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## Secularism As Defined By The Indian Constitution

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### Abstract:

A discussion about "secularism" now seems to be very relevant in view of the nation's divide of citizens into various religious groups. It is important to emphasise that the problem of communalism in Indian society is not a recent development. The fact that the situation is not ideal even after more than 70 years of independence is rather unsettling and embarrassing. Even India's Constitution explicitly states that the country is secular, yet it adds nothing to the situation practically and things continue as they were before the word "secular" was added to the Constitution. The idea of secularism is incorporated into the growth of democracy through preserving national harmony, unity, and dignity. Relevant provisions for the creation of secular communities were put into the Indian Constitution. For instance, Article 15 states that no one shall be discriminated against by a state on the basis of race, colour, caste, gender, or place of birth. Additionally, Article 25 of Part III of the Indian Constitution guarantees everyone, both citizens and non-citizens, the right to freedom of religion. Every person (citizen or not) has the right to practise and spread their religion without hindrances, according to the relevant article. Similar to that, article 30 allows minorities to establish religious educational institutions. Article 28 clearly states that no religious organisations may be established with the aid of state funding, which limits the state's ability to meddle in religious matters to some extent. The researcher will discuss the idea of the phrase "secularism," their history, and their meaning in various jurisdictions in this review study. The scholar will also go into secularism's status under the Indian Constitution. Finally, the researcher will talk on the significance of secularism in India and the difficulties associated with putting the idea into practise.

**Keywords:** Constitution, Communism, Religious Group, and Secularism.

### 1. Introduction

Evidently, the idea of secularism plays a big and vital role in fields like political science and constitutional law. Secularism has always been practised in India because the phrase was not introduced to or included in the initial draught of the Indian Constitution written by the Constituent Assembly. The Hindu religion's diversity in terms of religion is highlighted through texts like the Vedas and Upanishads. Similar to this, Indian ruler Ashoka the Great declared that the state will not participate in any religious activity in the third century.

The two groups, Sufi and Bhakti, gave Muslims and Hindus a new way to express their religion during the Middle Ages and united other communities through love and peace. They left an imprint on the Akbari era through the idea of religious tolerance. It was discovered that the Freedom Movement strengthened the idea of secularism during the British era in all of the nations.

The term "secular" was inserted to the Indian Constitution by the Parliament during the 42nd Constitutional Amendment. The Constitution of today reflects secularism in its core. India has adopted the principle of a secular state with the 42nd Constitutional Amendment. This idea holds that the state is neither pro-religion nor anti-religion. The government does not practise any religion and does not support any particular community's

religious activities. The state's primary tenets are "Sarva Dharma Sama Bhava," which translates to "all religions are the same," and "Dharma nirapekshata," which refers to the state's lack of regard for religion.

It should be mentioned that the term "secularism" has different meanings in different countries. For example, in the United States of America, the term refers to the separation of the government from religion. In the UK, secularism is seen as a form of religious tolerance. In contrast, secularism is seen as anti-religious in the Soviet Union. It might be claimed that the Indian definition of secularism differs from the Western concept in this sense. However, the idea of communalism, which primarily focuses on forging a religious identity, has given the Secularism in India a new viewpoint.

The idea of secularism as it is understood now is somewhat comparable to that of Pd. Jawaharlal Nehru. According to him, secularism as it relates to the state signifies that the state has no particular religion and that all religions are to be protected. On the other side, Mahatma Gandhi saw secularism from a non-communal perspective. He believes that secularism entails respect for all religions. His view of secularism is comparable to that of the Untitled Kingdom and is founded on Hinduism.

There are many different points of view regarding how non-interference of secularism is perceived. Hinduism, for example, is more acceptable than other religions. This indicates that the majority of Hindus accepted the state's meddling in matters of religion. Muslims, on the other hand, hold more stringent beliefs and are unwilling to allow any interference with their religious practises.

### **The Indian Constitution's fundamental structure includes secularism:**

India gained independence from British colonial rule in 1947. They now intended to embark on a new and challenging endeavour to establish an economically self-governing democracy that would treat all of its citizens fairly. India was dedicated to the idea of secularism in place of that. With Pakistan's independence from India on religious grounds, the idea of secularism has gained increasing significance. India held the position that it wanted to create a country where its residents would not have a religious identity throughout the time of the division.

The adjective "secular" was eventually inserted into the Preamble of the Indian Constitution by the 42nd Constitutional Amendment (1976), despite the Constituent Assembly's initial reluctance to do so when the Indian Constitution was being written. It shows that India, a union of states, is distinct from religion and will uphold everyone's right to practise their religion freely without regard to their affiliation. Articles 25 through 28 of Part III of the Indian Constitution's Fundamental Rights section guarantee everyone's freedom of religion, both individually and collectively. Articles 15 and 16 of the Indian Constitution further guarantee the absence of religious discrimination. Thus, it can be claimed that India has transformed into a secular state founded on the principles of impartiality, fairness, and fairly through its Preamble, Fundamental Rights, and DPSPs.

With the advent of the Indian Constitutional doctrine of social and economic democracy, secularism has been seen as one of the fundamental tenets of the Indian Constitution. This means that the essential framework of secularism in constitutional law cannot be amended by parliament in the exercise of the amendment authority granted to it by Article 368 of the Constitution. According to some, religion is a matter of belief. Even if opponents may not concur, it is undeniable that India and its people have embraced the global age while maintaining deep religious beliefs at their core. In fact, there is grounds for concern with how "Secularism" is currently perceived in India.

It is undeniable that many people believe that the secular foundation of Indian democracy is under threat today. For instance, Muslims killed Hindus during the riots in Ayodhya following the destruction of the Babri Masjid. Additionally, the unrest in Ayodhya (Uttar Pradesh) caused numerous deaths of men and women in the state of Gujarat close to the Godhra district. According to the official records, the riots resulted in the deaths of about 800 Muslims and 300 Hindus. Godhra riots were thought to have been caused by the Babri Masjid's demolition. These two occurrences damaged the secular environment that these religious communities had been living in the Gujarat State.

## Judiciary's Decision:

The idea of secularism has occasionally been developed by the Supreme Court of India. For instance, the Hon'ble Supreme Court discusses the idea of secularism for the first time in the case of Sardar Taheruddin Syedna Saheb v. State of Bombay. When analysing the Constitution's secular aspect, the Hon. Supreme Court's Ld. J. Ayyangar explained that the traditional understanding of secularism, which incorporates the principle of religious toleration, has been integrated under Articles 25 and 26 of the Indian Constitution.

The Court ruled that secularism is the fundamental tenet of the Constitution once more in the Keshwananda Bharti v. The State of Kerala[4] case. In a decision that highlighted the Constitution's nature, J. Sikri declared that it is Secular in nature. The court decided that it was unsure regarding the essence of the Constitution in the Ahmedabad St. Xavier's College Society v. The State of Gujarat case, though. Contradictory ideas about the nature of the constitution are produced by these two interpretations.

Finally, in the case of S.R. Bommai v. Union of India[5], the court defined the contemporary definition of secularism and determined that it is a fundamental component of the Constitution. A dispute does, however, arise regarding what is meant by secularism. As an example, Ahmadi, Ld. J. characterised secularism as the ideology of tolerance. Different judges provided their own definitions of the term. The court that took up the case further stated that there is no confluence of faith and practises that are related to the outside world. Religion's equality and tolerance only extend to the extent that it permits the pursuit of a spiritual life apart from secular life. The state's business includes tolerance for all religions. Additionally, the Court declared that any form of interference with religious matters violates their secular nature and is, therefore, strictly prohibited.

Ramaswamy, Ld. J. asserted in his eminent decision that the State must uphold the fundamental principles of secularism in society in accordance with legislation or executive order. He also provided an explanation for the most likely scenario, which is that the Constitution expressly forbids political parties from organising policies, agendas, or curricula that are based on religion. He emphasised that it is the court's duty to stop political parties from engaging in unruly actions against the state if they violate the secular integrity of the state in any way, such as through casteism and religious intolerance. According to him, anti-casteism is an integral component of secularism.

The two other judges wholeheartedly shared Ramaswamy, Ld. J.'s viewpoint. They are Ld. J. Jeevan Reddy and Ld. J. Agrawal. They did not just concur with Ramaswamy, Ld. J.'s viewpoint; they also expanded the topic and asserted that the Indian Constitution's definition of secularism is more expansive than the US Constitution's first amendment. Further expressing their belief that the State has the power to pass laws pertaining to religious concerns, including personal legislation under Article 44 of the Indian Constitution and linked to materialistic activities at places of worship, Jeevan Reddy, Ld. J. and Agrawal, Ld. J. Additionally, they stated that political parties engaged in any religious activity as well as anyone who support or advocate for religious causes will be viewed as engaging in unlawful and unconstitutional actions. The retiring judges who served on the bench have not expressed an opinion on secularism.

Therefore, based on the aforementioned judicial declaration, it can be inferred that the Court's view on secularism has not progressed from that of the 1950s and 1960s. With a few minor exceptions, it is accurate to say that the Court has adhered to its defining position of "secularism." The secularism that was prevalent in the west was not viewed by the court as a barrier between the Church and the State. The court in this case construed the term in terms that are more or less comparable to those that we still uphold today from the period of antiquity, namely, the principle of "Sarva Dharma Sambhava" amongst citizens of other religions.

However, it was thought that the court in the S.R. Bommai case was rendering decisions that were quite similar to those in the United States. Finally, however, it may be argued that a judicial body was successful in interpreting the word secular by invoking the Ram Janambhoomi case. As a last observation, it should be noted that the court believes that "secularism" is just the acceptance of different cultures.

## The global spread of the word "secular"

Around a century ago, the Latin word "saeculum," which refers to a set period of time, served as the inspiration for the English word "secular." In the Romance languages, this evolved into "century". In Christian Latin, the idea of secularism was helpful for defining the boundaries between God's divinely everlasting realm and our earthly age. Something "secular" has to deal with all kinds of affairs as opposed to theological matters. The

Oxford English Dictionary gives the definition of "secular" as follows: "Belonging to the world and its affairs as distinguished from the church and religion; civil, lay, temporal."

After explanation and discussion by philosophers who saw more and more plausible and imaginable affairs that should be distinct and autonomous from classification and regulation of religion, the word "secular" gradually acquired additional meaning. Two major instances are the gradual breakdown of the capitalist economy and democratic politics in the 17th and 18th centuries. The secular came to be regarded as having phases, a beginning, and the potential to occasionally evolve gradually. As a system, it is regarded. During the 19th century, more secularist academics and activists envisioned an ideal society that would be entirely secular.

Although the idea of secularism has been present in our culture and traditions since the beginning of civilization, George Jacob Holyoake coined the phrase in 1846. He defined the term as it actually exists: a belief system that solely cares about hypothetical questions that can be tested by this life's experiences. Secularism does not directly refer to the idea of being anti-religious in relation to religion; rather, it refers to the idea of focusing on this life rather than making assumptions about other natural lives. This undoubtedly eliminates some religious belief systems, most notably Holyoake's Christian religion, but it does not necessarily exclude all possible religions. Nowadays, the term "secular" denotes an express exemption from religious norms and lessons.

### **Secularism is viewed differently in several jurisdictions:**

#### **United States of America**

A revision was approved by the US Congress on September 25, 1789, and it was later ratified by the congress on December 15, 1791. The amendment states that Congress is not permitted to pass any legislation pertaining to a religion with its foundation. Additionally, it forbids Congress from passing any laws that would restrict people's ability to exercise their right to speak or practise their religion. The crucial change made by the United States is a fantastic remedy for the partisan wars that were so destructive.

It made it easier to convey the many concerns held by religious groups that had emigrated to America from Europe in order to avoid persecution by their governments. As of right now, the early law has spread throughout the region since it was founded. This statute was important for another purpose as well, namely to demonstrate that America is more than just a Christian country.

Since many people now believe that America is a Christian country, there would have been serious issues with inequality caused by the assumption of religion. Are Christians more numerous than the overall population? However, without a question, that is the reason why it was crucial to pass laws that would clarify the legal landscape in the United States and provide protection for people who practise various religions there.

#### **France**

The French word *laïcité* serves as the definition of secularism. *Laïcité* literally translates to "conventional quality." France is one of the major Western nations that has asked for this idea. It has embraced this idea ever since a statute was created in 1905 with the goal of advancing more liberties. This idea played a significant role in France's efforts to safeguard children from societal responsibilities and to keep children's conflicts over religious affiliation at a minimum.

A minor must comprehend and take into account the various decisions made by others. France needs secularism more than ever because of the strikingly diverse social makeup of the country today. Secularism allows all citizens, regardless of their philosophical or religious beliefs, to live their lives to the fullest, with the freedom to practise their religion or not, to fulfil their legal and moral obligations, and to join the Republican club. Secularism, among other things, is the opportunity to have an end or an analysis rather than an idea. Therefore, secularism is neither wise nor hostile to religion.

#### **India**

The idea of secularism is actively pursued in India. In each of India's networks, secularism is a positive, liberal, open-minded, and all-encompassing notion that includes a few other religions within its scope. Secularism as it is practised in India is neither unfavourable nor hostile to God. Indian secularism views the role of religion in human life as important. It assumes that no religion possesses the restrictive metaphysical information



architecture that would enable all religions to fully express their abilities. If people need to venerate their God, Indian secularism sees the need, and specifically for such supplication and love.

It does not dictate how a specific faith should behave. Our Indian Constitution explicitly recognises the full potential of faith. The Indian Constitution ensures that all religions are treated equally before the law. In that sense, the sole secular premise upon which our constitution is based. Our constitution guarantees the fundamental freedoms of religion. The idea of secularism has a solid foundation in India. The world is aware of this truth. Thus, Table 1 is summary of the differences between Western and Indian secularism is appropriate:

Table 1: Difference in Western and Indian Secularism

S. No.	Western-Secularism	Indian-Secularism
1.	In the West, the State is separate from the functioning of all religious institution and groups.	Secularism in India means that the state is neutral to all religious groups but not necessarily separate
2.	The Western concept of Secularism does not believe in an open display of religion with except for places of worship.	In India, all expression of Religion is manifested equally with support from the state.
3.	The distinction between state and religion is clear and set in stone	There is no clear distinction between the state and religion in India.
4.	The state treats all religions with equal indifference. It does not aid any religious institutions through financial means or taxes them.	The state gives financial aids to a religious institution and taxes them as well
5.	A single uniform code of law is used to dispense justice regardless of religious background.	Although the law is the same for all citizens, certain personal laws with regards to marriage and property rights are different for every community. But they are all given equal consideration under the Indian Penal Code.

## Russia

Secularism has two components, one of which is stated in the Constitution and the other of which is already followed. The Russian Constitution guarantees religious freedom and treats all religious views equally in the eyes of the law, just like the constitutions of all other nations. Although it is impossible to attain the probability of religion in any circumstance. There were numerous instances of religious imprisonment, just like in 1997. On December 31, 2001, the Ministry of Justice started dissolving almost 2000 legally segregated relationships.

Many religious social orders engaged in defiling behaviour, which benefited the government because they would claim to be putting an end to a non-degenerate religious social order by labelling it degenerate. Numerous incidents against religious social orders have also been reported by people. Many religious networks were referred to as social associations because of callous structures that saw them as religious affiliations.

## The need for secularism in India

The Indian Constitution has adopted secularism because there is no alternative to it in a country with such a diversified cultural landscape as India. People that reside in the Indian Union have a variety of cultural and linguistic traditions. Secularism was what India needed to keep them unified. Therefore, accepting secularism was vital in order to protect the right to freedom. The minority communities of India are subject to

discrimination and inequity, despite efforts to promote unity in variety. Of course, even after the creation of a secular state, nationalism could not flourish. The notion of social prejudice among minorities is a barrier to national integration.

It is undeniable that the country's minority communities need to embrace secularism in order to foster a feeling of nationalism. Despite India's acceptance of the idea of a secular state, politics have politicised religion. Election politics involve the usage of religious institutions. Therefore, the concept of secularism is lagging behind due to increased communalism. It is crucial to establish secularism on the pursuit of democratic ideals since communalism is anti-democratic. In a diversified culture like India, political activism based on religion is detrimental to national pride. Therefore, secularism's objectives must be honoured in society while respecting religious beliefs in order to build a healthy democracy.

### **The challenges facing India's Constitution and its secular character:**

There are many different religious traditions practised in India. However, religion was accepted as a fundamental component of Indian social life, along with freedom of religion and secularism. The growing involvement of religion in politics is one of the biggest issues the secular state is currently confronting. Election candidates are chosen based on their religious convictions. Voting politics are conducted in the face of religious feelings. As a result, they do not choose the best prospects. With the Hindu majority, there are minority sects like Muslims, Christians, Parsis, and Sikhs. Everyone is free to promote their beliefs and do so openly. Despite this, there doesn't seem to be any lessening of religious minorities' sentiments of vulnerability. This makes creating a secular culture difficult. India's rising racism is one of the main issues that secular society is currently experiencing. A secular society cannot be achieved until all national cultures are more closely unified by a common spirit.

### **CONCLUSION**

For scientific approaches to the practise of secularism and the establishment of equality and social justice in everyday life, deliberate and expected efforts are required. It is undeniable that the Constitution upholds the right to freedom of religion. We must comprehend the context in which a person does not have the freedom to practise their religion. The vast majority of people in India are religious. Many people think that every verse of scripture contains a moral lesson. Understanding if all religions are accepting, independent, and willing to include complimentary elements of modernity into their teachings is important. By doing this, everyone may acknowledge all religions, and the freedom of religion can be consciously upheld. People can either accept or reject religion. This won't stop isolation, alienation, or polarisation and won't bring about religious harmony.

The scientific viewpoint is a significant component of secularism. This relates to the premise of your directive and the fundamental responsibilities of individuals. Politics and religion must be distinct from one another, and if secularism is to take place, religion should be excluded from public life. There isn't a recognised religion by the government. The majority of people in India think that preaching of charity and faith are the foundation of all scriptures. All the religious principles included in school textbooks will help the development of a secular culture. The governmental system supports all religions equally, makes no distinctions between them, and may strategically enforce social benefits for all religions.

**References :**

- [1] AIR, S. R. Bommai v. Union of India. 1994, p. 1918.
- [2] AIR, Sardar Taheruddin Syedna Saheb v. State of Bombay. 1962, p. 853.
- [3] Bhavya Gupta, "SECULARISM AS AN IDEOLOGY: A GLOBAL AND INDIAN PERSPECTIVE," SSRN Electron. J., 2018.
- [4] Indian secularism: a social and intellectual history, 1890-1950," Choice Rev. Online, 2009, doi: 10.5860/choice.47-1020.
- [5] J. Chiriyankandath, "'Creating a secular state in a religious country': The debate in the Indian Constituent Assembly," Journal of Commonwealth and Comparative Politics. 2000, doi: 10.1080/14662040008447816.
- [6] O. Khalidi, "Hinduising India: Secularism in practice," Third World Q., 2008, doi: 10.1080/01436590802528614.
- [7] P. Singh, "Hindu bias in India's 'secular' constitution: Probing flaws in the instruments of governance," Third World Q., 2005, doi: 10.1080/01436590500089281.
- [8] R. Bhargava, "What is Indian secularism and what is it for?," India Rev., 2002, doi: 10.1080/14736480208404618.
- [9] SCC, Keshwananda Bharti v. The State of Kerala, vol. 4. 1973, p. 225.
- [10] T. N. Madan, "Secularism in Its Place," J. Asian Stud., 1987, doi: 10.2307/2057100.

