
Secularism in India Myth or Reality: an Explanatory Study

Aqib Yousuf Rather*

*Research scholar, Department of History, Annamalai University Tamil Nadu, India.

Corresponding Email: *aaqibb574@gmail.com

Received: 07 August 2021 **Accepted:** 22 October 2021 **Published:** 27 November 2021

Abstract: An impetus was given to the discussion on whether or not Indian secularism is a myth or a reality. A secular society is one in which individuals are free to practise their religion of choice. The Constitution of India recognises and upholds the principle of religious toleration, making India a nation that is home to a number of distinct faiths. The term "secular" was not included in the original version of the Indian Constitution; nevertheless, it was added in 1976 as part of the 42nd Amendment. Nevertheless, the values of secular character have always been a part of the constitutional fabric of India, and this has been the case since the very beginning. The Judiciary has, on numerous occasions, drawn attention to this particular facet as well. It is possible to state with absolute certainty that secularism is one of the guiding principles of the Constitution and that this position will never be subject to revision. Nonetheless, there have been cases where the state has been seen to favour a specific religion over the concept of secularism. In order to better understand Indian secularism, we've written this piece. Secularism in India is described as a myth or reality and the issues related with it are discussed.

1. INTRODUCTION

Secularism as a whole refers to a form of government in which the state maintains its impartiality in questions of religion and is not allowed to favour any one religion over another. Religion is a private, personal concern, and adherents of all faiths must be treated equally, according to secularism. India is a secular state in terms of its constitution since the 42nd amendment to the Indian constitution, passed in 1976, identifies India as a secular country in its preamble. People from different castes, creeds, faiths, and socio cultural backgrounds reside in the large nation of India.

This nation's population diversity adds to its diversity. Secularism was ingrained in our polity as its conceptual phenomena even though the phrase was never included in the Constitution when it was first written. Although the Indian Constitution's fundamental tenet is secularism, its applicability in the country's current political climate is in doubt due to the growing role

that religion plays in the social construction of ethnic and communal identity and the subsequent formation of political mobilisation. The caste, religious, and regional divisions are still pervasive in India and have a big impact on how people think and behave. Although secularism has been a fundamental component of Indian democracy for more than 70 years, its merits and applications are still up for debate. Secularism actually means that the State should not have its own religion and that no one may declare that the State is to be a theocratic State. However, it does not imply that the State should be indifferent to religion.

The word "secular" was added to the Constitution in order to explicitly state the great ideals of socialism, secularism, and national integrity. People who adhere to secularism are better equipped to understand the essential conditions for human progress in all spheres and civilizations, including social advancement. But in current times, secularism has also been connected with the idea of modernity, which is an individualised ideal that matters. There is no denying the connection between secularism and modernity, yet many people believe that the fundamental ideal of respect for all religions has not been realised in social reality. The purpose of this essay is to analyse the meaning and idea of secularism and to clarify if it is believed to be true or false in India.

Research Objectives

- To explain and analyse the significance of the concept of secularism, as well as to define whether it is a myth or a reality, as well as to investigate and throw light on the Judiciary's Stand on Secularism.

2. METHODOLOGY

The investigation that is still ongoing includes both an in-depth investigation and an analysis of the events after they have already occurred. This indicates that the research is carried out in a manner that may be witnessed as well as demonstrated to the audience. As a consequence of this, the investigation is reliant on a combination of sources that are required and sources that are optional. An investigation was carried out using a method that was characterised by a degree of subjectivity. The optional data that was compiled from reliable sources, such as books and websites on the internet and paper pieces, as well as a variety of international journals and publications, was one of the things that were looked into by the investigation. In addition to that, the study is reliant on many points of view from different people.

3. DISCUSSION AND RESULTS

In India's democracy, secularism requires equality. Democracy fails without equality. A secular state emphasises pluralism above religion. Why do Articles 29(1) & 29(2) & 30(1) preserve minority language, script, and culture? Why was the 42nd Constitutional (Amendment) Act, 1976, needed if India was a secular state before 1976 (before adding the word secular to the Preamble)? Due to the national emergency, many opposition leaders were in jail or underground at the time. The Preamble should have defined secularism before including it. How may secular states have personal laws? No uniform law? A secular nation

regulates temples but not churches and mosques.

The Indian Constitution prohibits using taxes for religious purposes (Article 27), yet the Ministry of Minority Affairs helps minority religions. Other religions didn't get Haj subsidies. The state discriminated against secularism before removing this support. All citizens in a secular state should be majority and minority. India's secularism differs from European countries. India is hypocritical, not theocratic. There is controversy around the Secularism and Citizenship (Amendment) Act, 2019 (CAA); one side contends that it breaches the Constitution since it opposes secularism, while the Indian government asserts that it is constitutional. By granting citizenship to immigrant Hindu, Sikh, Buddhist, Christian, Jain, and Parsi from Pakistan, Bangladesh, and Afghanistan before December 31, 2014, but not to Muslims, the group opposed to the CAA claims that it contradicts secularism. It's prejudiced and goes against Indian Articles 14 and 15. (1). Article 14 of the Indian Constitution states that no one can be denied equality before the law. According to some, this Article protects both citizens and non-citizens. Article 15(1) bans discrimination based on religion, ethnicity, caste, sex, or birthplace. The central government maintains that awarding citizenship to anyone is political, not secularist or discriminatory. Article 14 outlaws discrimination but allows fair categorization, according to *West Bengal v. Anwar Ali Sarkar* (AIR 1952 SC 52). Classification should be based on comprehensible distinctions. The CAA prevents religious persecution in Pakistan, Bangladesh, and Afghanistan. All are Islamic countries where religious persecution against Hindus, Sikhs, Buddhists, Janis, Parsis, and Christians is escalating. Muslim discrimination is based on distinctions. Afghanistan and Bangladesh aren't Indian citizens; hence Article 15(1) doesn't apply to them. The Indian government won't sacrifice legal, democratic, or secular rights. The Indian Supreme Court is still debating CAA's constitutionality. Secular India Different ethnic groups pillaged India, yet many settled and farmed. Our Constitution incorporated Socialist, Secular, and Integrity by 1976's 42nd amendment. The news and social media endanger Indian secularism. Our founders never imagined this civilization. Gandhi and Ambedkar fought caste, creed, and sex discrimination. Independence Day is in July. Worsening. God made love. Love transcends caste, creed, religion, and borders. Some people attack couples who break social norms. Marriages end. Honour and community drive this. Courtroom attackers. Wealthy Gujarat ranks third in honour killings. In 2014 and 2015, Gujarat saw 2 honour killings. Children commit these atrocities. Youth bolsters society. How can a society progress without youth? Our administration didn't disregard these crimes. IPC 302 penalised many criminals. No one apologises. Unbelievable. Laws needed? I think we should start a campaign against it and teach youth their social duties.

a. Why does it need reform?

The constitutionality of polygamy (as opposed to the statute prohibiting it) was not challenged before the Court and is therefore obiter. Indian courts examine religious practises with obsessive reverence and reluctance. Arguments and verdict highlight the State's ameliorative role in religious law. Part III of the Constitution does not apply to personal legislation in many cases unknown. Personal laws were typically immune from constitutional religious freedom limits. Originally, personal law was neither statutory nor non-statutory.

Githa Hariharan v. RBI challenged Hindu guardianship laws. The Hindu child's natural protectors were the "father and then the mother." The review lip-serviced equality. If this

section is construed down, it could be constitutional; hence the Indian Supreme Court didn't knock it down. In India, the mother takes charge if the father is absent. If "after he" meant death, the Supreme Court of India found it was discriminatory, but its interpretation was constitutionally equal. Father is default guardian, then mother.

This case includes written personal law within the range of law subject to judicial review, but in previous decisions, the Supreme Court of India has reviewed the legality of non-statutory religious law as well. Ambivalent Supreme Court of India. Saumya Ann Thomas v. Kerala illustrates this dichotomy. The Kerala High Court declared that all statutes must be subject to Part III review, but non-statutory persons. Precedent says no. In the same case, it was suggested that a larger bench evaluate the legitimacy of a personal law exemption in a secular state. When the Supreme Court of India has more discretion in religious and secular disputes, this ambivalence becomes prejudice. In Prabhoo v. Kunte, a candidate's election was contested because he appealed to Hindutva voters. The Hindutva is a way of life, not a religion, hence a Hindutva-based appeal is not a religious one. The Supreme Court of India universalized majority and minority experiences The Supreme Court of India struck down the election for the nasty campaign remarks, but they were on a slippery slope by narrowly defining "religion." The Supreme Court of India created an artificial inequality among equals by attributing this religious trait to Hinduism alone. India's Supreme Court fights Hindu fundamentalism. In S.R. Bommai's case, the president declared a "emergency." These regimes fuelled communism. The Supreme Court of India said secularism is part of the Constitution and a government cannot function without it declared emergency. The Indian Supreme Court is often called pro-Hindu. Cow slaughter bans are biased. Hindus worship cows. The ban on cow slaughter has been upheld on secular grounds, but India's Supreme Court determined that cow sacrifice is not part of Islam. On Bakr-Eid, most Indian Muslims sacrificed cows. Subtext suggests that the Supreme Court of India favours a secular prohibition that supports agrarian civilisation above Hinduism. Right-wing Hindus consider judgements upholding these bans as evidence. State stance against cow slaughter was religious. India's Supreme Court can define religious "essentials." When contrasted against the sacred Hindu cow, Indian Muslim religious practises are downgraded as "non-essential" The Indian Supreme Court was criticised for dismissing petitions challenging state-funded Vedic astrology. The Vedas inspired Vedic astrology. The Indian Supreme Court said religious roots don't make a course religious. More controversy surrounded Aruna Roy in 2002. This claimed government history textbooks were Hindu-biased. Hindutva differs from Islam and Christianity. Hindutva thinks Hinduism's founding Aryans are from India. European immigration undermines Hindutva. India isn't Hindu or Abrahamic. New textbooks emphasise the connection between Aryans and Harappan culture, limiting study. Muslim rulers' aggressive and intolerant reputation is intentional. The SCI supported separating "religious instruction" from "religious study." Religion isn't the only source of values, but it's important "What religion and values?" asks Rajeev Dhavan? Ambedkar stated the state can't teach all religions. "The State is no super-theologian." The ruling mentions religious unity but ignores Hindutva's polarisation. Jainism and Buddhism were not continuations of Hinduism. Despite all the talk about convergence of values, the ruling vindicates the State's attempt to safeguard the Indian student's soul from "evil Western culture." Reservation-based affirmative action. The Constitution allows quotas, however the Supreme Court of India considers caste when identifying backward classes eligible for reservation.



Many see this as anti-secular, especially because India's SCs get affirmative action. The Supreme Court of India's verdicts are particularly unsettling because the purpose is not to eliminate castes but to abolish caste-based discrimination. Hypocritical or naïve in Indian society. Eliminating employment caste. Inequality. Caste imposes unearned hierarchy. Recognizing caste's hierarchy. Caste blindness may not be the solution, but the Supreme Court of India supports a traditional Hindu institution that no rule-of-law society should endorse. The Supreme Court of India is fatalistic about caste-based reservations, which were never meant to be permanent. The Supreme Court of India is contradictory when comparing religious regulations to other Constitutional rights under Part III. They're usually constitutional. When a disagreement concerns religion, the SUPREME COURT OF INDIA favours the prevailing religious group. The Indian Supreme Court has defended this practise. Redefining Hinduism as a way of life and using "essential practises" to rule are examples. The Court has sought to mask its Hindu leaning with secular issues (like cow slaughter), but the undercurrent remains strong. Most cases pit religion against the public interest due to India's secularism. The verdict favours a small group over social problems. Supreme Court judgements on religion practises or laws are confusing and conflicting for a horoscope-based government. Most Supreme Court of India religion cases are Hindu. In India, the Judiciary may have self-imposed limits due to repeated battles with the Executive; dissenters have paid a heavy price. Emergency shook Judiciary's trust. In 2010, a Supreme Court of India order mandating government food to be given before it rots provoked Prime Minister Manmohan Singh to warn the Judiciary shouldn't interfere with policymaking. 36 Why should personal laws be evaluated? This technique uses precedent and "law" Some judges may be biased and orthodox. Markanday Katju dubbed young Muslim men's beards "Talibanization and Krishna Iyer said judges must be protected "like a Hindu widow." Incidents can't explain systemic bias. Realist Population and bench is Hindu. They're Hindu, not corrupt or anti-secular. A Hindu mindset may find it hard to understand a Muslim student's ambition to grow a beard and dismiss his claim as "Talibanization" than someone who grows a beard as part of his faith or knows what it's like to be misunderstood. The SC will recognise Hinduism until the Constitution bans it. A secular state avoids this. India's Judiciary is impartial. Professional judges are more impartial than laypeople, so juries were eliminated. Continued discrimination. Probably conscious and subconscious. Both started differently. British legal disputes in India were handled by Hindu gurus and Muslim kazis (for Muslims). 39 British judges used religious texts to rationalise personal law problems. Common law influenced personal laws. Indian courts use ancient writings to determine religious "importance." This unchecked power is problematic because a court can deem an ancient ritual (like killing cows on Bakr-Eid) non- essential overnight. This shows SC mindset. India's Supreme Court exploits religion to discriminate. The Supreme Court of India studied the Holy Koran and other Muslim literature before ruling that cow slaughter is not required to commemorate Bakr-Eid. Non-essential, desecrates. Hindus and Muslims clashed over Babri Masjid. Hindus believed it was Lord Rama's birthplace. Lord Rama got a third of the land in this "property" dispute. Without legal backing, most thought this was a workable compromise. Some critics agree there's no need to master "legal niceties," but the religious aspect raised eyebrows. Minorities in India oppose a unified code because they fear the dominant religion and SC will lead it. Public distrust a secular judiciary. Hindus favour a uniform civil code.

4. CONCLUSION

India is recognised for its secularism. A kind of government known as secularism does not favour one religion over another and is impartial in matters of religion. Minority problems are addressed in a number of Constitutional clauses, displaying discriminatory terminology. Majority and minority should be treated equally in a secular state. Despite the Constitution's protection of "religious and linguistic minorities," the administration emphasised on religious minorities when using the term "minority." The government must defend minority rights if the term "minority" is to be used in accordance with the Constitution; otherwise, the letter of the document will be disregarded. In order to protect the interests of six religions that were being persecuted in three neighbouring countries, the Central Government introduced the Citizenship (Amendment) Act, 2019 in 2019. However, a number of groups strongly opposed it, arguing that it discriminated against Muslims and violated India's Constitution's concept of secularism. India's fundamental structure cannot be altered. The Supreme Court of India created the basic structure hypothesis to limit Parliament's Constitution-amending power. A passed law can't be challenged for rule-breaking. Myth and Reality: Indian Secularism A 2019 CAA Report doesn't violate the Constitution because it's not a provision. As custodian of the Constitution, the Supreme Court of India upholds India's secular nature.

Acknowledgement

I would want to express my deepest gratitude to each and every one of the people who made it possible for me to complete this thesis. I owe an incredible amount of gratitude to everyone whose thoughts and support helped me organise my piece in a manner that was consistent with the period it was written in. Aside from that, I should acknowledge with a great deal of gratitude the significant contribution made by the experts and journalists who had successfully drafted their papers on a related topic; the references they provided gave me an unprecedented game plan to finish my article in a way that was helpful.

Conflict Of Interest and Funding

Nil

5. REFERENCES

1. Baxi, U. (1999). The Constitutional discourse on secularism. Constructing the Republic. New Delhi: Har Anand Publications, 211-233.
2. Fatima, S. Secularism in India: A Myth or Reality. IOSR Journal of Humanities and Social Science, 22.
3. Galanter, M. (1971). Hinduism, secularism, and the Indian judiciary. Philosophy East and West, 21(4), 467-487.
4. Hirschl, R. (2013). Constitutional Courts as Bulwarks of Secularism. Consequential Courts: Judicial Roles in Global Perspective, 311, 312-13.
5. Jaffrelot, C. (2019). The fate of secularism in India. Carnegie Endowment for International Peace.
6. Losonczy, P., & Van Herck, W. (Eds.). (2017). Secularism, religion, and politics: India and Europe. Routledge.
7. Mahmood, T. (2011). Religion and the secular state: Indian perspective. India:



- NationalReport.
8. Mahmood, T. (2017). Religion, law, and judiciary in modern India. In *Law and Religion, an Overview* (pp. 321-341). Routledge.
 9. Marbaniang, D. (2011). *Secularism in India: a historical analysis*. Lulu Press, Inc.
 10. Mehta, J. L. (1971). Commentary on Marc Galanter's "Hinduism, Secularism, and the Indian Judiciary". *Philosophy East and West*, 21(4), 489-492.
 11. Mohsin Alam, M. (2009). Constructing Secularism: Separating 'Religion' and 'State' under the Indian Constitution. *Australian Journal of Asian Law*, 11(1), 29-55.
 12. Najam, W. (2019). Secularism in India: Myth or Reality. *Pakistan Horizon*, 72(1).
 13. Parikh, S. (2005). Enshrining a Secular Idol: A Judicial Response to the Violent Aftermath of Ayodhya. *Case W. Res. J. Int'l L.*, 37, 85.
 14. Sen, R. (2018). *Articles of faith: religion, secularism, and the Indian Supreme Court*. Oxford University Press.
 15. Sen, R. (2018). *Articles of faith: religion, secularism, and the Indian Supreme Court*. Oxford University Press.
 16. Shankar, S. (2003). India's secularism in comparative perspective. *India Review*, 2(4), 43-58.
 17. Singh, A. K. (2021). Myth and reality of secularism in India: An analysis. *The NEHU Journal*, 74.
 18. Susewind, R. (2012). *Articles of faith: religion, secularism, and the Indian Supreme Court*.
 19. Verma, V. (2017). *Secularism in India* (pp. 214-230). New York: Oxford University Press.
 20. Woods, P. J. (2008). *Judicial power and national politics: Courts and gender in the religious-secular conflict in Israel*. Suny Press.