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# **SECULARISM AND FREEDOM OF RELIGION IN CONTEXT WITH INDIA AND UNITED STATE**

*AUTHORED BY - ANGEL YADAV*

## **Abstract**

Secularism can be defined as a separation of state in strict manner from religion. There is no discrimination in the basic of any religion. Religious freedom is a fundamental right in India, and one cannot discriminate based on religion. Where religion has an important role in individuals' personal lives, is quite different from Western ones this paper helps to understand various theories of secularism in India along with the religious freedom as mentioned in the Indian constitution. Fundamental values like secularism and religious freedom are vital in determining how India and the United States' socio-political landscapes will look in the future. These principles are enshrined in the constitutions of both countries, but there are significant differences in how they are fully implemented. A fundamental constitutional value in India, secularism has generated debate and controversy because of the diverse religious and cultural diversity of the nation. Directly in opposition, while religious freedom has long been upheld in the United States, disagreements over its boundaries still persist. Furthermore, it highlights the importance of both secularism and religious freedom in India with an overview.

The research will examine the legal structure, historical background, and constitutional guarantees of secularism and religious freedom in each nation. It will also look at the difficulties and disagreements each country has in defending these ideals, such the emergence of communalism and religious extremism. The study will look more deeply at how marginalised groups, such as religious minorities, are affected by secularism and religious freedom.

**Keywords: Secularism, religious freedom, fundamental right, socialism, Right to equality etc**

## Introduction

Secularism defined as the [separation of religion from civil affairs and the state](#), and may be broadened to a similar position seeking to remove or to minimize the role of religion in any public sphere<sup>1</sup>. It derived from word secular which means that it is not connected with any religion or spiritual matters. Freedom of choosing religion belief and practice of religion is called secularism it has roots in Greek and Roman philosophy it is also defined as the modernization of religious belief and traditional value and hence the term secularism provide religious freedom and ensure the freedom of both beliefs and non-belief of secularism it gives people of freedom of choosing religion any tradition and people can follow more than one religion people misunderstood the secularism with the atheism it was believed that it promotes atheism but this statements is right opposite to the meaning of the secular it promotes the religion beliefs and give freedom to choose our relation and believe and following the religion and traditional value. The term "secularism" has a broad range of meanings, and in the most schematic, may encapsulate any stance that promotes the secular in any given context<sup>2</sup> The motive of the secularism is to create a society in which people of all religion and for the person who don't belong to any religion and believe in any god can live in same society together and peacefully it states that no one shall be discriminated by any state Institute group of person or person on the ground of religion or other believes.

Secularism and it also stands for equal opportunity for followers of all religion and non-discrimination and partly on ground of religion means separate religion from political economic social and cultural aspects of life religion been treated as purely persona matter.it also stands for equal opportunity for followers of all religion and non-discrimination and partly on ground of religion.

## Freedom of religion

According to The Universal Declaration of Human Rights Freedom of religion or religious liberty is a principle that supports the freedom of an individual or community, in public or private, to manifest [religion](#) or [belief](#) in teaching, practice, [worship](#), and observance. It also includes the freedom to change one's religion or beliefs<sup>3</sup>. Right to religion means we have right to choose our

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<sup>1</sup> Luke W. Galen. *The Nonreligious: Understanding Secular People and Societies*. Oxford University Press, 2016. p. 22-23

<sup>2</sup> Bullivant, Stephen; Lee, Lois, eds. (2016). "Secularism". *A Dictionary of Atheism*. Oxford University Press.

<sup>3</sup> ["The Universal Declaration of Human Rights"](#). The United Nations

religion. It is a matter of personal belief and value and this is the reason behind we consider as right to religion as a fundamental right in India under the act right to freedom of religion<sup>4</sup> if anyone believe in any particular religion and tradition follow any tradition it do not affect any other person there are many countries who follows and apply right to freedom of religion in their country but there are many country also restrict religion and support and forced to follow particular religion and they discriminate on the basis of the religion

the people right to religion says that every person has right to choose their own religion and belief no one can force to follow any religion equal opportunities are given to the people who belongs to any religion it doesn't mean that giving priority to a specific religion it believes in giving the priority the religion and beliefs of the people choose one religion or they are free to choose more than one religion or they can choose to not to believe in any religion also

## **Historical background of secularism and Right to freedom of Religion**

Secular owns its birth to state sponsored program against those denomination which were not acceptable to the state aim to introduce the concept of secularism at first is in French revolution “keep the start apart from church “the state interfere in the church’s matter so they can keep apart both of them but in India there is no such problem because there is no interference of church so state was always secular Secularism has very deep rooted in the history of India Indian culture is based on blending of various ritual tradition and social movements. Indian culture is blend of various religion traditions and believes. In ancient India the Sanatan Dharma was basically allowed to develop as an elastic religion by welcoming different spiritual tradition and trying to giving acceptance in the society the development of four Vedas, upnyas and Puranas clearly shows that the India has religious plurality of Hinduism there is very old history of secularism present in India. It exist from the beginning in the india the first great Emperor Ashoka as early as 3rd Century BC he 4announce the state would not follow any specific religion even after the growth of Jainism Buddhism and later Islam and Christianity in India the India do not change the society or make any specific reason for the country in the middle India the Sufi and Bhakti movement they shows in there various books, poems they wrote about the society and people of various community together so they can live with love

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<sup>4</sup> Article 25 to 28 of Indian constitution

and peace in the same society living light of these movements sant kabir das, khwaja moinuiddin chisti, baba farid, guru nanak dev etc the writing given impact in on people to live peacefully in the society with the different religion and Faith if you see in the historical time 500 years ago the King Akbar he had a number of Hindus as his ministry we did not bound the people of his Kingdom to follow his religion the most prominent evidence of right to religion and the people of different religion live together is 'Din -i-ilahi' which means divine faith it has the elements of both Hindu and Muslim faith this title is given by the people of the kingdom to the King Akbar because he follows both the religion and does not discriminate on the basis of the religion

Classic Judo Christian traditions the idea of religious freedom in increase and grows in the time of reformation it become the major social and political issue both religious and secular is found a major issue of political expression from the last past two centuries the idea of religious Liberty has been increased the motive to stop the discrimination against a particular religious community in the society freedom of religion is protected by the first amendment of the United States constitution prohibits the national religion and discrimination on the basic of religion. the world should has religious freedom the bills of right was added to the United States constitution is 1791 there are many states which are containing the “bills of right<sup>5</sup>” put the Government of USA Federal and state government want to address the concern and to encourage people and make changes in the constitution government would include the bill of freedom of religion the first Congress freedom of religion is that how the state cannot establish a religion men date and the specific prayer of any religion in the school an state cannot prepare one religion over another the freedom was banned in fact on the freedom of freely worship.

## Secularism in Indian constitution

The secularism was not in the Preamble as enacted by the constitutional assembly the terms of socialist and secular were added to it by the 42nd amendment the Abstract of Constitution is in the Preamble if is the mirror of the constitution the Preamble of India constitution in to constitute India into a sovereign in socialist, Democratic, Republic<sup>6</sup> the aim diversification to added secularism in the Indian Constitution is Indian society is multi religious society it have different caste religion along with several religion. The basic feature of the secularism was explain by honourable Supreme court

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<sup>5</sup> The first 10 Amendments to the Constitution

<sup>6</sup> Preamble of Indian constitution

which held that secularism means “the state shall have no religion of its own and all person of the country shall equal entitled to freedom of their conscience and have right freely to follow and practice any religion”<sup>7</sup>

Secularism and help us to achieve the unity and integrity of the nation it aims to secure to Citizen justice equality and liberty and to promote fraternity while assuring unity and integrity of the nation along with the individual dignity. It can change the effective relationship between the citizens and there is not discrimination happens on behalf of religion, faith and belief through the constitution provision the countries goal is to achieve equality Liberty justice and fraternity. The Honourable Supreme Court uphold the sale of the state government ruled by BJP and sad secular not only means that the state should have no religion of its own and should be neutral as between different religion, but the political party with demand to capture the power the religion would not to capture the power the religion would come to acquire a secondary or less favourable position<sup>8</sup>

In India as per the constitution India is a secular country that means which is an associate it with one religion as a secular country's government systems approach should be known religious it is very rare example in world where 130 plus cores of population belongs to different religion, caste, colour, language, and traditions are living in India under one constitution. We are the second most populated country in the world and it's really hard to achieve secularism in this population under the (Article 14 to 22)<sup>9</sup> and (Article 25 to 28)<sup>10</sup> different person group communities and parties have different opinion on secularism

## **Right to freedom of Religion (Article 25 to 28) of Indian constitution**

The constitution of India guarantee the right to freedom of religion to not only individual but also religious group in India it is given in the (Article 25 to 28) of the Indian constitution. Freedom of religion guaranteed under India constitution is not confined to its citizen but extends to all person including alien<sup>11</sup>

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<sup>7</sup> Indra V. Rajnarayan 1975 AIR SC 2299

<sup>8</sup> S.R Bommai V. Union of India 1994AIR SC1981

<sup>9</sup> Article 14 to 18 (Right to Equality), Article 19 to 22 (Right to Freedom )

<sup>10</sup> Article 25 to 28 (Right to freedom of religion)

<sup>11</sup> Ratilal Panchand V. State of Bombay 1954 AIR 388,1954

These rights are claims of an individual over the society it plays major role in development of the individual personality the fundamental rights which are guaranteed in part third of the Indian Constitution these rights starts from article 12 to article 35 of the Indian Constitution all the fundamental rights are enforced by the supreme court and the High Court of India forever state it is obligatory to treat all religion equally because our constitution has provide with the concept of secular state has no right to have its own religion Supreme court says that Delusion is matter of a with individual or community it is not necessary a religion as is basic in a system of belief of doctrine which is regarded by those two people that religion as to their way down the code ethical rules for its followers to exact fit mind describe ritual and observation<sup>12</sup>

Our constitution also provide freedom of religion to all the people of country beyond the caste, sex, place of birth and religion

- Individual have freedom to practice their own religion of their choice
- All religious community are free to manage their religious affair
- They are free for the payment of any fund to promote any religion
- The people of country is free to attend any religious instruction and functions
- No tax can be imply on the name of religion

### **Article 25 of Indian constitution**

Article 25 of Indian constitution<sup>13</sup> is subject to public order morality and health and to the other provisions for all the part and every citizen of country is free to practice any religion and tradition and moral values of that religion. It is related to the economical financial political or other cellular activity which may be associated with the religious practice provision of social welfare and Reform of drawing open Hindu religion

### **Article 26 of Indian constitution**

Freedom to manage religious affair<sup>14</sup>

- To establish and maintain the institution regarding any religion

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<sup>12</sup> Commissioner H.R.E V. L.T.Swammiar

<sup>13</sup> Article 25 (Freedom of conscience and free profession, practice and Propagation)

<sup>14</sup> Article 26 of Indian constitution

- To manage any affair regarding any religion
- To acquire and own any property(movable and immovable )

### **Article 27(Freedom as to payment of taxes for promotion of any particular)**

No person shall be compelled to pay any taxes on the name of religion. But people are free to donate or provide funds to any religion.

### **Article 28 (Freedom as to attendance at religious instruction or religious worship in certain education institution)**

No religion instruction shall be provide in any educational institution wholly maintained out of state funds. No personal training in Educational Institute recognised by the state or receiving out of state funds shall be required to take part in any religion instruction that may be an institution to attend any religious worship that we conduct institution or in any premises attach. There are useless such person of such person is minor has given his consent.

## **Right to Freedom of Religion in United State of America**

Freedom of religion was first applied as a principle of government in the founding of the colony of Maryland, founded by the Catholic [Lord Baltimore](#), in 1634<sup>15</sup>In the United States freedom of religion is constitutionally protected rights over the religion causes of the first amendment freedom of religion is interpreted types of overtime in the United States and continues to be controversial issue of major topic of George Washington farewell address several American sate has their own official state touches both before and after the first amendment was passed legally religion water nature close of (18902- 1891) the long-term trend has been towards increasing secularization of government the remaining churches was disabled in 1820 and teacher let Public School player was abolished in 1962 but the military remains to present day in recent years there have been an attempt to replace the freedom of religion with the more Limited freedom of worship also the freedom of religion include some from the recognition of individual consequences of each citizen with the possibly object freedom of religion in USA include building place of worship compulsory speech prohibition counselling compulsory customisation workplace marriage and the family the choosing of religion

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<sup>15</sup>["Columbia March 2010". issuu](#). Retrieved 2 January 2023

leaders dress education of praying ,medical care, worshipped during quantity is use of government land protection of grave body all the provision come under the freedom of religion in which state “no man shall be compelled to frequent or support any religious worship, place, or ministry whatsoever, nor shall be enforced, restrained, molested, or burthened in his body or goods, nor shall otherwise suffer, on account of his religious opinions or belief; but that all men shall be free to profess, and by argument to maintain, their opinions in matters of religion, and that the same shall in no wise diminish, enlarge, or affect their civil capacities”.<sup>16</sup>

The Fourteenth Amendment to the United States Constitution guarantees the religious civil rights. Whereas the First Amendment secures the free exercise of religion, section one of the Fourteenth Amendment prohibits discrimination, including on the basis of religion, by securing "the equal protection of the laws"<sup>17</sup> for every person:

All persons born in the United States, and subject to the jurisdiction of U.S., are citizens of the United States and of the State where in they reside. No state shall enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

This amendment was cited in [Meyer v. Nebraska](#), striking down laws which banned education in the [German language](#). These laws mainly affected church schools teaching in German. Some laws, such is in Montana, forbade preaching in German during church. A total ban on teaching German in both public and private schools was imposed for a time in at least fourteen states, including [California](#), [Indiana](#), [Wisconsin](#), [Ohio](#), [Iowa](#) and [Nebraska](#). California's ban lasted into the mid-1920s, and German was banned again in California churches in 1941.<sup>18</sup>The Supreme Court of India held that secularism is a part of the basic structure of the Constitution. Further, it was held that elements that constitute the basic structure cannot be amended by the Parliament.<sup>19</sup>

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<sup>16</sup> the [Virginia Statute for Religious Freedom](#), written in 1779 by [Thomas Jefferson](#), proclaimed:

<sup>17</sup> First amendment of united state constitution

<sup>18</sup> *Meyer v. Nebraska*, 262 U.S. 390 (1923)

<sup>19</sup> *Kesavananda Bharati Sripadagalvaru & Ors. v. State of Kerala & Anr.* (Writ Petition (Civil) 135 of 1970)

## **S.R Bommai v. Union of India ([1994] 2 SCR 644 : AIR 1994 SC 1918 : (1994)3 SCC1)**

The principle laid down in the Kesavananda Bharati case was reiterated in 1994 in the case of The Supreme Court cleared the doubt over the word ‘secularism’ in the Constitution. The Court held that a secular nature of a society does not make it an atheist society. Secularism makes society more heterogeneous. The law of a secular nation provides equal status to all religions and does not favour or discriminate against anyone.

It bound the state so that state can’t interfere in the matter of religion; state can support religion but doesn’t discriminate any specific community on the basis of this. State cannot build any religious place but it can fund it not in direct way

Example- Babri Masjid – Ram Janmabhoomi case , the shriram janam bhoomi it was believe that at the place where the babri masjid is situated in ancient time there is a temple of lord shree ram and in Mughal era they destroy the temple and made bari masjid at the same place where the temple is situated. This dispute become very prominent and in February 2016 ,Subramaniam Swamy filed a case in the Supreme court for the construction of temple (Ram Mandir) on disruptive land.<sup>20</sup>

The five –judge bench of the Supreme Court without opposition pronounced its verdict on 9 November 2019.

- The court order the Government of India to create a trust to build the Ram Mandir temple and form board of trustees within three months. The disputed land is govern by the government of India and subsequently transferred to the Trust after its formation

The state can make trust for temples to support but it don’t mean the state is forcing to follow and biased toward other religion

## Conclusion

Secular means which is not connected with any religion or the country which belief in any particular religion the preamble of the Indian constitution has the word secular which added later by the 42 amendment of the constitution ,the word secular and Article 25 to 28 of constitution imply that the state will not discriminate patronise in the possession of any religion secular and right to religion is similar and they share common aim they two provisions are mandatory to mention the freedom of religion

The secularism restricted the interfere of state into the religion .and force to follow any specific one freedom of religion is given in the fundamental rights under the constitution of India. It reflect the secular character where there shall be no discrimination on the basic of the religion, there is a concept which is givin by the mahatma Gandhi and jawahar lal Nehru is “Dharm nirpekshta andsarva dharm sambhav” we have to follow these words if we want to understand and achieve the true goals of secularisim an freedom of religion

