PREFACE

India, the world’s most heterogeneous society, has rich heritage. The largest democracy is gifted with a unique Constitution. The Constitution of India is committed to maintain and preserve noble ideals of socialism and secularism simultaneously upkeeping integrity of the nation. India’s society is multilingual and it is a land of hybrid religions and beliefs. There is diversity of traditions, ethos, ways of thinking and living. Due to external invasions and aggressions various races came into existence in this subcontinent which have their own languages, cultures, religions and customs. In order to maintain social harmony and tolerance amongst the people freedom of religion has prime importance. Keeping this in view, the founding fathers of the Constitution enshrined freedom of religion in Part III of the Constitution of India, under the head of Fundamental Rights.

The Constitution of India is a living document. Individuals possess basic human rights independently of any Constitution by reason of the basic fact that they are members of the human race. These fundamental rights are important as they possess intrinsic value. Part III of the Constitution does not only confer fundamental rights but it confirms their existence and gives them protection. Its purpose is to withdraw certain subjects from the area of the political controversy to place them beyond the reach of majorities and officials and to establish them as legal principles to be applied by the Courts. The constitutional provisions have to be construed having regard to the march of time and development of law. It is a fallacy to regard fundamental rights as a gift from the State to its citizens.
Economic growth and social equity are the two pillars of our Constitution which are linked to the rights of an individual. Some of the rights in Part III of the Constitution such as Article 21 read with Articles 14 and 15 which represent secularism etc. constitute the fundamentals of the Constitution. The secular character of our constitution is a matter of inference to be drawn from various articles conferring fundamental rights; and if the secular character is not to be found in part III, it can not be found anywhere else in the Constitution because every fundamental right in Part III stands either for a principle or a matter of detail.

Religion is as important to the society as blood to the body of a person. As life cannot be imagined without blood likewise the existence of healthy society is possible only when there is freedom of religion. With Muslim invasions social structure also changed. Britishers succeeded to rule us following the policy of divide and rule. With the help of religious feelings of the people of India, they succeeded in dividing the British Bharat into two nations.

Religion has played an important role in shaping the relations of people and has been a guiding factor influencing all aspects of human life. Having regard to this fact, I have tried my level best to analyse the freedom of religion and related issues with analytical vision in various chapters.

Chapter-I deals with the introduction of freedom of religion in socio-legal perspective. Chapter-II is entitled as the Historical development of Religious Rights and evolution of fundamental rights. Chapter-III deals with the concept and scope of religion in a secular country. The term “religion” is a dynamic concept. It varies from time to time and country to country. However, the term ‘religion’ has neither been defined in our Constitution nor under any other statute. However, attempts have been made from time to time by the jurists and judges to
delineate the contour of the said term 'religion'. These have been discussed in this chapter.

Chapter-IV deals with the Scope and extent of Religious rights under Part III of the Constitution of India. The right to freedom of religion has been guaranteed by the Articles 25 to 28 of the Constitution.

There are many social problems like entry in the temple or other place of worship, appointment of pujari in temple other than Brahmins, untouchability, conversion, Administration and management of religious properties, Right of sewak to get Prasad, money etc. and begging or alms giving under freedom of Religion and so on. Supreme Court considered these issues consciously and tried to solve the problems in various cases.

Problems of religious suicide, and Devadasi system can not be ignored. These are social stigmas in our society. I have elaborately examined various issues and suggested the proper measure to eradicate these problems.

Chapter V is on Restrictions and limitation on religious rights. Certain restrictions are imposed for the protection of various social interests referred to in Article 25. The restrictions are imposed on the grounds of public order, morality, health and other provisions of Part III of the Constitution. Thus, it is clear that the freedom of religion is not absolute but is under limitations and restrictions provided under the provisions of the Constitution. The issue of religion based minorities has been examined under chapter VI.

Chapter VII deals with the Religious Rights: A comparative study. The position of religion in the countries of U.S.A., China, Australia and United Kingdom has been elaborately described under study of the comparison of religious rights.
Chapter VIII contemplates uniform Civil Code and its feasibility. There is no necessary connection between religion and personal law in a civilised society. There is a common law of crimes and evidence applicable to all citizens but there is no common set of laws in regard to marriage, divorce, adoption and succession to all citizens irrespective of their religious persuasions.

In the last chapter, findings of the research study have been drawn with suitable proposals for changes in the statutes.