

# BALANCING FREEDOM OF RELIGION WITH SECULARISM IN INDIA

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## Abstract

*India is a country where faith and daily life are deeply intertwined walk down any street and you'll find temples, mosques, churches, gurudwaras, and shrines, often standing side by side. From Hinduism and Islam to Christianity, Sikhism, Buddhism, Jainism, Zoroastrianism, Judaism, and countless indigenous traditions, India's incredible religious variety is visible everywhere. This colorful tapestry is a source of pride and cultural richness, but it also brings real challenges for how the country is governed and how laws are made. The Indian Constitution tries to walk a fine line, guaranteeing both freedom of religion and a secular state. This isn't the kind of strict separation you might see in some Western countries; instead, India's version of secularism is about giving all religions equal respect (sarva dharma sambhava [12]) and sometimes involving the state in religious matters to push for justice and equality. The hard part is making sure this balance doesn't tip too far either toward letting one group dominate or letting the state interfere so much that people lose their freedom to believe as they choose.*

*India's way of keeping religion and government balanced isn't something new it's rooted in centuries of living with many faiths side by side. Back in the third century BCE, Emperor Ashoka made tolerance part of his rule, and by the sixteenth century, Akbar was famous for welcoming people of all religions to his court and encouraging everyone to get along. But things got complicated when the British arrived. They passed some important social reforms, like banning the practice of Sati, but they also set up systems that divided people along religious lines, such as separate voting groups for different communities. These mixed legacies left India with tough questions about how to handle religion in public life. When India was writing its Constitution, leaders like Nehru and Ambedkar didn't want to erase religion from society. Instead, they saw secularism as a way to protect everyone's right to believe freely—while making sure no group could dominate the rest.*

*The constitutional provisions reflect this delicate balance. Articles 25 to 28 of the Constitution of India, 1950 [1] guarantee freedom of conscience and the right to profess, practice, and propagate religion, subject to public order, morality, and health. They also grant religious denominations autonomy in managing their own affairs while prohibiting state-sponsored religious activity in public institutions. At the same time, equality provisions in Articles 14 to 16 of the Constitution of India, 1950 [2] and the Directive Principles allow the state to intervene when religious practices conflict with fundamental rights. The inclusion of secularism in the Preamble, especially after the 42nd Amendment to the Constitution of India, 1976 [3], underscores that the state must remain neutral while ensuring justice.*

*Despite these safeguards, numerous challenges persist. Personal laws based on religion continue to create inequality, especially in matters like divorce, inheritance, and adoption, sparking debates over the Uniform Civil Code. Conversion laws passed by several states raise questions about the right to propagate religion under Article 25. Controversies such as the Hijab case (Resham v. State of Karnataka, 2022 SCC OnLine Kar 765) [11] ban in Karnataka illustrate the tension between institutional uniformity and individual religious freedom.*

*Political mobilization on religious lines, particularly during elections, has also*

*eroded the secular ethos envisioned by the Constitution. These challenges reveal that balancing freedom of religion with secularism is not a static achievement but an ongoing struggle that requires constant vigilance.*

## **Introduction**

India is one of the most religious and diverse nations in the world, which is known to be a home to Hinduism, Islam, Christianity, Sikhism, Buddhism, Jainism, Zoroastrianism, Judaism, and several indigenous tribal faiths. This extraordinary diversity is the foundation of India's cultural richness, as a result shaping its festivals, traditions, philosophies, and social life. Yet, the very diversity that enriches the Indian culture also poses deep challenges for the governance, the law, and the politics, especially in ensuring harmony and justice among all forms of communities. Against this drawback, the Indian Constitution seeks to balance out two complementary ideals: the ***freedom of religion*** and the ***secular character of the state***.

Freedom of religion is guaranteed by the Indian Constitution as a fundamental right under Articles 25 to 28 of 1950 [1] of the Constitution, which recognizes the liberty of consciences and the right to profess, practice, and propagate individual's faith. This right extends not only to individuals but also to religious denominations, allowing them the autonomy in managing their institutions and rituals. However, the framers of the Constitution were to qualify these freedoms with limitations relating to public order, morality, health, and other fundamental rights. This ensures that while religion is respected, it cannot become an instrument for social injustice or domination.

Simultaneously, India is committed to secularism at a constitutional level, stated explicitly in the Preamble and asserted by judicial interpretation. In contrast to the Western concept of secularism, where there is a tight separation of religion from the state, the Indian model has been characterized as one of "principled distance." What this implies is that the state avoids favoring one religion over another but also refrains from abdicating all interactions with religion. Rather, the state can intervene as and when required to reform practices like untouchability, child marriage, or gender discrimination that are contrary to the constitutional values of equality and dignity. Indian secularism, therefore, has nothing to do with the production of a religion-free public sphere but with the production of a just and inclusive one.

This equilibrium between secularism and freedom of religion has been the cornerstone of India's constitutional and political experience. It has enabled the nation to stay together in the face of vast religious diversity and bouts of tension. The model is, however, not without its problems. Religious scripture-based personal laws sometimes entrench inequality, and a debate rages over the requirement of a Uniform Civil Code. Political mobilization on religious lines has sometimes compromised secular values, especially at the time of elections. Judicial entanglements in issues like the Shah Bano case (Mohd. Ahmed Khan v. Shah Bano Begum, AIR 1985 SC 945) [9] case, the Sabarimala case (Indian Young Lawyers Association v. State of Kerala, (2019) 11 SCC 1) [10] temple entry controversy, and the Ayodhya judgment (M Siddiq (D) Thr. Lrs v. Mahant Suresh Das, (2020) 1 SCC 1) [8] have shed light on the promise as well as the challenge of balancing faith and constitutional morality.

In the end, the Indian strategy is a pragmatic appreciation for its social life: religion cannot be kept apart from public life, but it can and should be governed to ensure justice, equality, and human dignity. Sustaining these ideals is not a singular accomplishment but a process, necessitating sensitivity, watchfulness, and a sincere commitment to constitutional values. If India is able to sustain this balance, it will continue to remain a singular example of the interplay of religious freedom and secularism and how they can complement and support

one another in a pluralistic democracy.

### **Historical Evolution**

India has a long history of religious tolerance and pluralism. Through his dhamma policy, which was founded on peaceful coexistence and respect for all faiths, Ashoka and other ancient Indian rulers promoted tolerance. Akbar, the Mughal emperor, established a platform for communication between various communities by announcing the philosophy of Sulh-i-Kul, or peace with all communities. However, British policies during the colonial era unleashed contradictions. While claiming neutrality, they also passed laws that allowed widows

to remarry in 1856 and outlawed Sati in 1829. On the other hand, they established distinct Muslim and Hindu electorates, thereby formalizing communal divisions. India found it challenging to navigate post-independence discussions about striking a balance between religious freedom and secular governance because of these legacies.

The Constituent Assembly had the daunting challenge of drafting a Constitution that would safeguard India's pluralism yet keep religious politics from undermining national unity. Jawaharlal Nehru and B.R. Ambedkar were among the leaders who made it very clear that the state could not favor any religion, but at the same time, it could not refuse citizens their right to practice and spread their religion.

### **Constitutional Framework**

The resulting Constitution is a balanced one in terms of religious freedom and secularism. India is defined in the Preamble as a sovereign, socialist, secular, democratic republic, and although the term "secular" was added specifically by the 42nd Amendment to the Constitution of India, 1976 [3] during 1976, the underlying principle was integral from the start.

Articles 25 to 28 of the Constitution of India, 1950 [1] in Part III ensure freedom of conscience and the right to profess, practice, and propagate religion with a restriction on public order, morality, and health. Communities also have autonomy to govern their own religious institutions and properties, with the state prohibited from charging taxes in order to encourage a specific religion or inculcate religious teaching within state schools. In addition to these provisions, Articles 14 to 16 of the Constitution of India, 1950 [2] provide for equality and prohibit discrimination on the basis of religion, and Directive Principles urge the state to restructure practices that are not in accordance with fundamental rights. This structure depicts the Indian tendency of balancing religious respect with commitments to equality, liberty, and justice.

### **Judicial Interpretation**

The courts have been instrumental in interpreting this balance. In the historic Shirur Mutt case (The Commissioner, Hindu Religious Endowments, Madras v. Sri Lakshmindra Thirtha Swamiar of Shirur Mutt, AIR 1954 SC 282) [4] case of 1954, the Supreme Court formulated the "essential practices" doctrine, holding that only religious practices which are essential to a religion are protected by the Constitution, and others can be regulated by the state. This doctrine has since been followed in judicial examination of disputes relating to religion.

In S.R. Bommai v. Union of India, AIR 1994 SC 1918 [5] (1994), the Court held that secularism forms a part of the basic structure of the Constitution and hence cannot be abolished by amendments. Other notable cases illustrate how courts have tried to balance individual rights with communal mores. In Bijoe Emmanuel v. State of Kerala, AIR 1987 SC 748 [6]

(1986), the Court upheld the rights of Jehovah's Witness students who did not sing the national anthem on religious grounds, ruling that freedom of conscience had to be respected. The 2017 Triple Talaq case (Shayara Bano v. Union of India, (2017) 9 SCC 1) [7] decision declared instant divorce among Muslims unlawful, justifying that practices contrary to gender equality and dignity cannot be maintained as necessary to religion. The Ayodhya judgment (M Siddiq (D) Thr. Lrs v. Mahant Suresh Das, (2020) 1 SCC 1) [8] in 2019 continued the judicial efforts to weigh faith claims against constitutional values by acknowledging the historical existence of the Ram Janmabhoomi while also providing land for the mosque to be built to provide religious accommodation.

### **Challenges in Balancing Religion and Secularism**

In spite of these protections, the balance between religious freedom and secularism is threatened in India to a considerable extent. One of the biggest points of contention is personal laws. India is unique among nations in that it permits communities to regulate marriage, divorce, inheritance, and adoption under their respective religious laws. While this arrangement honors cultural self-determination, it has been at odds with gender justice and equality, fueling demands for a Uniform Civil Code.

Religious conversion is also controversial. Article 25 safeguards the freedom to propagate religion, but a few states have made anti-conversion legislation to prohibit conversions by inducement or coercion. Courts have intervened time and again to establish that voluntary conversions are guarded, whereas false ones are not, but there are tensions still. Education has become yet another battlefield, as evident through the 2022 Karnataka Hijab case (Resham v. State of Karnataka, 2022 SCC OnLine Kar 765) [11] case, whereby the High Court affirmed Hijab restrictions wearing case (Resham v. State of Karnataka, 2022 SCC OnLine Kar 765) [11]s in schools, deciding that the practice was not a quintessential aspect of Islam. These controversies project challenging questions regarding to what extent secular uniformity in public institutions can restrict personal expressions of faith. Political mobilization along religious lines is another challenge, with communal campaigns and polarizing rhetoric threatening the secular ethos of the Constitution.

### **Case Studies**

Several case studies illustrate these tensions vividly. The Shah Bano case (Mohd. Ahmed Khan v. Shah Bano Begum, AIR 1985 SC 945) [9] case of 1985, where the Supreme Court granted maintenance rights to a divorced Muslim woman under secular criminal law, sparked political controversy and ultimately led to a legislative reversal, exposing the fragility of women's rights in the face of religious pressures.

The Sabarimala case (Indian Young Lawyers Association v. State of Kerala, (2019) 11 SCC 1) [10] temple case in 2018 highlighted the clash between gender equality and religious tradition, as the Court permitted women of all ages to enter the temple, only to face widespread social backlash. The Hijab case (Resham v. State of Karnataka, 2022 SCC OnLine Kar 765) [11] controversy in Karnataka (2022) raised questions about whether secular institutions can enforce uniformity at the cost of religious freedom. By holding that the Hijab case (Resham v. State of Karnataka, 2022 SCC OnLine Kar 765) [11] was not an essential practice of Islam, the High Court limited individual rights in favor of institutional discipline, a decision criticized for not appreciating the lived realities of faith.

Finally, the *Ayodhya dispute* represents perhaps the most significant test of secularism in India. The Supreme Court's 2019 verdict awarding the disputed land for the construction of a Ram temple while simultaneously granting land for a mosque was an attempt at balance, but it also reflected the overwhelming social and political influence of the majority faith. These case studies demonstrate that freedom of religion and secularism are not abstract ideals; they manifest in contentious disputes where law, politics, and society intersect.

### **Comparative Perspectives**

Comparative perspectives highlight the uniqueness of India's model. In the United States, secularism follows the principle of strict separation of church and state, with the government prohibited from endorsing or restricting religion. France takes an even stricter approach through its doctrine of *laïcité* (French principle of strict secularism) [13], which bans religious symbols in public institutions to preserve neutrality.

India, however, has adopted a distinct path of *sarva dharma sambhava* (equal respect for all religions) [12] or equal respect for all religions. Rather than excluding religion from public life, the Indian model accepts its presence but seeks to regulate it to uphold equality, dignity, and social reform. This makes Indian secularism more inclusive, but also more vulnerable to political contestation. The comparative perspective further illustrates India's uniqueness. The United States practices secularism as a "wall of separation" between church and state, where the government is barred from promoting or interfering in religion. This model works in a largely individualistic society but is less suited for India, where religion permeates community and cultural life. France, on the other hand, practices *laïcité* (French principle of strict secularism) [13], a stricter form of secularism that excludes religion from the public sphere altogether. By banning headscarves and religious symbols in schools, France enforces neutrality through exclusion, often at the cost of individual freedoms. India, however, adopts a middle path. Its secularism does not demand that religion retreat into the private sphere; instead, it acknowledges religion as part of public life but insists that the state remain neutral and reform practices that contradict equality and justice. This approach—sometimes described as "principled distance"—is more accommodative but also more vulnerable to misuse. Unlike the American or French models, the Indian state not only tolerates religion but also intervenes to correct social injustices like

untouchability or gender discrimination. This flexibility is both the strength and weakness of Indian secularism.

### **The Way Forward**

The way forward requires reinforcing constitutional morality and strengthening secular values in practice. Citizens, political leaders, and institutions must uphold the spirit of equality and neutrality, resisting the temptation to use religion for political mobilization. The debate on a Uniform Civil Code must be approached gradually and consultatively, balancing respect for diversity with the need for gender justice. Courts must continue exercising vigilance in distinguishing between essential religious practices and those that undermine fundamental rights. Civil society must encourage interfaith dialogue and promote mutual respect, while education should instill awareness of constitutional values, pluralism, and the importance of secularism in sustaining democracy.

### **Conclusion**

India's model of secularism is unique in the way it balances freedom of religion with the state's responsibility to maintain neutrality and uphold equality. It does not demand exclusion of religion from public life, but insists that no faith receives preferential treatment and that practices violating human dignity or equality can be reformed. The balance between freedom of religion and secularism is delicate and continuously tested by political, social, and judicial developments. Yet, it remains essential for the preservation of India's democratic fabric. The true strength of Indian democracy lies in its ability to protect religious freedom while maintaining secular governance. If this balance is preserved, India will continue to thrive as a vibrant, plural, and inclusive society.

**References:**

- [1] Constitution of India, 1950, Articles 25–28.
- [2] Constitution of India, 1950, Articles 14–16.
- [3] The Constitution (42nd Amendment) Act, 1976.
- [4] The Commissioner, Hindu Religious Endowments, Madras v. Sri Lakshmindra Thirtha Swamiar of Shirur Mutt, AIR 1954 SC 282.
- [5] S.R. Bommai v. Union of India, AIR 1994 SC 1918.
- [6] Bijoe Emmanuel v. State of Kerala, AIR 1987 SC 748.
- [7] Shayara Bano v. Union of India, (2017) 9 SCC 1.
- [8] M Siddiq (D) Thr. Lrs v. Mahant Suresh Das, (2020) 1 SCC 1.
- [9] Mohd. Ahmed Khan v. Shah Bano Begum, AIR 1985 SC 945.
- [10] Indian Young Lawyers Association v. State of Kerala, (2019) 11 SCC 1.
- [11] Resham v. State of Karnataka, 2022 SCC OnLine Kar 765.
- [12] Bhargava, Rajeev. Secularism and Its Critics. Oxford University Press, 1998.
- [13] Baubérot, Jean. Laïcité 1905–2005: Between Passion and Reason. Seuil, 2005.