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Punjab's Anti-Sacrilege Law Raises Constitutional Questions on Religious Protection, Free Speech and Secularism

Published On: 21-08-2026

Recent Developments and Current Context:

- The **Punjab Legislature** enacted the **Jaagat Jot Sri GurGranth Sahib Satkar (Amendment) Act, 2026**, amending the **Jaagat Jot Sri GurGranth Sahib Satkar Act, 2008**, to create a stronger statutory framework against sacrilege of the **Saroop of Sri GurGranth Sahib**.
- The Bill was passed during a special session of the Punjab Vidhan Sabha on **13 April 2026**, received the Governor's assent on **17 April 2026**, and was published in the Official Gazette on **20 April 2026**.
- The amendment introduces a statutory definition of **sacrilege**, establishes additional duties for custodians, creates a central register of Saroops and substantially enhances criminal penalties.
- The legislation has triggered constitutional debate because it extends the concept of sacrilege beyond physical desecration to certain **spoken, written, visual and electronic expressions** that are considered capable of hurting the religious feelings of persons professing the Sikh faith.
- The law has also faced a constitutional challenge before the **Punjab and Haryana High Court**, including arguments concerning legislative competence and the requirement of Presidential assent under **Article 254(2)** where applicable.

Understanding Sacrilege and Blasphemy:

Meaning of Sacrilege:

- **Sacrilege** generally refers to the desecration, misuse or disrespectful treatment of an object, place or practice regarded as sacred.
- Traditionally, sacrilege has been associated more closely with **conduct involving physical desecration or violation of something considered sacred**.
- In the Punjab legislation, sacrilege is given a broader statutory meaning that includes specified physical acts as well as certain forms of expression.

Meaning of Blasphemy:

- **Blasphemy** generally concerns expressions considered contemptuous, irreverent or insulting towards a religion, deity, prophet, scripture or religious belief.
- The distinction is useful in constitutional analysis because **physical desecration** and **expression about religion** may engage different legal and constitutional considerations.
- India does not have a single general offence titled **blasphemy**, but criminal law contains provisions dealing with deliberate religious insult, injury to places of worship and conduct capable of disturbing communal harmony.

Key Features of Punjab's 2026 Amendment:

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Expanded Definition of Sacrilege:

- The amendment defines sacrilege of the Saroop of Sri GurGranth Sahib as a **wilful and deliberate act committed with the intent of desecration**.
- The definition covers physical damaging, defacing, burning, tearing or theft of the Saroop or any part of it.
- It also covers words, whether spoken or written, signs, visible representations and electronic means when the conduct is of such a nature as to hurt the religious feelings of persons professing the Sikh faith.

Institutional and Custodial Framework:

- The amendment creates the position of a **custodian**, covering an individual, institution or Gurdwara Committee responsible for the protection of a Saroop and observance of the prescribed Sikh Rehat Maryada.
- The **Shiromani Gurdwara Parbandhak Committee** is required to maintain a central register containing information such as the unique identification number, date of printing, date and place of supply, place of storage and name and address of the custodian.
- The register is required to be maintained in physical and electronic form and made available through the Committee's website.
- Custodians are required to ensure safe custody and protection from damage, misuse or loss and to report incidents involving damage, disappearance or suspected sacrilege to the police and concerned management authority.

Enhanced Punishments:

- Ordinary violations of the Act, other than sacrilege, may attract imprisonment of up to **5 years** and a fine of up to **10 lakh rupees**.
- Direct sacrilege of a Saroop attracts imprisonment of **7 to 20 years** and a fine between **2 lakh and 10 lakh rupees**.
- Sacrilege committed through **criminal conspiracy with the intention of disrupting peace or communal harmony** attracts imprisonment of at least **10 years**, extendable to **life imprisonment**, along with a fine between **5 lakh and 25 lakh rupees**.
- **Abetment** attracts the same punishment as the principal offence, while an attempt attracts imprisonment of **3 to 5 years** and a fine between **1 lakh and 3 lakh rupees**.
- Offences under the Act are classified as **cognizable, non-bailable and non-compoundable**, and trials are to be conducted by the **Court of Sessions**.

Existing Criminal Law Framework:

Bharatiya Nyaya Sanhita Provisions:

- **Section 298 of the Bharatiya Nyaya Sanhita** criminalises injuring or defiling a place of worship with the intention of insulting the religion of a class.
- **Section 299 of the Bharatiya Nyaya Sanhita** criminalises deliberate and malicious acts intended to outrage the religious feelings of a class by insulting its religion or religious beliefs through spoken or written words, signs, visible representations, electronic means or otherwise.
- Section 299 is therefore particularly relevant to the constitutional debate because it already regulates certain forms of **religiously offensive expression**.
- The existence of these provisions raises the question of whether additional state-level criminalisation is necessary and whether any additional restriction is sufficiently precise and proportionate.

Historical Evolution of Religious-Insult Laws in India:

Section 295A of the Indian Penal Code:

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- **Section 295A of the Indian Penal Code** was enacted in **1927** and criminalised deliberate and malicious acts intended to outrage the religious feelings of a class of citizens by insulting its religion or religious beliefs.
- The provision emerged during the colonial period amid concerns regarding publications and public expressions that could inflame religious tensions.
- The provision did not criminalise every criticism or insult; its constitutional interpretation emphasised the requirement of **deliberate and malicious intention**.

Ramji Lal Modi Case:

- In **Ramji Lal Modi v. State of Uttar Pradesh, 1957**, the Supreme Court upheld the constitutional validity of Section 295A.
- The Court interpreted the provision narrowly so that only aggravated forms of religious insult accompanied by **deliberate and malicious intention to outrage religious feelings** attracted criminal liability.
- This precedent is important because it demonstrates that constitutional validity may depend not merely on the existence of a restriction but also on **how narrowly the offence is defined and applied**.

Constitutional Dimensions:

Article 19(1)(a) and Freedom of Speech:

- **Article 19(1)(a)** guarantees citizens the fundamental right to freedom of speech and expression.
- A law covering words, writings, signs, visual representations and electronic communication can therefore directly engage freedom of expression.
- Broad or uncertain restrictions may create a **chilling effect**, causing individuals to avoid legitimate criticism, academic discussion, artistic expression, satire or social reform because of fear of criminal prosecution.
- The constitutional validity of such restrictions therefore depends substantially on the precision of the statutory language and the requirement of a sufficiently serious and intentional offence.

Article 19(2) and Public Order:

- **Article 19(2)** permits reasonable restrictions on freedom of speech in the interests of specified grounds, including **public order**.
- The State can argue that deliberate acts capable of provoking communal violence or seriously disturbing social harmony justify criminal regulation.
- However, mere **religious offence or subjective hurt** cannot automatically be equated with a constitutionally sufficient threat to public order.
- The Supreme Court has emphasised that restrictions based on public order require a sufficiently proximate relationship between the expression and the anticipated harm rather than a remote, conjectural or speculative connection.

Article 14 and Non-Arbitrariness:

- **Article 14** guarantees equality before the law and equal protection of the laws and also operates against arbitrary state action.
- Criminal provisions using uncertain concepts such as **disrespect, hurt to religious feelings or offensive representation** may raise concerns regarding objective application.
- Criminal law should provide citizens with sufficient clarity regarding the conduct that attracts penal liability.
- Clear definitions and objective standards are therefore essential to prevent selective or arbitrary enforcement.

Article 25 and Freedom of Religion:

- **Article 25** guarantees all persons freedom of conscience and the right freely to profess, practise and propagate religion, subject to **public order, morality, health and other constitutional provisions**.

- The protection of sacred objects can therefore be connected with the broader constitutional protection of religious freedom.
- At the same time, Article 25 does not create an unrestricted right to impose religious norms upon others because religious freedom itself is subject to constitutional limitations.
- The Constitution therefore requires a balance between **protecting religious practice and maintaining individual liberty and public order**.

Article 26 and Management of Religious Affairs:

- **Article 26** gives religious denominations the right, subject to public order, morality and health, to establish and maintain religious institutions and manage their own affairs in matters of religion.
- The Punjab amendment's custodial and administrative provisions raise questions concerning the interaction between **religious institutional autonomy and state regulation**.
- Such regulation must remain consistent with the constitutional limits placed on both religious freedom and governmental power.

Secularism and Criminalisation of Religious Offence:

Indian Model of Secularism:

- Indian secularism does not require the State to remain completely indifferent to religion; instead, it permits the State to regulate secular activities associated with religion and to intervene for **social reform, public order and constitutional rights**.
- Article 25 itself recognises that religious freedom is subject to public order, morality and health and permits regulation of associated secular activities.
- The constitutional challenge therefore is not simply whether religious offences can be criminalised, but whether the criminal law protects **public order and individual rights without becoming an instrument for enforcing subjective religious conformity**.

Equal Protection Across Religions:

- A constitutionally sustainable framework should apply the principles of protection and criminal liability **without discrimination among religious communities**.
- State legislation specifically protecting one sacred text can raise questions concerning equality and secular governance if similar protections are unavailable in circumstances involving other communities.
- However, differences in legislation are not automatically unconstitutional because the legislature may enact targeted laws to address specific factual circumstances, provided that the classification has a **rational basis and constitutional justification**.

Principle of Proportionality:

Why Proportionality Matters:

- The **principle of proportionality** requires restrictions on fundamental rights to maintain a rational relationship between the legitimate objective pursued and the means adopted.
- A court may examine the nature of the prohibited conduct, the seriousness of the harm, the intention of the accused, the suitability of the restriction, availability of less restrictive alternatives and severity of punishment.
- A punishment extending to **life imprisonment** for conduct connected with sacrilege therefore requires particularly careful examination of the relationship between the offence and the severity of the penalty.
- The distinction between ordinary physical desecration and conduct involving a deliberate conspiracy to disrupt communal harmony is relevant because the amendment itself adopts different levels of punishment

according to the gravity and consequences of the offence.

Major Constitutional Concerns:

Possible Arguments Supporting the Law:

- Deliberate desecration of a sacred object can provoke intense communal tensions and therefore may threaten **public order and social harmony**.
- Existing general criminal provisions may not adequately capture the specific institutional and custodial dimensions of protecting the Saroop of Sri GurGranth Sahib.
- Enhanced punishment can have a **deterrent effect** against deliberate acts intended to provoke communal conflict.
- A specific legal framework can also establish clearer responsibilities for custodians and improve documentation and accountability.

Possible Arguments Against the Law:

- Extending criminal liability to certain forms of speech, writing, visual representation and electronic communication can create risks for **freedom of expression**.
- Vague or subjective standards can enable selective enforcement and produce a chilling effect on legitimate criticism, scholarship and artistic expression.
- Extremely severe punishment may raise concerns regarding **proportionality**, particularly where the conduct does not involve physical desecration or a demonstrable threat to public order.
- A religion-specific penal framework may generate concerns regarding **secularism and equality** if its principles are not capable of consistent application across communities.
- The existence of Sections **298 and 299 of the Bharatiya Nyaya Sanhita** also raises the question of whether additional criminal provisions are necessary or whether existing law can address serious religious offences.

Federalism and Legislative Competence:

State Law and Constitutional Limits:

- **Public order and police** fall primarily within the State List, giving states significant authority to legislate on matters concerning public order and policing.
- However, a state criminal law must remain consistent with **fundamental rights and other constitutional limitations**.
- Where a state law occupies a field that overlaps with a parliamentary law on a Concurrent List subject and there is inconsistency, **Article 254** becomes relevant.
- Under **Article 254(2)**, a state law reserved for and receiving Presidential assent may prevail in that state over an inconsistent earlier parliamentary law, subject to Parliament's power to subsequently override it.
- The constitutional challenge to Punjab's law has specifically raised the issue of Presidential assent, making **legislative competence and repugnancy** relevant dimensions of the debate.

Way Forward:

Constitutional and Policy Safeguards:

- The State should retain criminal liability for **deliberate and aggravated physical desecration**, particularly where the conduct is intended to provoke violence or communal disorder.
- Definitions should be drafted with sufficient **precision and objective standards** to distinguish criminal conduct from legitimate expression.
- Criminal liability for expression should require a clearly established **deliberate and malicious intention** and, where public order is invoked, a demonstrable nexus with the threatened harm.

- Punishments should follow a **graded structure** based on intention, physical harm, communal consequences, conspiracy and other aggravating circumstances.
- Enforcement should remain religion-neutral in principle and consistent with **constitutional equality and secularism**.
- Investigations and prosecutions should be subject to judicial oversight to minimise arbitrary or politically motivated enforcement.
- Existing provisions of the **Bharatiya Nyaya Sanhita** should be considered before creating overlapping offences, particularly where the same conduct can already be prosecuted under general criminal law.
- Protection of religious harmony should be pursued alongside **constitutional tolerance, freedom of expression and the rule of law**.

Conclusion:

- Punjab's anti-sacrilege legislation reflects the difficult constitutional balance between **religious freedom, public order, individual liberty and secular governance**.
- The State has a legitimate interest in preventing deliberate acts that desecrate sacred objects and provoke communal conflict, particularly when such acts have the potential to disturb public order.
- However, extending criminal liability to expression requires greater constitutional caution because **Article 19(1)(a)** protects even unpopular, critical and controversial forms of expression, subject to the specific restrictions permitted by Article 19(2).
- The constitutional sustainability of the law will therefore depend on **precision of definitions, proof of deliberate and malicious intent, proportionality of punishment, legislative competence and non-arbitrary enforcement**.
- The broader lesson for Indian constitutionalism is that protecting religious harmony should not mean replacing constitutional liberty with subjective standards of religious offence.
- A durable solution requires the State to protect **religious dignity and communal peace while preserving freedom of conscience, equality, free expression and the secular character of the Constitution**.

Value Addition for UPSC:

Constitutional Articles to Remember:

- **Article 14:** Equality before law and equal protection of laws.
- **Article 19(1)(a):** Freedom of speech and expression.
- **Article 19(2):** Reasonable restrictions on speech, including in the interests of public order.
- **Article 25:** Freedom of conscience and free profession, practice and propagation of religion.
- **Article 26:** Freedom to manage religious affairs.
- **Article 51A(e):** Fundamental duty to promote harmony and the spirit of common brotherhood transcending religious, linguistic, regional or sectional diversities.
- **Article 254:** Constitutional framework governing inconsistency between parliamentary and state legislation in the Concurrent List.

Important Judicial Precedents:

- **Ramji Lal Modi v. State of Uttar Pradesh, 1957:** Section 295A of the Indian Penal Code was upheld after being narrowly interpreted to cover deliberate and malicious religious insult of an aggravated nature.
- **Shreya Singhal v. Union of India, 2015:** The Supreme Court distinguished protected expression from constitutionally permissible restrictions and emphasised the importance of precision in restrictions on speech.
- **S. Rangarajan v. P. Jagjivan Ram, 1989:** Restrictions based on public order require a close and proximate connection between expression and the anticipated harm; remote or speculative danger is insufficient.
- **Bijoe Emmanuel v. State of Kerala, 1986:** The Supreme Court recognised the constitutional importance of **freedom of conscience** under Article 25, including protection for minority beliefs.

Mains-Ready Framework:

- **Issue:** Criminalisation of sacrilege in a secular constitutional democracy.
- **Constitutional Balance:** Articles 19, 25 and 26 must operate alongside public order, equality and constitutional morality.
- **Risk:** Overbroad criminalisation of expression can create a chilling effect and encourage subjective enforcement.
- **Justification:** Deliberate physical desecration and acts intended to provoke communal violence can legitimately attract stringent criminal sanctions.
- **Safeguard:** Clear definitions, deliberate and malicious intent, proximate public-order nexus, graded punishment, proportionality and equal application.
- **Way Forward:** Protect **religious harmony without weakening constitutional freedoms**, thereby maintaining the balance between individual liberty and collective peace.