySapkLCOH11uncM2IOZd2Zj6F_FZLfqqNbr9RQXhOmxMBSvVv7Bj0cras-e6jGh18h4n6qA_MPWwvbzrF0CqPLfbfOZokdUVncADHitCZy5W. Accessed on 9 June 2021. For an excellent summary of the issues at stake and a critical analysis of the Supreme Court’s constitutional reasoning and arguments in Sabarimala, though one also, importantly, developed from a standpoint sympathetic to the outcome, see (Parthasarathy 2020).

2 Justice Malhotra argued that “what constitutes an essential religious practice is for the religious community to decide” and that the courts should intervene only when religious practices are “pernicious, oppressive, or a social evil, like Sati”. For a summary of her dissent, see (Nair 2018).

3 By “regime” I simply mean to indicate that India’s post-independence pattern of state regulation of religion is attributable not to any single party or ideological movement or branch of government or particular policy but a complex system that includes the text of India’s Constitution itself; the distinct way the Constitution has been interpreted by generations of judges in India’s highest judicial body, the Supreme Court; and generations of political actors at both the state and central government levels. It is this now
deeply entrenched system of interaction, involving a constellation of actors who have developed a relatively stable framework of constitutional interpretation, that has justified and realized what I term the Erastian system of government control of religious institutions (especially Hindu ones) explored in this article.

However, as one reviewer rightly points out, governments may sometimes treat different groups (including different religious groups) differently or unequally precisely to treat them in accordance with a single, uniform standard or principle of justice. A particularly small or vulnerable religious group, for example, might justifiably (and consistent with the egalitarian dimension of religious freedom) receive special government solicitute simply so that it can function on a footing of rough parity with other groups. These examples are meant not be dispositive but illustrative. And the point they are intended to illustrate is that different groups may experience different kinds of religious restrictions. Of course, religious majorities will not experience majoritarian dominance or popular persecution the way minorities will, but religious majorities can of course experience restrictions by governments intent, for example, on reducing their power or preventing them from organizing in society and politics—much as minority Sunnis in Iraq associated with the Ba’athist regime of Saddam Hussein systematically restricted the religious freedom rights (as well as other fundamental rights) of the majority Shi’ite population. At the same time, not all restrictions are without justification. Precisely to maximize the level of religious freedom enjoyed by the greatest number of individuals and communities in a society, a government may of course be justified in limiting the power of a particular group intent on persecuting other groups.

The individual and institutional or corporate dimensions of religious freedom are often elided, as in classical liberalism, which tends to treat religious communities as merely the emanations and extensions of individual voluntary choice. The locus classicus of the view characteristic of the liberal tradition that religious bodies such as churches are simply “voluntary” aggregations or groupings of individuals with no distinct qualities or rights of their own is in John Locke’s Letter on Toleration (1689), a good critical edition of which may be found in (Locke and Vernon 2010).

I am grateful to Jonathan Fox for sharpening my understanding of this crucial issue.

For a wide-angle perspective, rare in available mappings of religious freedom in India, see Section 6.

The most recent US Department International Religious Freedom Report, covering the state of religious freedom in most of the world’s countries during calendar year 2020, was released on May 12, 2021. The treatment of India was lengthy and critical, repeating (verbatim) language from the previous year noting many credible “reports of religiously motivated killings, assaults, riots, discrimination, vandalism, and actions restricting the right of individuals to practice and speak about their religious beliefs” (United States State Department 2021). The project is described in detail at http://www.religionandstate.org. Accessed on 8 June 2021.

The later version of the dataset, Version 2, is available through the Inter-University Consortium for Political and Social Research (ICPSR) at the University of Michigan, at https://www.icpsr.umich.edu/web/ICPSR/studies/4342. Accessed on 29 June 2021. It is noteworthy that the dataset has not been updated since 1995.

The project is described at https://www.reepstudy.com. Accessed on 8 June 2021.

The project is described briefly at https://www.usip.org/publications/2020/05/combatting-religious-discrimination-india-and-beyond. Accessed on 8 June 2021.

The work has been printed in multi-volume form as (Robbers et al. 2016). But its content is also available online at https://referenceworks.brillonline.com/browse/encyclopedia-of-law-and-religion. Accessed on 8 June 2021. The chapter on India (available in print and online) is (Mahmood 2015).

The project is described at https://www.icdrs.org/religlaw/. Accessed on 8 June 2021.

In this category belong three India-based efforts to collect data on religion-related hate crimes that, unfortunately, are no longer operational. First, as reported by the New York Times in October 2019, India’s Ministry of Home Affairs withheld information on religion-based hate crimes from its annual crime statistics report late last year. After delaying the release of the 2017 report for more than a year, Ministry officials ultimately explained their selective release of results by claiming that the data in several categories—including lynchings of non-Hindus (almost all Muslims) related to cow protection, crimes against journalists, and human rights violations by security personnel—were “unreliable” and “prone to misinterpretation” and therefore not fit for public inspection. The only category of religion-related violence the report does cover is “jihadi” terrorism (Schultz et al. 2019). Second, a “hate tracker” database published by the respected Hindustan Times newspaper closed down in 2017, less than a year after it was launched. Third, in September 2019, a data journalism outlet that compiled and published data on religion-based attacks also pulled down its reporting, FactChecker, a website featuring data on diverse policy-related subjects run by the Spending and Policy Research Foundation, had launched a Hate Crime Watch database just the year before in order to track religion-based hate crimes since 2009. A FactChecker database on cow-related violence in India also ceased to be available. At the same time, the journalist instrumental in founding these initiatives, Samar Halarnkar, indicated the databases will “eventually” reappear on a new website, and one scholar involved in these research efforts told me in February 2020 that he, too, expected they would be back in some form before long (personal communication between Prof. Mohsin Bhat, Associate Professor and Executive-Director of the Center for Public Interest Law at the Jindal Global Law School, and the author on 29 February 2020).

The analysts at the Centre for the Study of Society and Secularism define “communal violence” as including both religion-related riots as well as mob violence targeted against particular individuals. See (Engineer et al. 2020).
The website of the MapViolence project describes it as “an online tool to report and track the unprecedented increase in incidents of violence and hostility against the Christian minority community in India”. See https://mapviolence.in. Accessed on 24 May 2020.

The phrase “popular persecution” comes from Edmund Burke, who was perhaps the first modern political thinker to analyze the immense dangers of illiberal democracy or majoritarian tyranny for liberty in general and for the security of the “minority” in particular. “Of this I am certain”, Burke writes, “that in a democracy the majority of the citizens is capable of exercising the most cruel oppressions upon the minority whenever strong divisions prevail in that kind of polity, as they often must; and that oppression of the minority will extend to far greater numbers and will be carried on with much greater fury than can almost ever be apprehended from the dominion of a single scepter. In such a popular persecution, individual sufferers are in a much more deplorable condition than in any other” (Burke 1987, pp. 109–10). The emphasis is mine.

See https://mapviolence.in. Accessed on 24 May 2020.

These data are on file with the director of REEP, Rebecca Shah.

See (Varshney 2005). On “bridging” versus “bonding” social capital, see (Putnam 2020).

For Bauman’s most complete presentation of this compelling explanatory account, see (Bauman 2020), a historically sweeping and magisterial study.

On the pervasiveness of religious discrimination in India’s military and intelligence services, see (Anderson 2015).

While the phrase “religious group” appears in some of these questions, it is clearly used in the loose sense of “religious people” or “collection of religious individuals”, rather than in a specifically communal, organizational, or institutional sense. Needless to say, as in the second question for example, there is no logical or necessary connection between “public preaching” and “religious groups” in the strict sense of organized corporate entities. The question is designed to capture whether any public preaching is restricted, not whether public preaching carried out by organized religious entities or institutions is restricted, and therefore this question (or similar questions) cannot serve as a useful indicator of the level of restrictions on specifically institutional religious freedom.

As one reviewer rightly pointed out, the very fact that the State Department’s report excludes an honest assessment of the United States gives many people a reason to doubt the report’s overall credibility and integrity.

For an excellent and analytically rigorous discussion of the extensive government controls over religious institutions embedded in the Kemalist secularism of modern Turkey, including discussion of the role of the Diyanet, see (Kuru 2012).

As already noted (see note 25), the term “religious group” appears frequently in the Pew Global Religious Restrictions codebook but almost always in the non-institutional sense of “religious identity group”, i.e., to refer to the members of a particular religious tradition such as Buddhists, folk-religionists, Hindus, etc.

Indeed, Jonathan Fox’s own outstanding published work analyzing and interpreting the RAS data demonstrate there has in general been enormous dynamism and volatility in the global relationship between religion and state from the time the RAS began collecting data in 1990.

See, for example, (United States State Department 2021). See also the following: Government of India Ministry of Home Affairs, Religious Institutions (Prevention of Misuse) Act, 1988, available online: http://mha.nic.in/hindi/sites/upload_files/mahaindi/files/pdf/ReligiousInstitutionsAct1988.pdf (accessed on 9 June 2021); Parliament of India, The Places of Worship (Special Provisions) Bill, 1991, available online: http://parliamentofindia.nic.in/l/s/bills/1991/1991-37.htm (accessed on 9 June 2021); Uttar Pradesh Regulation of Public Religious Buildings and Places Bill, 2000, available online: http://www.yourarticlelibrary.com/uttar-pradesh/uttar-pradesh-regulation-of-public-religious-buildings-and-places-bill-2000/5609/ (accessed on 9 June 2021); and The Milli Gazette, UP Regulation of Public Religious Buildings and Places Bill 2000, available online: http://www.milligazette.com/Archives/01-4-2000/up_regulation_of_public_religiou.htm (accessed on 9 June 2021). I am grateful to Jonathan Fox for sharing this information with me.

See (Kumar 2019). Yet the available religious freedom mappings in India generally fail even to attempt to answer the numerous questions these troubling reports raise: What has been the impact on religious NGOs in particular? Have certain kinds of religious NGOs or religious NGOs in general been more likely to lose their FCRA licenses because of regulations related to communal harmony? Has the cutting off of access to foreign funds effectively imperiled the freedom of certain kinds of religious NGOs to operate and even to exist? To what extent have Hindu institutions also been affected, to the point of being subject to additional scrutiny or losing their FCRA licenses?

Hate Crime Watch 2019; https://p.factchecker.in/. Accessed on 8 June 2020. Of course, as one reviewer rightly pointed out, one cannot entirely abstract from questions of proportion and asymmetries of power. That the Christian community represents a much smaller share of the Indian population than the Hindu community must be factored into the analysis and interpretation of these figures. At the same time, the fundamental point stands: the impact on Hindus of religious violence and persecution in contemporary India is frequently and indeed systematically neglected or forgotten in many influential reports and studies. Yet persecution is persecution, violence is violence, and a hate crime is a hate crime, regardless of the religious identity of the victim.

One reviewer reasonably raises the question: Is this kind of restriction on the right of self-definition and (in the extreme) the right of exit better understood as a restriction on the freedom of majority individuals or minority individuals? It can reasonably be understood as a limitation on the rights of minorities, both because it restricts minority communities from peacefully and persuading majority individuals to join their ranks, and because it makes it difficult for majority individuals to become minorities of one kind or another. At the same time, it is not unreasonable to view these restrictions as limitations on the freedom of individuals born into the
On the profoundly unsettling impact of the Ayodhya verdict: Indian top court gives holy site to Hindus, see “Ayodhya verdict: Indian top court gives holy site to Hindus”, BBC News, 9 November 2019. Available online: https://www.bbc.com/news/world-asia-india-50355775. Accessed on 9 June 2021.

On the legal and political dimensions of India’s state regulation of Hindu institutions since 1947, see (Dhavan 1987; Dhavan 2002; Preler 1987; Berti et al. 2016; Sen 2019).

Astonishingly, the Indian Supreme Court did indeed determine in 1994 that a mosque is not essential to the practice of Islam. Despite numerous subsequent appeals, the Court has—as recently as 2018—declined to revisit this judgment. See (Sinha 2018).

See “Ayodhya verdict: Indian top court gives holy site to Hindus”, BBC News, 9 November 2019. Available online: https://www.bbc.com/news/world-asia-india-50355775. Accessed on 9 June 2021.

On the profoundly unsettling impact of the Shah Bano judgment and the pivotal role it played in Indian politics in the mid-1980s, see (Jaffrelot 1998). At the same time, while the Court has “generally” avoided using the “essential practices” doctrine to interpret and revise minority religious doctrine, in general and particularly since Shah Bano, this avoidance has not been absolute. In 2017, a divided Supreme Court (three justices to two) ruled that “triple talaq” instant divorce under Islamic personal law is unconstitutional. It is noteworthy, though, as is emphasized by (Mohta 2017), that the Court was so closely divided, that the Court was somewhat more restrained in its theologizing, and that reasoning about whether “triple talaq” was or is “essential” Islamic doctrine was not a dominant feature of the majority opinion.

Significantly, the Court decided to refer the Sabarimala case and the question of the legitimacy and scope of the “essential practices” doctrine to a larger, seven-member bench. The Court’s announced rationale unmistakably reflects a worry that its 2018 judgment in Sabarimala—and the whole decades-long drift of “essential practices” jurisprudence—threatens to impinge excessively on the legitimate freedom of religious communities and institutions. See (G. 2019).

On Gurcharan Das’s views, see (Nussbaum 2008, pp. 74–75).

The habitual authoritarianism of Congress-Party rule in general and Nehru in particular is a major theme in (Anderson 2015). Nehru’s strikingly illiberal crusade to gut the Indian Constitution’s protections of fundamental individual liberties almost immediately after the Constitution was ratified, in the early months of 1950, is the subject of (Singh 2020), an outstanding recent study based on a close and illuminating reading of the relevant primary materials.

On Indira Gandhi’s targeted repression of Hindu nationalist leaders and organizations during the Emergency, see, generally, (Jaffrelot 1998, pp. 272–77).

Particularly my personal interviews since 2003 with Ram Madhav Varanasi, an RSS pracharak from his youth, formerly national communications director for the RSS, and, until 2020, General Secretary of the BJP. As if it were yesterday, he vividly recalls his experiences as a boy taking food to several older male relatives in prison—all RSS leaders—during their 18-month-long detention under Indira Gandhi’s Emergency.

Both as an experienced judge and devout Hindu, the knowledgeable, incisive, and fair-minded Indian jurist, the Honorable G. R. Swaminathan, currently a justice in the Madras High Court, related to me and other participants in a seminar on law and religion in Hyderabad, India in February 2020, that precisely this perception is deeply felt and widespread among many thoughtful Hindus in India today. If the data and analysis presented in this article have any validity, then this perception has some grounding in reality.

References

Anderson, Perry. 2015. The Indian Ideology. Gurgaon: Three Essays Collective.

Bauman, Chad M. 2020. Anti-Christian Violence in India. Ithaca: Cornell University Press.

Bauman, Chad M. 2021. Litigating the Limits of Religion: Minority and Majority Concerns about Institutional Religious Liberty in India. Religions 12: 400. [CrossRef]

Bauman, Chad M., and Tamara Leech. 2012. Political Competition, Relative Deprivation, and Perceived Threat: A Research Note on Anti-Christian Violence in India. Ethnic and Racial Studies 35: 2195–216. [CrossRef]

Bauman, Chad M., and James Ponniah. 2016. Christianity and Freedom in India. In Christianity and Freedom, Volume 2: Contemporary Perspectives. Edited by Timothy Shah and Allen Hertzke. Cambridge and New York: Cambridge University Press.

Berti, Daniela, Gilles Tarabout, and Raphaël Voix. 2016. Filing Religion: State, Hinduism, and Courts of Law. New Delhi: Oxford University Press.

Burke, Edmund. 1987. Reflections on the Revolution in France. Indianapolis: Hackett.

Dhavan, Rajeev Dhavan. 1987. Religious Freedom in India. The American Journal of Comparative Law: A Quarterly 35: 209–54. [CrossRef]

Dhavan, Rajeev. 2002. The Road to Xanadu: India’s Quest for Secularism. In Religion and Personal Law in Secular India: A Call to Judgment. Edited by Gerald J. Larson. Bloomington: Indiana University Press.

Dhavan, Rajeev, and Fali Nariman. 2000. The Supreme Court and Group Life: Religious Freedom, Minority Groups, and Disadvantaged Communities. In Supreme but Not Infallible: Essays in Honour of the Supreme Court of India. Edited by B. N. Kirpal. New Delhi: Oxford University Press.
Engineer, Irfan, Neha Dabhade, and Suraj Nair. 2020. Communal Riots 2019: Communal Discourse Raging on in India. Available online: https://ciss-isla.com/secular-perspective/communal-riots-2019-communal-discourse-raging-on-in-india/ (accessed on 9 June 2021).

G., Ananthakrishnan. 2019. Sabarimala Review Plea: Let Big Bench Decide Larger Issues, Essential Religious Practices, Rules SC. Indian Express, November 15. Available online: https://indianexpress.com/article/india/sabarimala-let-big-bench-decide-larger-issues-essential-religious-practices-supreme-court-6120529/ (accessed on 9 June 2021).

Hudson, Valerie M., and Andrea den Boer. 2005. Bare Branches: The Security Implications of Asia’s Surplus Male Population. Cambridge: MIT Press.

Iyer, Sriya, and Anand Shrivasatava. 2016. Religious Riots and Electoral Politics in India. Unpublished Paper. August 15. Available online: http://www.econ.cam.ac.uk/people/faculty/si105/Iyer_Shrivasatava_2016.pdf (accessed on 9 June 2021).

Jaffrelot, Christophe. 1998. The Hindu Nationalist Movement in India. New York: Columbia University Press.

Kumar, Sujeeet. 2019. India has been hostile to NGOs for decades. Modi made it worse. Quartz India. May 3. Available online: https://qz.com/india/1611326/india-has-been-hostile-to-ngos-for-decades-modi-made-it-worse/ (accessed on 9 June 2021).

Kuruv, Ahmet T. 2012. Secularism and State Policies Toward Religion: The United States, France, and Turkey. Cambridge: Cambridge University Press.

Locke, John, and Richard Vernon. 2010. Locke on Toleration. Cambridge: Cambridge University Press.

Mahmood, Tahir. 2015. “India”. Encyclopedia of Law and Religion. General Editor Gerhard Robbers. First published Online in 2015. Available online: dx.doi.org/10.1163/2405-9749_elr_COM_00000047 (accessed on 9 June 2021).

Mehta, Pratap. 2017. Small step, no giant leap. The Indian Express. Available online: https://indianexpress.com/article/opinion/columns/supreme-court-verdict-on-triple-talaq-small-step-no-giant-leap-4808945/ (accessed on 9 June 2021).

Mehta, Pratap. 2018. Liberty without Statism. The Indian Express. October 1. Available online: https://indianexpress.com/article/opinion/columns/sabarimala-gay-rights-adultery-supreme-court-constitution-liberty-without-statism-brandachud-5380460/ (accessed on 9 June 2021).

Nair, Shalini. 2018. Sabarimala verdict: Justice Indu Malhotra dissents—Can’t invoke rationality in religion. Indian Express. September 29. Available online: https://indianexpress.com/article/india/sabarimala-verdict-justice-indu-malhotra-dissents-cant-invokereasonability-in-religion-5378873/ (accessed on 9 June 2021).

Nussbaum, Martha C. 2008. The Clash Within: Democracy, Religious Violence, and India’s Future. Cambridge: Belknap Press of Harvard University Press.

Open Doors. 2020. World Watch List 2020: The 50 Countries Where It’s Most Dangerous to Follow Jesus. Available online: https://www.opendoorsusa.org/wp-content/uploads/2020/01/2020_World_Watch_List.pdf (accessed on 9 June 2021).

Parthasarathy, Suhrith. 2020. An Equal Right to Freedom of Religion: A Reading of the Supreme Court’s Judgment in Sabarimala. University of Oxford Human Rights Hub Journal 3. Available online: https://ohrh.law.ox.ac.uk/wp-content/uploads/2020/05/U-of-OxHRJ-J-An-Equal-Right-to-Freedom-of-Religion.pdf (accessed on 9 June 2021).

Pew Research Center. 2019. A Closer Look at How Religious Restrictions Have Risen Around the World. Available online: https://www.pewforum.org/wp-content/uploads/sites/7/2019/07/Restrictions_X_WEB_7-15_FULL-VERSION-1.pdf (accessed on 9 June 2021).

Pew Research Center. 2020. In 2018, Government Restrictions on Religion Reach Highest Level Globally in More than a Decade. Available online: https://www.pewforum.org/wp-content/uploads/sites/7/2020/11/RF_11.10.20_religious.restrictions.full_report.pdf (accessed on 9 June 2021).

Pew Research Center. n.d. Codebook for Pew Research Center’s Global Restrictions on Religion Data. Available online: http://www.thearda.com/archive/files/codebooks/origCB/Global%20Restrictions%20on%20Religion.pdf (accessed on 9 June 2021).

Presler, Franklin A. 1987. Religion under Bureaucracy: Policy and Administration for Hindu Temples in South India. Cambridge: Cambridge University Press.

Putnam, Robert David. 2020. Bowling Alone: The Collapse and Revival of American Community, 20th Anniversary ed. New York: Simon & Schuster Paperbacks.

Robbers, Gerhard, Durham W. Cole, and Donlu Thayer. 2016. Encyclopedia of Law and Religion. Leiden: Brill Nijhoff.

Schultz, Kai, Suhasini Raj, Jeffrey Gettleman, and Hari Kumar. 2019. In India, Hate Crime Data Is Released Selectively. New York Times. October 25. Available online: https://www.nytimes.com/2019/10/24/world/asia/india-modi-hindu-violence.html (accessed on 9 June 2021).

Sen, Ronojoy. 2019. Articles of Faith: Religion, Secularism, and the Indian Supreme Court. New Delhi: Oxford University Press.

Shah, Rebecca. 2016. Religious Innovation and Economic Empowerment in India: An Empirical Exploration. In Religion and Innovation: Antagonists or Partners? Edited by Donald A. Yerxa. London: Bloomsbury Academic, pp. 176-93.

Singh, Tripuram. 2020. Sixteen Stormy Days: The Story of the First Amendment of the Constitution of India. Haryana: Penguin Random House India.

Sinha, Bhadra. 2018. SC rejects ‘namaz in mosque’ petition, clears way for resuming Ayodhya hearing. Hindustan Times (New Delhi). September 27. Available online: https://www.hindustantimes.com/india-news/is-namaz-in-mosque-essential-to-islam-supreme-court-to-decide-today/story-h8w0tZG1BksbF6KY75IclH5I.htm (accessed on 9 June 2021).

Stepan, Alfred C. 2011. The Multiple Secularisms of Modern Democratic and Non-Democratic Regimes. In Rethinking Secularism. Edited by Craig Calhoun, Mark Juergensmeyer and Jonathan VanAntwerpen. Oxford and New York: Oxford University Press.
Stepan, Alfred C., Yogendra Yadav, and Juan J. Linz. 2012. *Crafting State-Nations: India and Other Multinational Democracies*. Baltimore: Johns Hopkins University Press.

Swiney, Chrystie Flournoy. 2019. The Counter-Associational Revolution: The Rise, Spread & Contagion of Restrictive Civil Society Laws in Democratic States. Unpublished Paper Prepared for Delivery at the Workshop on the Ostrom Workshop (WOW6) Conference, Indiana University Bloomington, Indiana, June 19–21. Available online: https://dlc.dlib.indiana.edu/dlc/bitstream/handle/10535/10496/Chrystie%20Flournoy%20Swiney%20Counter-Associational%20Revolution%20WOW6.pdf?sequence=1&isAllowed=y (accessed on 9 June 2021).

Tharoor, Shashi. 2003. *Nehru: The Invention of India*. New York: Arcade Publishing.

United States State Department. 2021. 2020 Report on International Religious Freedom: India. Available online: https://www.state.gov/reports/2020-report-on-international-religious-freedom/india/ (accessed on 24 May 2021).

Varshney, Ashutosh. 2005. *Ethnic Conflict and Civic Life: Hindus and Muslims in India*, 2nd ed. New Haven: Yale University Press.

Wilkinson, Steven. 2006. *Votes and Violence: Electoral Competition and Ethnic Riots in India*. Cambridge: Cambridge University Press.