

Secularism and Religious Freedom in India

Secularism and religious freedom are foundational principles enshrined in the Indian Constitution. India's unique model of secularism is distinct from the Western models, reflecting the country's diverse religious landscape and historical context.

Constitutional Provisions

The Indian Constitution incorporates secularism and religious freedom through various articles. Article 25 guarantees the right to freely profess, practice, and propagate religion, subject to public order, morality, and health. It also allows the state to regulate economic, financial, political, or other secular activities associated with religious practice and provide for social welfare and reform. Article 26 grants religious denominations the freedom to manage their religious affairs, establish institutions, own and acquire property, and administer such property.

Additionally, Article 28 prohibits religious instruction in state-funded educational institutions, while allowing the teaching of religious philosophy and values.

The Concept of Secularism in India

Indian secularism is characterised by its commitment to equal respect for all religions, a concept rooted in the cultural ethos of "sarva dharma sambhava" (equal respect for all religions). This approach differs from the Western notion of strict separation of church and state. Instead, India's model of secularism seeks to maintain a principled distance between the state and religion, allowing for state intervention to ensure equality and prevent discrimination.

Constituent Assembly Debates

The debates in the Constituent Assembly reveal the complexities and contentions surrounding the inclusion of secularism in the Constitution. Members like H.V. Kamath and Govind Malaviya advocated for invoking God in the preamble, while others opposed it to maintain the secular character of the state. Eventually, the term "secular" was included in the preamble through the 42nd Amendment in 1976, during the Emergency period.

Judicial Interpretations

The Indian judiciary has played a crucial role in interpreting the provisions related to secularism and religious freedom. The Supreme Court has developed doctrines such as the "essential practices" test to determine which religious practices are integral to a religion and hence, protected under Article 25. This test was applied in cases like **Commissioner, Hindu Religious Endowments, Madras v. Lakshmindra Thirtha Swamiar of Shirur Mutt**, where the Court distinguished between religious and secular activities.

The Court has also dealt with issues related to religious conversion. In **Rev. Stainislaus v. State of Madhya Pradesh**, the Supreme Court upheld anti-conversion laws, stating that the right to

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propagate religion does not include the right to convert someone forcibly. This judgement has been criticised for its restrictive interpretation of religious freedom.

Secularism and State Intervention

Indian secularism allows for state intervention in religious matters to promote social welfare and reform. This is evident in laws regulating religious institutions and practices, such as the abolition of untouchability and reforms in Hindu personal laws. The state's role in regulating religious affairs has often been contentious, with critics arguing that it sometimes undermines religious autonomy.

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Religious Education and Instruction

Article 28's prohibition on religious instruction in state-funded schools aims to maintain the secular character of education. However, the distinction between religious instruction and education about religion has been a subject of judicial scrutiny. In **Aruna Roy v. Union of India**, the Supreme Court upheld the National Curriculum Framework for School Education's inclusion of value-based education, emphasising that teaching about religions does not violate secular principles as long as it promotes understanding and respect for all religions.

Challenges and Criticisms

Despite constitutional safeguards, the implementation of secularism in India faces several challenges. The interplay between personal laws based on religious scriptures and constitutional principles often leads to conflicts. For instance, the Uniform Civil Code, aimed at unifying personal laws, remains a contentious issue. Additionally, the rise of religious nationalism poses a threat to the secular fabric of the nation, as seen in the increased incidents of communal violence and discrimination against religious minorities.

Recent Developments

In recent years, the judiciary has continued to grapple with the complexities of secularism and religious freedom. Landmark judgments like the **Sabarimala Temple case**, where the Supreme Court allowed the entry of women of all ages into the temple, highlight the ongoing tensions

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between tradition and constitutional values. Similarly, the verdict on the **Ayodhya dispute** reflects the challenges of balancing religious sentiments with legal principles.

