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Febin P

National Law Institute University, Bhopal

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Rejecting Religious Identity under Law: A Comparative Study of India and Other Constitutional Democracies

Febin P

National Law Institute University, Bhopal

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ABSTRACT

This paper critically examines the gap between India's constitutional promise of freedom of conscience and the reality of compulsory religious and caste identification in state practices. It traces the evolution of religious and secular thought in India, from ancient heterodox traditions and colonial enumeration to the constitutional debates, and analyses key judicial developments affirming the right not to declare religion or caste. Despite progressive rulings, entrenched personal law regimes, reservation policies, and administrative forms continue to compel declarations against citizens' conscience. A comparative analysis of the European Convention on Human Rights, U.S. First Amendment jurisprudence, and secular civil law models in Germany and Canada illustrates explicit protections for negative religious freedom abroad. Identified gaps include the absence of explicit legislative recognition for non-religious identity, procedural barriers in official forms, and lack of oversight mechanisms. To bridge this divide, the paper proposes constitutional or legislative amendments to affirm the right to "no religion" and "no caste," a secular civil code alternative to personal laws, centralized administrative directives redesigning forms, judicial guidelines enforcing strict scrutiny of compulsion, data-protection safeguards, public awareness campaigns, and dedicated monitoring bodies. Together, these reforms aim to ensure that India's citizens can genuinely exercise freedom of conscience, including the right to reject imposed religious and social identities.

KEYWORDS

Freedom of Conscience, Negative Religious Freedom, Compulsory Disclosure Comparative Constitutional Analysis, No Religion No Caste, Personal Laws.

INTRODUCTION

The Indian Constitution guarantees freedom of conscience and the right to profess, practice, or not profess any religion under Article 25. Yet, individuals who wish to live without formal religious affiliation often face compulsory disclosure of faith or caste in official documents, educational forms, and government databases. These administrative and social pressures expose a tension between constitutional ideals and the lived reality of negative religious freedom the right not to hold or reveal a religious identity. While many constitutional democracies now recognize this right, as reflected in the European Court of Human Rights' protection against compelled religious observance and in U.S. First Amendment jurisprudence safeguarding secular beliefs, India's secular framework has focused on equal respect for all religions rather than explicit protection for non-religious worldviews. The Constituent Assembly's preference for *sarvadharmasambhava* (equal respect) over *dharma nirpekshata* (religious neutrality) left the right not to profess a faith largely underexplored.¹

STATEMENT OF PROBLEM

Though the Indian Constitution guarantees freedom of conscience and the right to freely profess, practice, or not profess any religion, the practical reality reveals persistent requirements to disclose religion (and caste) in official processes, social constraints, and state actions. There is tension between formal constitutional guarantees and daily experience, particularly when compared to advanced constitutional democracies with strong negative rights protecting one's freedom not to declare religious identity. A clear doctrinal and comparative analysis is required to assess if, and to what degree, the right to live "religion-free" truly exists in India, and how it measures up internationally.

OBJECTIVES OF STUDY

1. To critically examine the Indian legal and constitutional framework on compelled disclosure of religion/caste, including legislation, executive rules, and school/college admission procedures.
2. To conduct a comparative study of international standards and advanced constitutions in protecting the negative right to religious identity.

¹ Constituent Assembly Debates (22 July 1947) Vol VIII, col 1924 (Jawaharlal Nehru); col 1961 (Dr B R Ambedkar).

3. To identify gaps in the Indian statutory and judicial regime and recommend legislative or policy measures to ensure the practical realization of the right not to disclose religion or caste.

HYPOTHESIS

While Indian constitutional law notionally provides for the right to freedom of religion, including the right not to profess any faith the practical exercise of a "religion-free" or "casteless" identity is not fully realizable due to statutory requirements, administrative practices, and social norms. This right receives stronger doctrinal and judicial protection in some other constitutional democracies, where non-disclosure is specifically recognized and implemented, especially via privacy laws and anti-discrimination principles.

RESEARCH METHODOLOGY

This study adopts a doctrinal approach, analysing the Indian Constitution, relevant statutes (including recent anti-conversion and data collection laws), government rules, and scholarly writings. It undertakes a detailed case law analysis of Supreme Court and High Court decisions and Supreme Court precedents on religious freedom. A comparative constitutional analysis of jurisdictions is also conducted to contextualize India's approach to negative religious rights.

RESEARCH QUESTIONS

1. To what extent can the State in India, under existing constitutional and statutory provisions, compel individuals to disclose their religion or caste in official, educational, or public records, and what legal basis supports such compulsion?
2. How have Indian courts interpreted and balanced the individual's right to withhold disclosure of religion or caste with State interests, particularly in light of autonomy and privacy principles?
3. How do India's legal and constitutional safeguards for refusing religious identification compare with those of the United States and European jurisdictions, and what insights can be drawn from their judicial practices?
4. What legal, procedural, and societal challenges continue to affect the assertion of a religion-free or casteless identity in India, and is there a need for clearer legislative or policy measures to secure such rights?

LITERATURE REVIEW

1. Tarun Agarwal & Bhaskar Agarwal, "Can the State Compel You to Disclose Your Religion?"²

This article critically assesses whether compulsory disclosure of religious identity by the state violates constitutional protections of dignity, privacy, and conscience. Using seminal judgments including Puttaswamy and Kharak Singh, the authors argue that such disclosure encroaches upon personal liberty and is not proportionate to legitimate state aims. Citing international precedents from Germany and Poland, they advocate for the removal of religious identification from public forms, highlighting the need for India to adopt clear legal barriers against compelled religious disclosure in line with its secular ethos.

2. Stijn Smet, "Comparative Constitutional Interpretation of Religious Freedom" (ICLQ, 2020)

Smet examines how courts in India, Israel, and the US use the concepts of tolerance and respect to resolve religious disputes. He finds that Indian courts blend these values especially post-SR Bommai to support an inclusive model of secularism, employing tools like the essential practices test. However, Smet warns that this judicial discretion risks reinforcing majoritarian interpretations, limiting genuine minority protections. His comparative approach encourages scrutiny of how constitutional rhetoric translates into practice and impacts pluralism.³

3. Matt A. Getz, "Freedom of Religion in Pluralistic Societies: A Comparative Examination of Religious Liberty in the United States and Europe" (Stanford-Vienna EU Law Working Paper No. 21, 2017)⁴

Getz's paper compares U.S. and European approaches to

² Tarun Agarwal and Bhaskar Agarwal, 'Can the State Compel You to Disclose Your Religion?' (2019) ILI Law Review Vol II Winter Issue 1 <<https://ili.ac.in/pdf/tag.pdf>> accessed 9 October

³ Smet S, 'Comparative Constitutional Interpretation of Religious Freedom' (2020) 69(3) International and Comparative Law Quarterly 611, <[COMPARATIVE CONSTITUTIONAL INTERPRETATION OF RELIGIOUS FREEDOM | International & Comparative Law Quarterly | Cambridge Core](#)> accessed on 9 October

⁴ Matt A Getz, 'Freedom of Religion in Pluralistic Societies: A Comparative Examination of Religious Liberty in the United States and Europe' (Stanford-Vienna EU Law Working Paper No 21, 2017) < [No. 21: Freedom of Religion in Pluralistic Societies: A Comparative Examination of Religious Liberty in the United States and Europe - Working Paper - Stanford Law School](#) > accessed on 9 October.

religious freedom, showing that U.S. law emphasizes exercising religion while European law focuses on manifesting it. Analysing cases like Hobby Lobby and Eweida, the study notes that European courts balance rights more evenly, guided by the “margin of appreciation,” whereas U.S. courts often prioritize religious claims. European law also requires a stronger link between beliefs and public actions, while U.S. law is more lenient. The paper suggests that both systems could learn from each other to better protect religious liberty and ensure fair treatment in diverse societies.

CONSTITUTIONAL FRAMEWORK AND JUDICIAL DEVELOPMENT

Historical evolution of Religion and secularism

Heterodox Traditions and Early Concepts of Religion: India’s religious landscape historically accommodated pluralism and heterodox schools like Buddhism, Jainism, and the materialist Lokāyata (Carvaka) tradition, reflecting recognition of non-theistic worldviews.⁵

Colonial Administration and Religious Enumeration: British colonial rule introduced census-based categorization of populations by religion to aid governance, reinforcing fixed religious identities and marginalizing those outside recognized groups, including animist and rationalist communities.⁶

Constituent Assembly Debates on Secularism: While the Constituent Assembly debated religious freedom extensively, it did not explicitly protect individuals choosing no religious affiliation, prioritizing positive rights and assuming secularism involved engagement with religion rather than its absence.⁷

Article 25 and Freedom of Conscience

Article 25 guarantees that all persons are equally entitled to freedom of conscience and the right to profess, practice and propagate religion, subject only to public order, morality, and health.⁸ The phrase freedom of conscience was intended to protect the inner domain of belief, encompassing both theistic and non-theistic convictions. However, early case law cast doubt on the scope of this protection. In *Hirabai v. State of Bombay*, the

⁵ Johannes Quack, “Organised Atheism in India: An Overview” (2012) 27 *Journal of Contemporary Religion* 67, 69–72.

⁶ Ronojoy Sen, “Legalizing Religion: The Indian Supreme Court and Secularism” (2007) *Policy Studies* 30, Washington 6–24.

⁷ Constituent Assembly Debates (25 November 1948) Vol XI, cols 3613–3617 (Dr B R Ambedkar).

⁸ Constitution of India art 25.

Bombay High Court held that freedom of religion did not extend to those professing no religion, effectively denying constitutional status to atheism.⁹

A significant shift occurred in *Ranjit Suryakant Mohite v. Union of India*, where the Bombay High Court unanimously recognized that Article 25 encompasses the right to declare no religion, ordering the State to provide a no religion option on official forms.¹⁰ Subsequently, the Supreme Court in *Justice K. S. Puttaswamy v. Union of India* held that privacy is intrinsic to Article 21 and that individuals enjoy a right to choose a faith and later, to change that faith or to reject it altogether.¹¹ This landmark ruling reinforced freedom of conscience as a facet of personal autonomy, thereby strengthening negative religious freedom.

Essential Practices Doctrine

The Supreme Court's early jurisprudence introduced the essential practices test to determine which religious practices merit constitutional protection. In *Shirur Mutt v. The Chief Secretary* (1954), the Court held that only practices integral to a religion's doctrine fall under Article 25's protection.¹² Over time, courts applied this test to limit what activities counted as religious exercises, excluding those deemed superstitious or peripheral. While ostensibly neutral, the essential practices doctrine has often disadvantaged minority and non-orthodox faiths by granting judges the power to delineate authentic religion.¹³

Secularism and the Basic Structure

The doctrine of basic structure, articulated in *Kesavananda Bharati v. State of Kerala* (1973), established that certain constitutional principles cannot be amended.¹⁴ In *S. R. Bommai v. Union of India* (1994), the Supreme Court affirmed secularism understood as state neutrality towards all religions as part of the Constitution's basic structure.¹⁵ The *Bommai* judgment emphasized that secularism requires equal treatment of all faiths and non-faiths, yet it did not explicitly address protection for atheistic identity.

⁹ *Hirabai v State of Bombay* AIR 1955 Bom 185.

¹⁰ *Ranjit Suryakant Mohite v Union of India*, (2014) 5 Bom CR 539.

¹¹ *Justice K S Puttaswamy v Union of India*, (2017) 10 SCC 1, para 130.

¹² *Shirur Mutt v Chief Secretary, Government of Mysore*, AIR 1954 SC 19

¹³ Rehan Abeyratne, "Privileging the Powerful: Religion and Constitutional Law in India" (2018) 13 *Asian Journal of Comparative Law* 307, 315–18.

¹⁴ *Kesavananda Bharati v State of Kerala*, (1973) 4 SCC 225.

¹⁵ *S R Bommai v Union of India*, (1994) 3 SCC 1, 141.

ADMINISTRATIVE AND LEGAL OBSTACLES TO RELIGIOUS NEUTRALITY

Compulsory Religious and Caste Disclosure

Despite constitutional guarantees, official government forms and administrative processes routinely require individuals to declare their religion and caste. This practice persists from birth certificates to school applications, voter ID cards, and social welfare schemes.¹⁶ Though some documents provide options such as Choose not to say or Other, these options fail to fully accommodate those who explicitly reject any religious affiliation. The persistence of these mandatory disclosures institutionalizes the assumption that religious identity is a compulsory social marker.

Personal Laws and Religious Identity

India's personal law regime addressing family matters such as marriage, divorce, inheritance, and succession is built on religious classification. Hindu, Muslim, Christian, Parsi, and other communities are governed by separate personal laws, with limited availability of uniform civil codes.¹⁷

For individuals rejecting religious classification or adopting atheistic identities, this regime presents concrete challenges. Non-religious persons cannot opt out of the personal law's regime, leaving them vulnerable to application of rules inconsistent with their beliefs. The absence of a secular alternative in personal law restricts the ability to fully realize the constitutional right to freedom of conscience and religion.¹⁸

The Paradox of Caste and Religion

Caste-based affirmative action remains intricately tied to religious identity. Scheduled Caste (SC) status, for instance, is granted only to Hindus, Sikhs, and Buddhists, excluding Muslims and Christians.¹⁹ Conversely, scheduled tribes and Other Backward

¹⁶ Tarun Agarwal and Bhaskar Agarwal, 'Can the State Compel You to Disclose Your Religion?' (2019) ILI Law Review Vol II Winter Issue 1 <<https://ili.ac.in/pdf/tag.pdf>> accessed 9 October

¹⁷ Rehan Abeyratne, "Privileging the Powerful: Religion and Constitutional Law in India" (2018) 13 Asian Journal of Comparative Law 307, 326-28 <https://www.thehinducentre.com/the-arena/current-issues/article30275722.ece/binary/privileging_the_powerful_religion_and_constitutional_law_in_india.pdf> accessed 6 October

¹⁸ Gautam Bhatia, "State Surveillance and the Right to Privacy in India: A Constitutional Biography" (2014) National Law School of India Review 26, 62. <<https://repository.nls.ac.in/cgi/viewcontent.cgi?article=1192&context=nlsir>> accessed 10 October

¹⁹ Superintendent of Post Offices, Bangalore v Babu, AIR 2007 SC 1095.

Classes often have overlapping but distinct religious affiliations tied to eligibility for benefits. The requirement to declare religion and caste in official records thus becomes a prerequisite for accessing affirmative action, reinforcing the link between state recognition and religious identity. This paradox constrains individuals seeking to abandon religious classification.

JUDICIAL RECOGNITION OF THE RIGHT TO REJECT RELIGIOUS AND CASTE IDENTITY: IN DEPTH ANALYSIS

Telangana High Court Judgment: Sandepu Swaroopa and Another v Union of India (2023)

In *Sandepu Swaroopa v Union of India*, the Telangana High Court recognized the right of individuals to have birth certificates marked “no religion” and “no caste.” The petitioners, an inter-religious, inter-caste couple challenged the government’s refusal to register their child’s birth because the online system lacked an option for such entries. Justice Lalitha Kanneganti held that compelling disclosure of religion or caste violates the constitutional guarantees of dignity, privacy, and freedom of conscience under Article 25, emphasizing that the State cannot force citizens to profess any religious identity:

“Article 25 of the Constitution conferred freedom of conscience on a citizen which was a fundamental right guaranteed to a citizen. It conferred the right to freely profess, practice or propagate any religion, which included in it the citizens right to say that they did not believe in any religion, and they did not want to profess, practice, or propagate any religion.”²⁰

Bombay High Court: Dr. Ranjeet Suryakant Mohite v Union of India (2014)

In a landmark Public Interest Litigation, the Bombay High Court held that the fundamental right to freedom of conscience under Article 25 allows individuals not to profess any religion. The petitioners, members of the “Full Gospel Church of God,” argued that although they believed in Jesus Christ, they did not associate with Christianity or any formal religion. The government printing press had refused to issue a gazette notification acknowledging their status as “no religion,” prompting the PIL. The Court ruled this refusal unconstitutional, affirming that freedom of conscience includes the right to openly reject religious affiliation:

“No authority which is a state can infringe the fundamental right to

²⁰ *Sandepu Swaroopa and Another v Union of India* 2023 LiveLaw (Tel) 30, para 20.

freedom of conscience...and the courts cannot compel an individual to declare religion in any official record.”²¹

Madras High Court: “No Caste No Religion” Certificates

The Madras High Court has played a proactive role in combatting caste-based discrimination by encouraging the issuance of “No Caste No Religion” certificates. In the case of *H. Santhosh v The District Collector* (2025), the Court observed that issuing such certificates would enlighten citizens and promote constitutional values of equality and dignity:

“Such an object would help in prohibiting caste-based discrimination and would be an eye-opener for like-minded citizens.”²²

The court directed the Tamil Nadu government to empower revenue authorities to grant these certificates, recognizing the constitutional obligation under Article 25 to respect freedom of conscience and the right to reject imposed social identities.

COMPARITIVE ANALYSIS: INTERNATIONAL STANDARDS AND PRACTICES

European Convention on Human Rights

The European Court of Human Rights (ECtHR) has progressively recognized both positive and negative dimensions of religious freedom under Article 9 of the European Convention on Human Rights. Article 9(1) protects “freedom of thought, conscience and religion,” while Article 9(2) permits limitations only if “necessary in a democratic society.”²³ The ECtHR’s jurisprudence underscores that Article 9 encompasses the right not to manifest religious beliefs and to live without religious imposition.

In *Fernández Martínez v. Spain* (2014), the Court held that dismissing a teacher for refusing to conceal personal religious convictions violated Article 9, reinforcing that professional status cannot be conditioned on religious neutrality.²⁴ Similarly, in *Zhdanov v. Russia* (2021), the ECtHR affirmed the right of students to opt out of religious instruction in public

²¹ *Dr. Ranjeet Suryakant Mohite v Union of India* Public Interest Litigation No. 139 of 2010 (Bombay HC, 23 September 2014) para 15.

²² *H. Santhosh v The District Collector* W.A.No.401 of 2025 (Madras HC, 2025 LiveLaw (Mad) 197), para 12.## V. Judicial Recognition of the Right to Reject Religious and Caste Identity: Detailed Analysis

²³ European Convention on Human Rights art 9.

²⁴ *Fernández Martínez v Spain* App No 56030/07 (ECtHR, 12 June 2014) para 118.

schools.²⁵ These decisions illustrate the Convention's robust protection of negative religious freedom and the principle that states must accommodate conscientious objection to religious practices without undue restrictions.

United States First Amendment Jurisprudence

The United States Constitution's First Amendment contains both the Establishment Clause and the Free Exercise Clause, protecting religious liberty while prohibiting government endorsement of religion. The Supreme Court has interpreted these provisions to secure the rights of non-believers and secular worldviews.

In *Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah* (1993), the Court struck down ordinances targeting religious animal sacrifice, applying strict scrutiny to laws that single out religious conduct.²⁶ In *Hosanna-Tabor Evangelical Lutheran Church and School v. EEOC* (2012), the "ministerial exception" was affirmed, but the Court emphasized that the government cannot adjudicate certain church matters without violating the Free Exercise Clause. Conversely, *Kennedy v. Bremerton School District* (2022) reaffirmed that public employees retain the right to private religious expression, cementing the protection of individual conscience against administrative coercion.²⁷

These cases confirm that U.S. constitutional law protects both free exercise of religion and the right to reject religious conformity, ensuring negative religious liberty through strict scrutiny of state actions.

Other Constitutional Democracies

1. **Germany:** The Basic Law's Article 4 protects freedom of faith, conscience, and creed. The Federal Constitutional Court has held that state neutrality requires non-compulsion in religious matters, as seen in *Lebach* (1978), which invalidated compulsory religious instruction in schools.²⁸
2. **Canada:** The Charter of Rights and Freedoms guarantees freedom of conscience and religion under Section 2(a). In *Big M Drug Mart Ltd. v. Canada* (1985), the Supreme Court

²⁵ *Zhdanov v Russia* App No 13231/07 (ECtHR, 6 April 2021) paras 42–44.

²⁶ *Church of the Lukumi Babalu Aye v City of Hialeah* 508 US 520 (1993).

²⁷ *Kennedy v Bremerton School District* 597 US (2022).

²⁸ BVerfGE 47, 46 (1978) (*Lebach*).

invalidated the Lord's Day Act, affirming that freedom from enforced worship is protected.²⁹

3. **United Kingdom:** The Human Rights Act 1998 incorporates the ECHR; the Court of Appeal in *R (Begum) v. Governors of Denbigh High School* (2006) recognized the right to religious neutrality in school uniform policies, allowing reasonable accommodation for religious or non-religious beliefs.³⁰
4. **Scandinavia:** In Sweden, the Freedom of the Press Act (1766) and the Instrument of Government (1974) ensure freedom of religion; the Supreme Administrative Court in *Decision 2672-07* (2007) allowed public employees to refuse participation in church-led ceremonies.³¹

GAPS AND DEFICIENCIES IN INDIA'S LEGAL AND ADMINISTRATIVE FRAMEWORK

Despite progressive judicial pronouncements affirming negative religious and caste rights, substantial gaps persist in India's legal, administrative, and socio-political structures.

1. Absence of Explicit Negative Freedom Provision:

India's Constitution guarantees freedom of conscience and religion under Articles 25–28 but lacks explicit language protecting the right not to declare religious identity. By contrast, Article 9 of the ECHR expressly safeguards freedom of thought, conscience, and religion, including negative dimensions.³² Without clear statutory or constitutional amendment, negative religious freedom in India remains dependent on judicial interpretation rather than legislative guarantee.

2. Personal Law and Civil Status Laws:

Family laws marriage, divorce, succession implicitly assume religious identity, with no secular or civil-code alternative.³³ The absence of a uniform civil code or secular personal law prevents non-religious individuals from exercising their choice in matters of family law, effectively binding them to religion-

²⁹ *Big M Drug Mart Ltd v Canada* 1 SCR 295, 1985 CanLII 46.

³⁰ *R (Begum) v Governors of Denbigh High School* UKHL 15.

³¹ Sweden, Supreme Administrative Court, Decision 2672-07 (2007).

³² European Convention on Human Rights art 9.

³³ Rehan Abeyratne, "Privileging the Powerful: Religion and Constitutional Law in India" (2018) 13 Asian Journal of Comparative Law 307, 326–28

<https://www.thehinducentre.com/the-arena/current-issues/article30275722.ece/binary/privileging_the_powerful_religion_and_constitutional_law_in_india.pdf> accessed 6 October

specific statutes contrary to their conscience.

3. Reservation and Affirmative Action Schemes:

Caste-based reservation policies necessitate caste declaration, inheriting religion's administrative apparatus.³⁴ Scheduled Caste status, for example, is available only to Hindus, Sikhs, and Buddhists.³⁵ This framework compels historical religious affiliation for access to social justice measures, undermining the right to a casteless identity and impacting negative religious freedom.

4. Mandatory Classification in Official Forms:

Government documents from birth and death certificates to ration cards and school enrolment forms routinely include religion and caste fields, often without "no religion" or "no caste" checkboxes.³⁶ Even where "other" or "choose not to say" options exist, they do not affirmatively recognize a non-religious identity, leaving individuals in administrative limbo.

5. Inconsistent Implementation of Judicial Directives:

High Court rulings mandating "no religion" and "no caste" options, such as *Sandepu Swaroopa*, have yet to translate into uniform national policy. Variations across states in form design, database architecture, and clerical training result in patchwork compliance, with many officials unaware or unwilling to honour judicial mandates.³⁷

6. Social Stigma and Pressure

Atheists and non-religious individuals face social ostracism and familial pressure to conform. Public identification as non-religious can result in discrimination in employment, marriage prospects, and community participation. High-profile attacks on rationalist activists such as the assassinations of Narendra Dabholkar and Govind Pansare underscore the physical risks of dissent.³⁸

7. Political Exploitation of Identity:

Religious and caste identities are central to political

³⁴ Tarun Agarwal & Bhaskar Agarwal, "Can the State Compel You to Disclose Your Religion?" (2019) *ILI Law Rev* 12, 14–17.

³⁵ *Superintendent of Post Offices, Bangalore v Babu*, AIR 2007 SC 1095.

³⁶ *ibid*

³⁷ *Sandepu Swaroopa and Another v Union of India* 2023 LiveLaw (Tel) 30, para 22.

³⁸ Organised Atheism in India An Overview (n 1) 78–82.

mobilization in India. Parties leverage communal and caste fault lines, incentivizing maintenance of these identities for electoral gains. Efforts to recognize “no religion” or “no caste” identities thus confront entrenched political interests that benefit from identity categorization.

8. Media Representation:

Indian media frequently overlooks non-religious narratives or portrays atheism as aberrant. Limited visibility reinforces misconceptions and inhibits broader acceptance of negative religious freedom.

RECOMMENDATIONS FOR REFORM.

To align India’s administrative practices and legal framework with its constitutional promise of freedom of conscience including the right to reject religious and caste identity the following reforms are essential:

1. Constitutional or Legislative Amendment:

Amend Articles 25–28 to explicitly recognize negative religious freedom, providing clear textual protection for the right not to declare religious affiliation. A standalone clause affirming the right to “no religion” and “no caste” status would eliminate interpretive ambiguity and ground judicial decisions in express constitutional mandate.³⁹

2. Secular Civil Code and Personal Law Alternatives

Introduce a Uniform Civil Code or substantive secular personal law alternatives for marriage, inheritance, and succession, enabling non-religious individuals and interfaith couples to resolve family law matters without reliance on religion-based statutes. Legislative drafts should incorporate the option to affirm non-religious identity, ensuring equal treatment under civil law.⁴⁰

3. Administrative Overhaul of Official Forms

Mandate inclusion of “no religion” and “no caste” options in all government forms and databases birth certificates, educational enrolments, identity documents, social welfare

³⁹ European Convention on Human Rights art 9.

⁴⁰ Rehan Abeyratne, “Privileging the Powerful: Religion and Constitutional Law in India” (2018) 13 Asian Journal of Comparative Law 307, 326–28

<https://www.thehinducentre.com/the-arena/current-issues/article30275722.ece/binary/privileging_the_powerful_religion_and_constitutional_law_in_india.pdf> accessed 6 October.

applications through a central directive from the Ministry of Home Affairs in consultation with state governments. Detailed guidelines and digital form templates must be issued, accompanied by mandatory training for officials to implement these changes uniformly.⁴¹

4. **Judicial Guidelines for Negative Rights**

The Supreme Court should issue broad guidelines clarifying that administrative compulsion to declare religion or caste violates freedom of conscience. These guidelines should articulate a compelling-state-interest standard requiring administrative bodies to justify any classification that limits the right not to declare identity and establish a fast-track mechanism for adjudicating related disputes.

5. **Anti-Discrimination and Data Protection Measures**

Enact comprehensive anti-discrimination legislation prohibiting adverse treatment based on non-religious identity. Integrate robust data protection norms to prevent misuse of declared or undeclared religious and caste data, safeguarding privacy and preventing coerced disclosure.

6. **Public Awareness and Educational Initiatives**

Launch nationwide campaigns—through schools, community centers, and media—to raise awareness of the right to freedom of conscience, emphasizing respect for atheistic and non-religious identities as part of constitutional fraternity. Collaborate with rationalist organizations and human rights bodies to develop educational modules on secularism, diversity, and privacy rights.⁴²

7. **Monitoring and Accountability Mechanisms**

Establish a National Commission for Freedom of Conscience with power to monitor compliance, receive grievances, and recommend administrative or legal action. State-level ombudsman offices should be empowered to rectify form designs and procedural lapses. Regular reporting and transparent audits will ensure sustained implementation.

CONCLUSION

⁴¹ *Sandepu Swaroopa and Another v Union of India* 2023 LiveLaw (Tel) 30, para 22.

⁴² Johannes Quack, “Organised Atheism in India: An Overview” (2012) 27 *Journal of Contemporary Religion* 67, 82. <https://www.researchgate.net/publication/232884814_Organised_Atheism_in_India_An_Overview> accessed 6 October.

The Indian Constitution guarantees freedom of conscience and religion in both its positive and negative forms. Articles 25–28 protect the right to profess or practice any faith and equally, to refrain from doing so. Judicial decisions such as *Mohite* and *Sandepu Swaroopa* have affirmed that this includes the right to register life events without declaring religion or caste. Yet, these rulings remain isolated, as legislative and administrative systems have not uniformly enabled “no religion” or “no caste” options.

Persistent doctrinal and procedural gaps, the lack of explicit recognition for non-religious identities, and religion-based personal laws continue to force citizens into unwanted social categories. Administrative inaction and political resistance further delay reforms. Drawing lessons from comparative models such as the European Convention on Human Rights, U.S. First Amendment jurisprudence, and secular frameworks in Germany and Canada, India must adopt comprehensive reforms explicit legal protection for non-religious identity, a secular civil code, standardized “no religion/no caste” entries in official records, judicial enforcement, and public awareness measures.

Realizing negative religious freedom thus requires coordinated legal, administrative, and social efforts to ensure that every citizen can freely choose or decline to define their religious and caste identity, fulfilling the true spirit of constitutional conscience.