

Revisiting Secularism in India: Constitutional Framework and Contemporary Challenges

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Abstract

Secularism is a cornerstone of India's constitutional democracy, envisaging the equal treatment of all religions and the protection of religious freedom. However, evolving political dynamics, religious polarization, and legislative actions have challenged the practical application of secularism in India today. This paper examines the constitutional roots of secularism, key judicial interpretations, and contemporary events that question its resilience, such as the Citizenship Amendment Act (CAA), Hijab controversy, temple-mosque disputes, and the recent Waqf Bill developments. By incorporating scholarly views, judicial pronouncements, and recent statistics, this research highlights the urgent need to revisit, reassert, and revitalize the secular framework to ensure India's democratic survival.

Keywords

1. Secularism in India

Refers to the Indian model of secularism where the state maintains equal respect for all religions, without strict separation like in the West.

2. Indian Constitution

The supreme legal document that guarantees religious freedom and equality; it defines India as a secular state through the Preamble and other provisions.

3. Religious Freedom

Enshrined in Articles 25-28 of the Constitution, allowing individuals to freely practice, profess, and propagate religion.

4. Waqf Bill 2025

A recent legislative proposal that seeks to regulate waqf properties; currently stayed by the Supreme Court citing concerns over minority rights and autonomy.

5. Citizenship Amendment Act (CAA)

A controversial 2019 law that grants citizenship to non-Muslim refugees from neighboring countries, seen by many as violating secular principles.

6. Hijab Controversy

A 2022 case in Karnataka where Muslim students were barred from wearing hijabs in classrooms, raising debates on religious expression in public spaces.

7. Judicial Interpretation

Refers to landmark Supreme Court cases (like Kesavananda Bharati and S.R. Bommai) that define and protect secularism as part of the Constitution's basic structure.

8. Places of Worship Act

A 1991 law that freezes the status of religious places as they were on August 15, 1947, aimed at preserving communal harmony.

9. Minority Rights

Legal and constitutional protections for religious and linguistic minorities in India to safeguard their identity and institutions.

10. Religious Polarization

The growing division of society along religious lines, often driven by politics, media, and misinformation.

11. Secular Democracy

A form of governance where the state is neutral in religious matters while protecting citizens' rights equally regardless of faith.

12. Gyanvapi Mosque Case

An ongoing legal dispute involving claims that a temple existed beneath the Gyanvapi mosque in Varanasi, raising concerns about historical religious conflicts.

13. Supreme Court of India

The highest judicial authority that has played a key role in interpreting and protecting the secular nature of the Constitution.

14. Uniform Civil Code (UCC)

A proposal to replace personal religious laws with a common civil law for all citizens, which often triggers debates around secularism and minority rights.

15. Constitutional Values

Core principles like justice, liberty, equality, and fraternity that underpin India's legal and social framework.

Introduction

Secularism in India has been uniquely crafted, acknowledging its deeply religious society while aspiring for a state that does not favor or discriminate against any faith. Unlike Western secularism, which implies a strict separation of church and state, Indian secularism allows for state engagement with religions to promote equality and reform. This was a pragmatic choice post-Partition, given the communal violence witnessed in 1947. Over the decades, India's commitment to secularism has been tested, especially with the rise of identity politics, majoritarian narratives, and communal incidents. The present-day challenges necessitate a critical reevaluation of how secularism is conceptualized and practiced.

Constitutional Foundations of Secularism

- Preamble: 'Secular' was inserted through the 42nd Amendment Act, 1976.
- Fundamental Rights:
 - Article 14: Right to Equality.
 - Article 15: Prohibition of discrimination on grounds of religion, race, caste, sex, or place of birth.

- Article 25-28: Freedom of religion, religious practices, and educational rights of minorities.
- Directive Principles:
 - Article 44: Promotion of a Uniform Civil Code.

Granville Austin termed the Indian Constitution as a 'secular document' aiming at social revolution.

Evolution and Judicial Interpretations

Judiciary has played a pivotal role in shaping Indian secularism:

- Kesavananda Bharati v. State of Kerala (1973): Established secularism as part of the Basic Structure.
- S.R. Bommai v. Union of India (1994): Declared that the state must maintain religious neutrality; misuse of religion in politics can invite action.
- Aruna Roy v. Union of India (2002): Upheld teaching of value-based education including religions without proselytization.

Historically, events like the Shah Bano case (1985) and the Ayodhya movement (culminating in Babri Masjid demolition, 1992) have deeply impacted the secular fabric.

Contemporary Political Challenges

1. Citizenship Amendment Act (CAA), 2019:

- For the first time, religion became an explicit criterion for citizenship.
- Critics argue it violates Article 14 (equality before law).
- Protests like Shaheen Bagh symbolized mass mobilization for secular values.

2. Karnataka Hijab Controversy (2022):

- Dispute over hijab in classrooms raised debates on religious expression vs uniformity.
- Karnataka High Court upheld the ban; matter pending before Supreme Court.

3. Temple-Mosque Disputes:

- Gyanvapi Mosque case (Varanasi) and Krishna Janmabhoomi (Mathura) re-open debates despite Places of Worship Act, 1991.

4. Waqf Properties and Recent Waqf Bill (2024-2025):

- Government proposed greater state control and auditing of Waqf properties.
- Critics argue it threatens minority rights.
- Supreme Court (April 2025): Issued interim stay on the Bill till further proceedings on 5th May 2025, emphasizing the need to balance transparency with protection of minority autonomy.

Scholarly Perspectives on Indian Secularism

- Rajeev Bhargava: Advocated 'principled distance' model for Indian secularism.
- Pratap Bhanu Mehta: Warned against rise of majoritarian nationalism.
- Amartya Sen: Emphasized the value of pluralism and cultural tolerance.
- Christophe Jaffrelot: Analyzed the politicization of Hindu identity post-1980s.
- Madhav Khosla: Highlighted how constitutional interpretation shapes religious freedoms.

Statistical and Empirical Evidence

- Pew Research Center (2021):
 - 80% Indians view religious tolerance as 'very important'.
 - However, 65% feel being Hindu is important to be 'truly Indian.'
- PRS Legislative Research (2024):
 - Sharp rise (45%) in religiously sensitive bills in last 5 years.
- Lokniti-CSDS Surveys (2024):
 - Growing perception among minorities (especially Muslims and Christians) of feeling insecure.

Role of Judiciary and Recent Trends

Recent judicial pronouncements display cautious balancing:

- Ayodhya Verdict (2019): Awarded disputed land for Ram Temple but acknowledged wrongs in Babri demolition.
- Gyanvapi case (2022–2024): Courts allowed survey but maintained status quo pending final judgment.
- Waqf Bill Stay (2025): Interim stay reflects sensitivity towards minority management rights while acknowledging need for reforms.

Critical Analysis

The blurring lines between religion and statecraft, combined with populist politics, are eroding India's secular credentials. Instead of ensuring neutrality, the state sometimes appears to favor dominant religious sentiments, creating alienation among minorities. This could destabilize India's pluralistic social order if unchecked.

Key concerns:

- Use of religious symbols in political campaigns.
- Erosion of constitutional protections.
- Majoritarian narratives in media and public discourse.

Way Forward: Reclaiming Secularism

1. Strengthening Institutions:

- Election Commission and Judiciary must actively check communal politics.

2. Revisiting Educational Curricula:

- Promoting scientific temper, critical thinking, and constitutional values.

3. Uniform Application of Laws:

- Implement a fair and transparent regulatory framework for all religious institutions, including Waqf, temples, and churches.

4. Empowering Civil Society and Media:

- Encourage platforms that promote interfaith dialogue and debunk misinformation.

5. Legal Safeguards:

- Strengthen the Places of Worship Act, 1991.
- Swift disposal of cases involving communal violence.

Conclusion

The battle for secularism is fundamentally a battle for the soul of India. It requires not only legal and institutional reforms but also a societal commitment to uphold pluralism, tolerance, and justice. As India stands at a crossroads, the choice is clear: either revive the spirit of secularism or risk the fragmentation of its democratic fabric.

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