

CONSTITUTIONAL ETHOS II

Unity in Diversity - Secularism

INTRODUCTION

"Our ability to reach unity in diversity will be the beauty and the test of our civilization."

Mahatma Gandhi



The **ethnic, linguistic** and **religious diversity** of India is the soul of India. It is one of the **most noticeable characteristics** of Indian Civilization and **great strength** of our **composite culture**. As a matter of faith for India, the Constitution of India aims to protect this **unity (not uniformity)** through **Secularism**.

In this article, we will discuss the Constitutional Ethos of **Secularism**, starting with a **basic theoretical idea** on Secularism. It is followed by a brief idea on **Indian Secularism** and the related Constitutional provisions. Based on the provisions, the **objectives** behind them are identified along with the significance of Secularism. At the same time, based on the **implementation measures** and **outcomes**, the related concerns and challenges are identified in Indian Secularism; followed by a way forward in order to **preserve** and **promote** the **unity in diversity**.



PRINCIPLE OF SECULARISM: MEANING AND EMERGENCE

The word '**secular**' is derived from the Latin word '**saeculum**' meaning **century** or **age**. **Saeculum** represents the profane (non-religious) time. **Secularism first emerged** as a **normative** or **political doctrine in Europe** (refer image).

The idea of Secularism seeks to achieve a **secular society**, i.e., one devoid of either inter-religious or intra-religious domination by making religion a **personal affair** by following certain principles (see image).

It **diminishes the influence of religious institutions and symbols** (non-spiritual) in people's lives. So, secularism is a doctrine which commands **distinct, independent, exclusive** and **separate spheres of state power** and religion with **no overlapping zones**, i.e.

- ★ **No State interference in the affairs of religion,**
- ★ **No religious interference in the affairs of State.**

EMERGENCE OF SECULARISM

STAGE 1

THIRTY YEARS WAR

A **series of wars** fought by various nations from 1618 to 1648 for various reasons, including **religious, dynastic, territorial, and commercial rivalries**.

STAGE 2

SEPARATION

The **war weakened** the **Holy Roman Empire**, resulting into the **separation of religious authority** from **political authority**.

STAGE 3

SECULARISATION

Public offices in western nations went through a "secularisation" process, i.e., gradual retreat of religion from guiding policies and functions in public life.

PRINCIPLES OF SECULARISM

SEPARATION

- ★ Separation between **religious institutions and state institutions.**
- ★ **No Domination** of Religion in public sphere

FREEDOM

- ★ **Freedom to practice one's faith or belief** without harming others,
- ★ **Freedom to change** it or not have one, based on one's own conscience

EQUALITY

- ★ No advantage or disadvantage of **having or not having religious beliefs**

Secularism in India

★ **Has ancient roots:** Traditionally, Indian Society has lived with separation between state and religion. According to **Kautilya's Arthashastra** (a moral guide for the Kingship), the happiness of a king lies in the happiness of his subjects. It helped in creating **religious tolerance** in India despite its religious pluralism.

★ **Is different from the West:** Unlike the West, in India **no clear divide exists between religion and science** or between religion and atheism. E.g., Indian philosophy includes orthodox Astika School of thoughts as well as the unorthodox Nastika School of thoughts.

★ **Took shape with India's struggle for independence:** Inter-religious and intra-religious domination still existed in India, leading to the rise of secularism in its modern sense in India during the **19th century**. Starting with the **cultural and religious reform movements**, soon it became a feature of the **Indian political movement** - underlining the importance of **people's unity** against **colonialism** and **communalism**.

Indian

Nature

Sarva Dharma Sambhava, i.e. mutual respect to all religions with Dharma Nirpekshata, i.e. religious neutrality.

Scope

State as a **critique** can **intervene** into religion if any aspect of it **violates equality or causes communal disharmony**. E.g. abolition of untouchability and religion-based gender discrimination.

Western

Nature

Western Secularism is **anti-religious** in nature.

Scope

No State interference into religion



SECULARISM AS CONSTITUTIONAL ETHOS IN INDIA: ITS NATURE, PROVISIONS AND OBJECTIVES

Though the word 'secular' was explicitly added in the preamble only during the **1975 emergency (42nd Amendment to the Constitution, 1976)**, secularism has been an **integral part** of the Constitution since its beginning.

But the **Indian Model of Secularism** differs from the **Western Model of Secularism**. The Constitution mandates the **Indian State** to be **secular** in terms of having a '**principled distance between religion and politics**'. The main idea behind Indian Secularism, in words of **Pt. Jawaharlal Nehru** was:

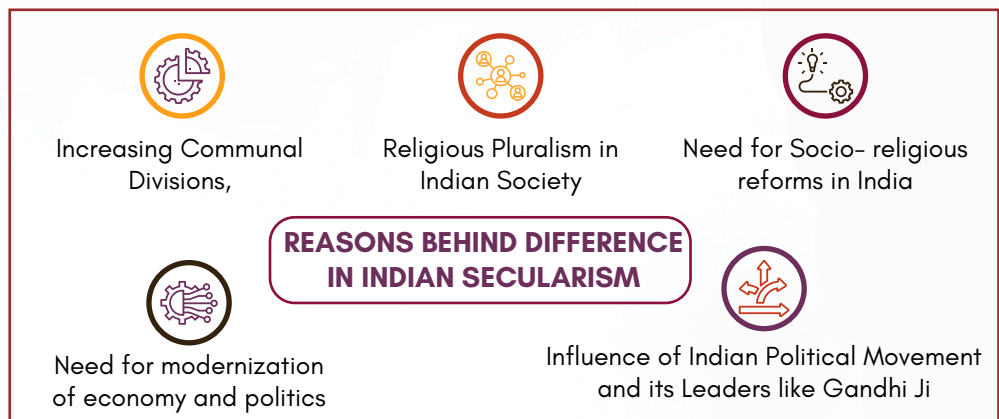
'It does not mean a society where religion is discouraged, it means freedom of religion and conscience, including freedom for those who may have no religion.'

Concept of Principled Distance

Given by **Rajeev Bhargava**, it represents a balanced distance of a state from the religious groups, i.e., a secular state may:

- ☆ Keep a **principled distance** from religion in all ways to promote peace between different religious communities.
- ☆ It may also **intervene in the religious proceedings** to protect the rights of specific communities.
- ☆ It gives **equal preference to every religion** and respects all equally. But it may **interfere if religious groups** try to exercise their power on the political and social life of the people.

Under Indian Secularism, **no strict separation exists** between religion and politics. The state **doesn't associate with any religion** and **honors all faiths equally**. Also, it **permits freedom of practicing any religion** and takes into **consideration the religious sentiment of the people**. The main reasons behind this form of Indian Secularism are as given in the image.



This becomes clear from the constitutional provisions which mandate equality in all the major realms of Indian democracy such as law, education, economics, private and civic life of citizenry etc. E.g.

☆ **Preamble of the Indian Constitution professes to secure to all its citizens:**

- **Liberty** of thought, expression, belief, faith and worship;
- **Equality** of status and of opportunity.

OBJECTIVES OF INDIAN SECULARISM





- ☆ **Article 14** provides **Equality before Law** to all citizens.
- ☆ **Article 15 prohibits any discrimination** on grounds of religion, race, caste, sex, or place of birth.
- ☆ **Article 16** provides **equality of opportunity** in matters of public employment irrespective of religion, race, caste, sex, descent, place of birth, residence, or any of them.
- ☆ **Article 25 to 28** guarantees **freedom of religion** to all persons
- ☆ **Article 29 and 30** provides exclusive rights to the minorities including the religious minorities to protect their interests.
- ☆ **Article 51 (A)** obligates all citizens to **promote harmony** and the **spirit of common brotherhood** and to **value and preserve the rich heritage** of our **composite culture**.

IN CONVERSATION

Secular aspects in Indian Constitution



Vini: Hey Vinay, I heard, you been studying Indian Constitution?

Vinay: Yes, I have. Why do you ask?

Vini: Someone told me that the Preamble to the Constitution of India has changed over time. He implied that the Preamble is not the same as was adopted in 1950.

Vinay: That's correct! In fact, the term "secular" and "socialist" were added to the Preamble by the 42nd Amendment Act, 1976.

Vini: But what does being secular mean for India?

Vinay: In the simplest of terms, it implies that the Constitution ensures religious freedom and prohibits discrimination based on religion or caste.

Vini: Are you referring to Article 25 and 26 of the Constitution?

Vinay: Yes precisely. They form the essence of religious equality in India.

Vini: Thanks Vinay. That was insightful.



SIGNIFICANCE OF SECULARISM IN INDIA


According to **Paul R. Brass**, secularism is 'a **countervailing practice**, and a **set of values** that are essential to **maintain balance** in a **plural society** where the organization of **intergroup violence** is **endemic, persistent, and deadly.**' Being a multi-religious country, Secularism, as basic feature of the Indian Constitution (**Kesavananda Bharati case**), helps to maintain the balance in various spheres such as:

Political Sphere



- ☆ **Prohibits State Patronage to any particular religion** to avoid misuse of state power or have fair decision-making.
 - ⦿ The Supreme Court (SC) observed that if religion is not separated from politics, the religion of the ruling party tends to become the state religion (**S. R. Bommai v. Union of India**).
- ☆ **Promoting National unity and integrity** by **spreading democratic values** like equality, religious tolerance etc.
- ☆ **Guiding Laws and Policies** in direction of building fraternity, amity and upholding of individual dignity of person as enshrined in the Constitution.
 - ⦿ While recognizing the religious rights, the Constitution allows stopping practices which are repugnant to **public order, health and morality**.



<p>Social Sphere</p> 	<ul style="list-style-type: none"> ☆ Help in establishment of an Egalitarian Social Order by: <ul style="list-style-type: none"> ⦿ Avoiding religious strife and its extremities like communal violence or religious domination. ⦿ Stopping religious encroachment into secular activities, i.e. matters which are not purely religious. ⦿ Allowing positive discrimination to correct historical wrongs. E.g. reservation in public employment and education. ☆ Preserves and Promotes Individual Rights which are vital for moral wellbeing and the fulfillment of material prosperity. ☆ Creates faith and confidence of all sections of society in the State. ☆ Promotes mutual respect between different religions, sects, etc.
<p>Economic Sphere</p> 	<ul style="list-style-type: none"> ☆ Encourages development and growth by: <ul style="list-style-type: none"> ⦿ Creating peace in India. ⦿ Create global linkages and allure foreign investors through a positive image on India. ☆ Stops use of public revenues to promote any religion. ☆ Empowers the State to regulate any economic and financial activity associated with religious practice.

CONCERNS/CRITICISM OF INDIAN SECULARISM

- ☆ **No Universal Definition:** The lack of universal definition of Secularism weakens Indian democratic system by allowing some actors to misinterpret and exploit the prevalent religious diversity for vested interests.
- ☆ **Polarization of Thoughts:** Indian secularism has had limited success against **sectarian or communal politics**, leading to polarization of the thought process.
 - ⦿ Though election laws try to **stop the use of ascriptive identities**, it is difficult for Election Commission to implement it as it will require de-recognizing political parties and debarring of candidates.
- ☆ **Curbing religious freedom in some cases:** Secularism is criticized for its interference in the religious freedom of communities. E.g.
 - ⦿ It **allows judicial and state interference** into **religious and cultural practices** by subjecting freedom of religion to public order, health, and morality.
- ☆ **Weakening of the Secularization process:** Unlike West, Indian Secularism doesn't create strict separation between state and religion, limiting the secularization of people. For instance, religion still being one of the factors in the political process.

Secularization of People

- ☆ Secularization is the action or process of **cultural transition** which **gradually replaces religious values by nonreligious values**.
- ☆ Secularization of people represents a situation when **social importance of religion declines** in social and political affairs.
- ☆ Secularization of people is aided by processes of:
 - ⦿ **Popularization of scientific, rational worldview** against prevalent myths, mysteries, miracles and magic.
 - ⦿ **Promotion of modern education** to develop critical consciousness against institutional and belief structures of religion.
 - ⦿ **Promotion of pluralism** at the level of social groups.

WAY FORWARD

Secularism **builds nation-states** by creating and preserving **unity in diversity**. Indian society and secularism has its own **distinct objectives and features**. To achieve them, it needs recognition and effort from all stakeholders:

- ☆ **Role of Judiciary:** As final interpreter of the Constitution, the SC has given important judgments to preserve and promote secularism (refer box). Further, the judiciary as a collective should:
 - **Promote citizens' active participation in the electoral process** by curbing corrupt practices which interferes with free and fair electoral franchise.
 - **Ensure compliance from political parties** by defining secularism within the purview of constitutional parameters with accountability measures for strict adherence.
 - **Transmit values** which should protect the secular character of the Indian state and shape sensibility on secularism.
- ☆ **Role of Executive:** Responsible for the implementation and administration of enacted laws/policies, it should:
 - **Observe strict separation** between state and religious institutions.
 - **Depoliticize secularism**, i.e. to move it further into the domain of civil society to avoid its politicization.
 - **Protect Freedom of Speech and Expression** of religious people as well as of those who oppose or question the religious beliefs.
 - **Build inter-religious and intra-religious harmony** through social reforms and confidence building on special measures for minorities based on their importance.
- ☆ **Role of Legislature:** Being responsible for enacting laws and holding executive responsible, it should:
 - **Encourage debate on tenets of secularism** to identify its significance and improvements needed in Indian context.
 - **Hold the executive responsible** towards implementation of the constitutional ethos of secularism and its associated principles.
- ☆ **Role of Society, including Media, Civil Society and Individuals:**
 - **Treat religion as a personal affair** and follow laws regardless of gender, religion (majority or minority), region etc.
 - **Strengthen Democracy** through exercise of rights and duties responsibly.

Important SC judgements on Secularism



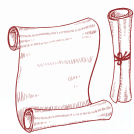
Abhiram Singh vs. C. D. Commachen (2017)

Appealing to the ascriptive identities of any candidate and that of the voters constitutes a 'corrupt practice' under Section 123 (3) of the Representation of the People Act, 1951



Indira Nehru Gandhi vs. Raj Narain (1975)

Secularism means that State shall have no religion of its own and all persons of the country shall be equally entitled to the freedom of their conscience and have the right to freely profess, practice and propagate any religion



Shayra Bano vs. Union of India (2017)

The practice of Talaq-e-biddat or Triple Talaq was declared illegal, holding that it is not protected under Article 25 of the Constitution as it is not an essential religious practice

CONCLUSION

The **religious pluralism** of India is the **greatest strength** of its **democracy**. The constitutional ethos of **Secularism** reinforces it by **removing existing inequalities** and **helps communities** in preserving their differences. It gives rise to state of togetherness or oneness which is **assimilative** as well as **separate**, i.e. **Unity in diversity**. With growing homogenization currents, these principles have become even more vital in preservation of India's unique identity. In words of **Gurudev Rabindranath Tagore**:

"Let us unite, not in spite of our differences, but through them. For differences can never be wiped away, and life would be so much the poorer without them. Let all human races keep their own personalities, and yet come together, not in a uniformity that is dead, but in a unity that is living."



TOPIC AT A GLANCE

CONSTITUTIONAL ETHOS II: UNITY IN DIVERSITY – SECULARISM

- ☆ Indian Society is a plural society with multiplicity of religions as an important feature of it.
- ☆ To **preserve this diversity and promote unity in diversity**, Secularism acts as a countervailing practice and a set of values needed to maintain balance.

Secularism as Constitutional Ethos

- ☆ Secularism is part of the **Basic Structure** of the Constitution of India.
- ☆ It follows a **principled distance between religion and politics**, i.e. instead of clear separation, **State gets actively engaged** in secular activities of religion to **ensure public order, health, and morality**.
- ☆ It protects **religious freedom** of people with no state imposed religion.
- ☆ **Prohibits religious prosecution** and work to **address inter-religious or intra-religious domination**.

Significance of Secularism

- ☆ **Spread democratic values** and maintains balance in a plural society like India.
- ☆ **Protects Religious Freedom** of citizens and **prohibits discrimination** based on religion.
- ☆ Promote values of **mutual respect, tolerance, trust** etc.
- ☆ **Preserves India's pluralism** and its **rich socio-cultural heritage**.
- ☆ **Encourage Development and Growth** through peace, global linkages etc.

Concerns regarding Indian Secularism

- ☆ **Absence of universal definition**.
- ☆ Limited success as **polarization of thoughts** and **communal violence** remains part of the society.
- ☆ Negative impact on the process of **Secularization of people**.

Way Forward

- ☆ **Ensure no political appeal** to the ascriptive identities by political parties.
- ☆ **Encourage debate on Secularism** and create **awareness** on rights and duties of citizens.
- ☆ **Pass on values of kindness, assimilation** etc. to promote oneness among people.
- ☆ Identify the **role of media and civil society** in safeguarding of diversity.

