
ELECTORAL IMPLICATIONS AND CHALLENGES TO SECULARISM IN LIGHT OF THE CONSTITUTION OF INDIA

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ABSTRACT

The constitutional promise of secularism in India represents not merely an abstract political ideal but a deeply embedded normative commitment that shapes the functioning of democratic institutions. Within this framework, elections occupy a central position, acting as the primary mechanism through which popular sovereignty is expressed and political authority is legitimized. However, the increasing entanglement of religion with electoral politics raises significant constitutional concerns, particularly in relation to the integrity of democratic processes and the preservation of secular values. India's constitutional framework aims to maintain a careful balance between protecting religious freedom and making sure that governmental authority or the political power is shielded from religious dominance. The Constitution aims to stop the abuse of religion in political mobilization while yet acknowledging it as an essential component of social life and personal identity. This dual commitment is reflected in the interplay between fundamental rights, electoral laws, and judicial interpretations, all of which aim to preserve the secular character of the State. While there is a robust constitutional foundation, the reality of electoral politics tends to discriminate against some tenets of our constitution. Religious appeals, struggle for symbolic legitimacy and identity-based campaigns are on the rise prominently in many contemporary elections. This upraises a key question: how far do constitutional safeguards effectively regulate the use of religion in electoral processes? Thereafter the research paper analyzes the electoral implications and challenges to secularism in the constitutional jurisprudence.

Keywords: Secularism, secular, democratic, jurisprudence, electoral.

Legal Framework Governing Elections and Religion

The constitutional scheme governing elections in India is contained mainly within Part XV (Articles 324–329), which lays down the institutional design as also the normative underpinnings of electoral democracy. The bedrock of this framework is Article 324 that bestows on the Election Commission of India (ECI) a “superintendence, direction and control” over elections to Parliament and State Legislatures.¹³⁶ This has been broadly construed to prevent the Commission from becoming ineffective in circumstances where statutory law is silent or inadequate.

The Supreme Court in **Mohinder Singh Gill v. Chief Election Commissioner** described Article 324, which confers the plenary power to enforce free and fair elections, as being intended specifically for that purpose, and ruled that it enables the Commission to adopt appropriate measures in accordance with law where there are no expressed statutory provisions in place.¹ This interpretation was subsequently modified in **A.C. Jose v. Sivan Pillai** where the Court stated that the powers conferred upon the Commission are discretionary and auxiliary, which cannot override express statutory provisions created by Parliament.² The resulting jurisprudence reflects a precisely calibrated balance between constitutional autonomy and legislative supremacy.

An explicit secular character for electoral participatory is ingrained in Article 325, which disallows exclusion from electoral rolls on the basis of religion, race, caste or sex.⁴ This clause prevents election from becoming exclusive and discriminatory, thereby upholding equal citizenship. Article 326 also expands universal adult suffrage making the right to vote independent of the distinction of religion or social identity.

Articles 327 and 328, which grant powers to Parliament and State Legislatures respectively, to make laws regulating elections, are not merely enabling provisions but operationalised constitutional precepts through legislative formulations. The same is Article 329, which limits judicial intervention in electoral processes, permitting challenges only via election petitions. The goal here was to avoid disrupting the electoral process while allowing for accountability post elections.

¹ *Mohinder Singh Gill v. Chief Election Commissioner*, (1978) 1 SCC 405

² *A.C. Jose v. Sivan Pillai*, (1984) 2 SCC 656.

Judicial interpretation has long upheld the constitutional commitment to free and fair elections as a fundamental element of democratic governance. In **Indira Nehru Gandhi v Raj Narain**, the Supreme Court held that free and fair elections are a part of the basic structure of the Constitution thus making electoral integrity a non-derogable constitutional principle.³ This doctrine proves highly consequential for regulating religious appeals in elections, as any practice that undermines electoral integrity would be constitutionally impermissible.

Additionally, in **People's Union for Civil Liberties v. Union of India**, the Court acknowledged that the right to information of a voter flows from freedom of expression protected by Article 19(1)(a) encompassing a broader understanding of informed electoral choice into the normative framework.⁴ Together, these provisions and interpretations create a constitutional scheme that both regulates elections and also embeds at its heart commitments to secularism and equality.

Representation of the People Act, 1950 & 1951

The principal statute providing for elections in the country is a combo of The Representation of the People Act, 1950 and the Representation of the People Act, 1951. The 1950 Act, however, deals exclusively with the preparation and revision of electoral rolls while 1951 Act regulates the conduct of elections as well as qualifications and disqualifications of candidates and mechanisms for dispute resolution.

One of the key components of the 1951 Act is its treatment of electoral fraud under “corrupt practices.” Section 123(3) explicitly bans appeals on grounds of religion, race, caste, community or language to secure votes and Section 123(3A) makes it a criminal offence to promote enmity or hatred between different classes of citizens.⁴ These laws have crucial role in maintaining secular character of elections.

The judicial interpretation of these provisions has significantly shaped their scope. In **Ramesh Yeshwant Prabhoo v. Prabhakar Kunte**, the Supreme Court held that speeches invoking Hindu identity for electoral gain constituted a corrupt practice, resulting in the disqualification of the candidate.⁵ The Court emphasized that the elections must remain free from communal

³ *Indira Nehru Gandhi v. Raj Narain*, 1975 Supp SCC 1.

⁴ *People's Union for Civil Liberties v. Union of India*, (2003) 4 SCC 399.

⁵ *Ramesh Yeshwant Prabhoo v. Prabhakar Kunte*, (1996) 1 SCC 130.

appeals, as such practices undermine democratic equality.

The Court considered whether the proclamation of a “Hindu State” constitution a corrupt conduct in **Manohar Joshi v. Nitin Bhaurao Pati**.⁶ The case demonstrated the challenge of differentiating between religious mobilization and cultural expression, even if the Court took a nuanced stance.

In **Abhiram Singh v. C.D. Commachen**, a seven-judge panel broadened the interpretation of Section 123(3) to cover appeals based on the religion of voters, candidates, or any third party making a significant doctrinal change.⁷ This ruling upheld the secular nature of elections and reinforced the ban on religious appeals.

The Act also provides for election petitions under Sections 80-86, enabling judicial scrutiny of electoral disputes. However, if the adjudication is not speedy then its effectiveness is often diluted, raising concerns about the enforcement of electoral laws.⁸

Conduct of Election Rules, 1961 and Allied Regulations

The Conduct of Election Rules, 1961 are the procedural framework to implement the electoral laws. These include rules governing nomination processes, polling procedures and the counting of votes as well as declarations of results.⁹ While procedural in its character, they are fundamental to guaranteeing the transparency, accountability and consistency of electoral processes.

These rules are complemented by the Election Symbols (Reservation and Allotment) Order, 1968 that governs allotment of symbols to political parties.¹⁰ While such symbols are more of administrative tools, they tend to have cultural or religious associations, thereby indirectly influencing the perception of the voters.

In **Kanhahiya Kumar v R. K. Trivedi**, the Constitution Bench of the Supreme Court upheld the constitutional validity of Symbols Order while acknowledging that Election Commission is

⁶ *Manohar Joshi v. Nitin Bhaurao Patil*, (1996) 1 SCC 169.

⁷ *Abhiram Singh v. C.D. Commachen*, (2017) 2 SCC 629.

⁸ Law Commission of India, “255th Report on Electoral Reforms” (2015).

⁹ The Conduct of Election Rules, 1961.

¹⁰ Election Symbols (Reservation and Allotment) Order, 1968.

competent to regulate processes leading upto election in interest of fairness.¹¹ In line with this, in **Subramanian Swamy v. Election Commission of India**, the Court emphasized the importance of transparency regarding electoral funding and administration (the opinion reeks of idealism if we were to judge from the current climate).¹²

While these regulatory instruments collectively serve to guarantee procedural integrity, their indirect invocation of religious symbols shows how challenging it is to uphold a strict secular neutrality in a culturally pluralistic society.

Model Code of Conduct (MCC)

The Model Code of Conduct is a distinctive feature of India's electoral governance architecture. While not legally binding, it serves as a normative framework guiding political conduct in the course of elections. MCC expressly prohibits appeals to religion, caste or communal sentiments for electoral gains.¹³

Though not legally binding, MCC has played a very crucial role in preventing explicit communal appeals. Its ineffectiveness, however, is the absence or lack of enforceability. Violations are usually followed by incur warnings, censure or temporary bans instead of substantive penalties.

Judicial pronouncements have indirectly strengthened the principles underlying the MCC. In *Union of India v. Association for Democratic Reforms*, the Supreme Court laid emphasis on the adherence to transparency and ethical conduct in elections, thus solidifying the normative foundation of the Code. Similarly in **Public Interest Foundation v. Union of India**, the Court underscored the importance of maintaining the purity of elections.¹⁴

Nevertheless, the expanding sophistication of political campaigning, particularly through digital platforms, has exposed the limitations of the MCC, necessitating its statutory codification or reform.

¹¹ *Kanhaiyalal Omar v. R.K. Trivedi*, (1985) 4 SCC 628.

¹² *Subramanian Swamy v. Election Commission of India*, (2008) 14 SCC 318.

¹³ Election Commission of India, Model Code of Conduct (2019).

¹⁴ *Union of India v. Association for Democratic Reforms*, (2002) 5 SCC 294.

Criminal Law Framework: BNS/IPC and Hate Speech

The communal speech framework under criminal law is one of the cardinal aspects of electoral regulation. The Bharatiya Nyaya Sanhita, 2023 (replacing the IPC) contains provisions to still criminalise acts promoting enmity between religious groups or outrage of religious sentiments.¹⁵

Such provisions are well-founded as they are especially applicable to election campaigns, where hate speeches impact voter behaviour and threaten public order. In **Bilal Ahmed Kaloo v. State of Andhra Pradesh**, the Supreme Court clarified that expression simpliciter does not attract liability unless accompanied by intent to promote enmity.¹⁶

In **Pravasi Bhalai Sangathan v. Union of India**, the Court recognised the growing problem of hate speech and called for stronger regulatory mechanisms, though it refrained from issuing detailed guidelines.¹⁷ Similarly, in **Amish Devgan v. Union of India**, the Court elaborated on the distinction between free speech and hate speech, emphasizing the need to protect dignity and social harmony.¹⁸

Although these provisions lay down a legal basis for regulating the communal speech, their enforcement during elections remain inconsistent, thus, highlighting the gap between law and practice.

Judicial Approach to Religion in Elections

In shaping the legal contours of religion in the electoral politics, the judiciary has played a dynamic and central role. Through a series of judicial pronouncements, the courts have sought to balance freedom of expression with the need to prevent communal polarisation.

The Supreme Court considered the use of religious speeches in elections in **Ziyouddin Burhanuddin Bukhari v. Brijmohan Mehra**, taking a careful approach in defining corrupt acts.¹⁹ The precedent for later jurisprudence was established by this case

¹⁵ Bharatiya Nyaya Sanhita, 2023, ss. 196, 299.

¹⁶ *Bilal Ahmed Kaloo v. State of Andhra Pradesh*, (1997) 7 SCC 431.

¹⁷ *Pravasi Bhalai Sangathan v. Union of India*, (2014) 11 SCC 477.

¹⁸ *Amish Devgan v. Union of India*, (2021) 1 SCC 1.

¹⁹ *Ziyouddin Burhanuddin Bukhari v. Brijmohan Mehra*, (1976) 2 SCC 17.

at an early stage.

In **Ramesh Yeshwant Prabhoo v. Prabhakar Kunte**, the Court took a stricter stance by disqualifying candidates who invoked religious identity.²⁰ Similarly, **Manohar Joshi v. Nitin Bhaurao Patil** explored the boundaries of permissible political speech. The Court dealt with whether the slogan of establishing a “Hindu State” amounted to a corrupt practice. Though it did not nullify the election, the ruling emphasized a fine line between political ideology and religious appeal.²¹

The transformative judgment in **Abhiram Singh v. C.D. Commachen** significantly expanded the scope of electoral prohibitions, making a decisive shift towards stricter secular enforcement.²² In **S.R. Bommai v. Union of India**, the Court declared secularism to be a basic feature of the Constitution, thereby providing a constitutional foundation for regulating religion in elections.

In **Indira Nehru Gandhi v. Union of India**, the Court ruled that free and fair elections are part of the basic structure of the Constitution, thus making electoral integrity a constitutional mandate.²³ In **Dinesh Trivedi v. Union of India**, the Court upheld election reforms with respect to Rajya Sabha elections and reiterated that democratic values, including that of fairness and transparency, form the core of the electoral process. In **Union of India v. Association for Democratic Reforms** (hereinafter, “ADR”), the Court insisted on the disclosure of candidates’ criminal, financial and educational credentials as a sensible recognition of voters’ right to know and make informed electoral choices.²⁴

In **People's Union for Civil Liberties v. Union of India**, the Court ruled that knowing the electoral candidates is a component of freedom of expression to reinforce participatory democracy. In **Mohinder Singh Gill v. Chief Election Commissioner**, the Court held that Article 324 gives very wide powers to the Election Commission, including in matters where statutes may not provide for free and fair elections.²⁵

In **A.C. Jose v. Sivan Pillai**, the court ensured a balance between constitutional authority and

²⁰ Supra note 5.

²¹ Supra note 6.

²² Supra note 7.

²³ *Indira Nehru Gandhi v. Raj Narain*, 1975 Supp SCC 1.

²⁴ *Union of India v. Association for Democratic Reforms*, (2002) 5 SCC 294.

²⁵ *Mohinder Singh Gill v. Chief Election Commissioner*, (1978) 1 SCC 405.

statutory provisions by clarifying that the Election Commission's powers under Article 324 were not above those emanating from statute.²⁶ In **Kanhaiyalal Omar v. R.K. Trivedi**, the SC upholds EC's authority to regulate symbols of elections: the Court observed that by granting the Election Commission the power to regulate symbols (both name and identity), those relied upon would not win nor their identities would become public domain; this enabled free choice, raising awareness for exercising the right to vote/potential punishment.²⁷

The case of **Subramanian Swamy v. Election Commission of India**, highlights transparency and accountability in the context of electoral processes, so it reflects more on political funding and administrative regulation than a pure "Elections" case.²⁸ In **Narain Chand Prashar v. Prem Kumar Dhumal**, the High Court delving into facet of religious appeals in elections reiterated that to invoke religion for electoral gains is a violation of statutory provisions enshrined under the Representation of the People Act, 1951.²⁹

Effectiveness of Constitutional Safeguards

The Indian constitutional system is a deeply normative commitment to secularism, equality and integrity of democracy. Articles 14 and 15 guarantee equality before law and prohibits discrimination on religious ground whereas articles 25 to 28 provides freedom of conscience and free profession, practice and propagation of religion subject to public order, morality and health. These are not mere declaratory provisions but the cornerstone of what Indian State is expected to be, and this expectation also extends regarding the relationship with religion in the electoral space. Together with Article 324, which entrusts the Election Commission with the task of conducting free and fair elections, these guarantees form a constitutional architecture to insulate democratic processes from sectarian capture.

But the actual effectiveness would also depend greatly on judicial interpretation and institutional enforcement of its provisions. The Supreme Court has time and again held that Secularism is part of the basic structure of Constitution. In **S.R. Bommai v. Union of India**, the Court ruled that State should act in a consistently neutral manner on matters of religion and that the practice of religion for political mobilisation would be unconstitutional. This ruling represented a watershed moment by elevating secularism from an abstract philosophical ideal

²⁶ *A.C. Jose v. Sivan Pillai*, (1984) 2 SCC 656.

²⁷ *Kanhaiyalal Omar v. R.K. Trivedi*, (1985) 4 SCC 628.

²⁸ *Subramanian Swamy v. Election Commission of India*, (2008) 14 SCC 318.

²⁹ *Narain Chand Prashar v. Prem Kumar Dhumal*, Himachal Pradesh HC AIR1993HP84

to a constitutional obligation that could be adjudicated by the courts. The same premise was carried forward in **Aruna Roy v. Union of India**, where the Court declared that secularism in India does not mean hostility to religion, but equal respect and non-preferential treatment.

Judicial pronouncements in the electoral context have also sought to bolster these safeguards. In **Abhiram Singh v. C.D. Commachen**, the Supreme Court expanded the ambit of what is regarded as electoral corrupt practice by ruling that appeals to religion — by the candidate or by a voter, as also the religious beliefs of any third-party — are violative of constitutional values. The Court observed that the basis of elections must be concerns of governance and public policy rather than religious identity. Similarly, in **Ramesh Yeshwant Prabhoo v. Prabhakar Kunte**, the Court took a serious approach to disqualifying candidates invoking religious sentiments and highlighted that communal appeals are incompatible with democratic equality.

Despite these robust doctrinal advancements, constitutional safeguards have a limited practical effect. A key issue is the tab relies on a reactive approach by those who intervene through the judicial system. Courts generally decide allegations of violations through election petitions made after the end of the electoral process.³⁰ As a consequence, even when some candidate is found guilty of corrupt practices, the damage caused by communal polarisation is often irreversible. In its 255th Report on Electoral Reforms, the Law Commission of India observed that there was a need to look towards speedier resolutions of disputes relating to elections as well as more robust preventive safeguards in the affairs of elections.³¹

Moreover, the enforcement of secular safeguards is further undermined by institutional constraints. The Election Commission, despite being constitutionally empowered, frequently draws authority from the Model Code of Conduct, having no statutory backing.³² Although the Commission has sometimes taken proactive measures (issuing notices, censuring candidates, and temporarily preventing campaign activity), its actions are often criticised as insufficient to deter systematic misuse of religion in elections. Reports of Parliamentary Standing Committee are also concerned with the efficacy of enforcement and have stressed the need to strengthen

³⁰ Representation of the People Act, 1951, ss. 80–86.

³¹ Law Commission of India, “255th Report on Electoral Reforms” (2015).

³² Election Commission of India, Model Code of Conduct (2019).

Commission's legal authority.³³

Another major limitation follows from the tension between freedom of expression and restrictions on communal speech. Article 19(1)(a) guarantees right to freedom of speech and expression, which encompasses political speech that is at the core of democratic discourse. However, this freedom is subject to reasonable restrictions under Article 19(2), which include public order and morality.³⁴ The problem is attempting to draw a principled line between legitimate political expression and impermissible religious appeal. In the case of **Ziyouddin Burhanuddin Bukhari v. Brijmohan Mehra**, there was an acknowledgment by the Court as to this difficulty and thus it took a conservative approach in defining what would constitute a corrupt practice.³⁵ Likewise in **Amish Devgan v. Union of India**, the Court acknowledged that regulating hate speech while protecting free expression is complicated and accentuated the need of contextual assessment.

The rise of indirect and coded forms of religious mobilisation has made enforcement even more difficult. Modern-day political campaigns tend to shy away from explicit religious appeals, but use of symbolism, storytelling and dog-whistle politics that resonate with specific communities is still visible.³⁶ However, such strategies render it impossible to prove distinct violations of incumbent behavior prohibited by existing legal provisions, drastically diluting the deterrent effect of constitutional safeguards. Academic studies and empirical evidence suggest that these more subtle forms of mobilisation increasingly appear in recent elections, notably social polarised regions.³⁷

Furthermore, the dependence on post-election informal remedies like election petitions under the Representation of the People Act also greatly minimizes the real effect of legal safeguards. Judicial adjudication in the event of a violation is delayed for many years, undermining the credibility of the electoral process.³⁸ Even the Supreme Court, in **Public Interest Foundation v. Union of India**, recognized this as a clear impetus towards systemic changes needed to cure delays and enhance electoral transparency.

³³ Department-related Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice, "Electoral Reforms Report" (2017).

³⁴ The Constitution of India, art. 19(1)(a), 19(2).

³⁵ *Ziyouddin Burhanuddin Bukhari v. Brijmohan Mehra*, (1976) 2 SCC 17.

³⁶ Christophe Jaffrelot, *Religion, Caste and Politics in India* 214 (Primus Books, New Delhi, 2011).

³⁷ Arun Singh, "Religion and Voting Behaviour in India" *NEHU Journal* Vol. XIX (2021).

³⁸ Law Commission of India, "255th Report on Electoral Reforms" (2015).

Recent reports from the Election Commission and the Press Information Bureau (PIB) also indicate challenges that need to be met in regulating electoral conduct, particularly in terms of digital campaigning and social media.³⁹ The widespread dissemination of information through online platforms that can spread communal narratives at speeds and scale never before witnessed: all usually existing outside the ambit of traditional regulators.⁴⁰ This has laid bare the inadequacy of existing legal frameworks, which were constructed in a pre-digital age.

Overall, the constitutional protections of secularism in elections are strong on paper but ineffective due to institutional constraints, interpretative ambiguities and changes in political practices. The discourse between constitutional ideal and electoral reality indicates the need to be proactive, integral and technologically adaptive in our regulatory approach. Reinforcing enforcement mechanisms and time-bound adjudication and providing clarity on legal standards on acceptable political speech are important, but not sufficiently effective steps in protecting the secular character of India's electoral democracy.

Challenges in Regulation and Enforcement

The question of regulation of religion within electoral politics in India has been one that is complex and constantly evolving, with a persistent chasm between constitutional mechanisms and ground realities. Yet while the legal framework — consisting of constitutional provisions, statutory enactments and judicial doctrines — unequivocally forbids the misuse of religion for electoral purposes, its implementation remains uneven if not inadequate. This disjunction corresponds not simply to institutional constraints but also the adaptive strategies of political actors who continue to manipulate religious identities in ever more sophisticated manners.

One of the biggest challenges is confusion over regarding the interpretation of what is considered a “religious appeal” under electoral law. While Section 123(3) of the Representation of the People Act, 1951, prohibits appeals to religion in the election process, this depends too much on interpretative judgement.⁴¹ Courts have sought to clarify this scope through decisions such as **Abhiram Singh v. C.D. Commachen**, which expanded the prohibition to cover appeals attributable to the religion of voters and third parties. But in practice, political actors frequently employ more indirect or symbolic forms of referencing — invoking cultural heritage, religious

³⁹ Press Information Bureau, “General Elections 2024: Electoral Management Reports” (2024).

⁴⁰ Election Commission of India, “Social Media and Election Guidelines” (2020).

⁴¹ Representation of the People Act, 1951, s. 123(3).

symbolism or historical narratives that reside in a grey space with regard to legality.⁴² This poses great difficulties for enforcement agencies that need to establish a direct nexus between such expressions and electoral intent.

A related matter is the advent of “coded” or “dog-whistle” politics in which religious sentiments are mobilised through indirect and subtle messaging. Modern-day political campaigns often employ insinuating rhetoric, cherry-picked historical analogies, or policy framing that appeal to particular faith-based constituencies as long as they are not technically in breach of jurisprudence. Academic studies show that these tactics have been frequently used in recent elections, especially in states with a history of communalisation.⁴³ The legal structure, intended to target overt communal calls, is sometimes too ill-equipped for these complex forms of mobilisation.

Institutional limitations further add to these challenges. Despite its constitutional mandate under Article 324, the Election Commission of India functions within structural constraints.⁴⁴ It has wide administrative powers but most of its enforcement mechanisms rely on the Model Code of Conduct (MCC), which is not backed by any statutory provision.⁴⁵ Consequently, violations rarely trigger punitive measures and instead result in only advisory actions like notices, warnings or temporary campaign bans.²⁰² The deterrent effect of regulatory interventions is reduced due to this and it leads to continuous violations with minimal consequences.

Judicial enforcement has inherent limitations too. Courts typically get involved in the conduct of elections by way of election petitions brought after the electoral process is complete. Adopting an ex post facto style approach implies that even if a violation is established, the electoral outcome has already been delivered while the larger social impact of communal mobilisation is left unaddressed. The Law Commission of India has, on more than one occasion, expressed concerns over delay in adjudication and noted that election petitions often take many years to be disposed of.⁴⁶ Such delays undermine public confidence in the legal system and weaken the effectiveness of constitutional safeguards.

⁴² Christophe Jaffrelot, *Religion, Caste and Politics in India* 214 (Primus Books, New Delhi, 2011).

⁴³ Arun Singh, “Religion and Voting Behaviour in India” NEHU Journal Vol. XIX (2021).

⁴⁴ The Constitution of India, art. 324.

⁴⁵ Election Commission of India, Model Code of Conduct (2019).

⁴⁶ Law Commission of India, “255th Report on Electoral Reforms” (2015).

Yet another key challenge exists between freedom of expression and control over communal speech. The reach and variety of political speech enjoy a privileged position under Article 19(1)(a) and requires any restriction thereon to satisfy the test of reasonableness under Article 19(2). Courts have recognized the challenge of balancing these conflicting interests. In **Ziyauddin Burhanuddin Bukhari v. Brijmohan Mehra**, the Supreme Court propped a cautious approach and stated that it is necessary to draw a line between legitimate political advocacy and impermissible religious appeal. In **Pravasi Bhalai Sangathan v. Union of India**, the Court acknowledged the dangers caused by hate speech but restricted itself from laying down extensive guidelines and left much of the regulatory burden on existing laws.

The rise of digital campaigning and social media has added a completely new layer to these challenges. Political messaging is delivered on balkanized platforms that cross traditional regulatory boundaries, allowing communal narratives to spread widely and rapidly.²⁰⁸ The Election Commission has issued its own guidelines for social media use during elections, but enforcement was difficult even as these cover challenges such as anonymity, the cross-border nature of data and the vast scale of content. According to reports by the Press Information Bureau and Election Commission, misinformation and targeted messaging have played a significant role in influencing recent elections often leading to increased religious polarisation.⁴⁷

This regulatory landscape becomes even more complicated when you consider the role of media and political discourse. Religious narratives are often amplified by news coverage, political debates and campaign rhetoric that can blur the line between reporting and mobilisation. Violating the law is common, laws are vague providing a free hand to violators, while not enough actions against violators means no accountability whatsoever. The lack of strict accountability mechanisms for media platforms permits the spread of content that can indirectly affect voting behaviour along communal lines.

The persistence of the role of religion in electoral politics is also linked to socio-political realities such as identity-based voting patterns and historical grievances. The election results in many of the critical states, such as Uttar Pradesh, Gujarat and West Bengal showed unmistakable patterns of community consolidation.⁴⁸ Political strategies that promote

⁴⁷ Press Information Bureau, “General Elections 2024: Reports” (2024).

⁴⁸ Election Commission of India, Statistical Reports (2019 & 2024).

community identity as opposed to policy issues reinforce these patterns and normalise the use of religion in elections.

It is also a clear sign of how inadequate legal provisions are to meet current challenges. The Representation of the People Act (RPA), passed in the Republics early years, has been inadequate for 21st century campaigning methods, especially with respect to digital and data-led campaigns.⁴⁹ The non-statutory nature of the Model Code of Conduct has limited scope for statutory enforcement, and similarly criminal provisions under the Bharatiya Nyaya Sanhita require a high threshold for proof, thus making prosecutions rare.

In addition, the lack of coordination between various regulatory authorities such as there is between Election Commission, police and judicial bodies remains disjointed. The absence of synergy among these institutions often leads to slow or ineffective responses to violations. However, a recent report by the Parliamentary committee has pointed out the need for a more integrated approach to electoral regulation from identifying communal appeals, strengthening of Election commission powers and setting explicit legal standards dealing with the issue⁵⁰

In essence, there are multi-layered challenges in regulating religion while elections circumscribe legal ambiguities; institutional constraints; technological disruptions; and socio-political contexts. The constitutional framework provides a strong normative foundation but its practical implementation calls for major reforms. In order to bridge the gap between law and practice, it must focus on strengthening enforcement mechanisms, updating legal provisions to address new-age digital campaigning and political financing phenomena, enhancing institutional coordination and cultivating a culture of constitutional ethics. In the absence of such measures, the incessant politicisation of religion risks undermining not only electoral integrity but also the broader secular fabric of the Indian polity.

Social and Political Consequences

The growing intersection of religion with electoral politics has brought changes on multiple fronts in the Indian democratic fabric, transforming not just voting behaviour but also reconstituting the nature of public discourse and social harmony. The Constitution envisaged a

⁴⁹ IJLRA, “Legal Regulations Governing Elections in India” (2023).

⁵⁰ Department-related Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice, “Electoral Reforms Report” (2017).

secular democratic order, grounded in equality and the rational choice of policies; however, electoral religious mobilisation has slowly reoriented the axis of political engagement away from deliberation about policies to alignment based on identity. This development has grave consequences for democratic legitimacy and social stability both.

The most pernicious form of religion-based electoral mobilisation is that which aggravates sectarian polarisation in society. Electoral strategies that focus on religious identity tend to consolidate together majoritarian and minority voting blocs, consequently entrenching social divisions. Empirical evidence shows voting data from the Statistical Reports of the Election Commission of India have shown that in many states, including Uttar Pradesh, Gujarat and West Bengal, the trend has been one where voting patterns at times have reflected religious consolidation.⁵¹

However, the 2019 General Elections were characteristically explained by unique dynamics of strong Hindu realignment in favour of certain political streams (as seen in wards like Varanasi, Gorakhpur, parts of Western UP) vis-a-vis consolidation amongst sections of Muslim voters behind opposition candidates as a majoritarian response to dominant discourses. A similar picture emerged for the 2024 General Elections, with analysts pointing to identity-based voting as a continuing trend especially in communally sensitive areas.⁵²

Such trends are not just electoral phenomena but have wider implications for society.

Community polarisation generally goes hand in hand with “us versus them” narrative-building that breeds mistrust between communities and unravels a unified civic identity on which a secular democracy rests. A plethora of front-page reports and editorials in *The Hindu* and *The Indian Express* have constantly reminded its readers of the impact that election campaigns, which have been infested by religious sentiments, have on shredding social fabric and instigating communal tensions.⁵³ In some parts of the country, election follow up has been marked by the instances of violence or increased hostility in community relations — illustrating how the language of election can spill into real life.

A major observable effect has been the consolidation of voting blocs along religious lines,

⁵¹ Election Commission of India, “Statistical Report on General Elections 2019”.

⁵² Press Information Bureau, “General Elections 2024: Electoral Trends Report” (2024).

⁵³ Editorials, “Religion and Electoral Politics” *The Hindu* (2019–2024).

particularly in politically competitive states. Election patterns in Uttar Pradesh, which is still the most important electoral state with 80 Lok Sabha seats, are clearly religiously aligned both in 2019 and 2024. Strategic voting by Muslim voters in opposition-religion splits in constituencies like Moradabad, Rampur and Saharanpur had also been shown to help opposition alliances, while studies and electoral analysis have shown that Hindu votes overwhelmingly consolidated behind one political formation. This pattern of “counter-polarisation” shows how religious mobilisation by one group elicits defensive consolidation among other groups, thus entrenching communal divisions.

Similarly, the 2019 elections in West Bengal experienced a steep rise in religious polarisation (e.g. Basirhat, Asansol and Malda constituencies particularly). Political rhetoric used increasingly religious identity and partisanship, leading voting behaviour among the Hindu as well as Muslim community to differ.⁵⁴ This continued into the 2024 elections, with campaign narratives often touching on cultural and religious identity, contributing to heightened communal sensitivity. These trends suggest that electoral competition in these regions is becoming ever more organized around identity and not policy.

Having already seen several rounds of elections recently, Gujarat can prove to be yet another text book example for the role of religion in electoral politics. Constituencies like Ahmedabad East and Vadodara have consistently exemplified strong majoritarian consolidation, aggravated due to years of communal narratives.⁵⁵ Even though development-oriented campaigns dominate the sphere, some scholars contend that religious identity persists as a guiding force of voter preference, especially in closely contested elections.⁵⁶

The statehood elections in Maharashtra, also in 2019, showed a similar tendency of religious and identity-based politics affecting the multi-party competition. There is also a significant segment of voters (Maharashtra Andhashraddha Nirmulan Samiti, Vanchit Bahujan Aaghadi) who may not be captured under the big-name parties, said Deshmukh, referring to smaller parties representing an identity like AIMIM and others that claimed a slice of votes in constituencies like Aurangabad showing possible emergence of alternatives to mainstream electoral politics driven by caste-based identities.⁵⁷ These developments emphasise that

⁵⁴ Christophe Jaffrelot, *Religion, Caste and Politics in India* 214 (Primus Books, New Delhi, 2011).

⁵⁵ Sumit Ganguly, “The Crisis of Indian Secularism,” 14 *J. Democracy* 11 (2003).

⁵⁶ Rajeev Bhargava, *Secularism and Its Critics* 486 (Oxford University Press, New Delhi, 1998).

⁵⁷ Election Commission of India Data; Vanchit Bahujan Aaghadi electoral performance., available at: [Wikipedia.com](https://www.wikipedia.com)

religious identity is not merely an important factor of voter behaviour, but also a variable in the strategic calculus for parties and electoral alliances.

Southern states, which many often see as less communally polarised, have experienced changes too in recent years. In the case of Karnataka, while some constituencies such as Bhatkal and even coastal districts like Dakshina Kannada have seen prominent signs of visible religious polarisation, influenced electoral outcomes through demographic composition (the number of seats won by parties in an adequately Muslim minority area) and communal narratives.⁵⁸ According to reports during the 2024 elections, political campaigns in Karnataka increasingly featured religious rhetoric and this tendency was particularly prevalent in closely contested seats.⁵⁹ This suggests that religious mobilisation is not limited to traditionally polarised regions but diffusing across diverse electoral contexts.

In northeastern states such as Manipur, electoral outcomes in 2024 reflected a different dimension of identity politics, where ethnic and religious identities intersected. With a voter turnout of over 80%, the elections demonstrated how community affiliations significantly influenced voting behaviour, particularly in conflict-affected regions.⁵⁹ The complex interplay between religion, ethnicity, and electoral politics in shaping the democratic results is highlighted by this.

Another dire consequence is the distortion of democratic choice. Elections ought to be a venue for assessing competing policy agendas and records of governance. Voting behaviour that is driven mainly by religious identity implies a superficial understanding of substantive issues like economic development, education, healthcare and employment.⁶⁰ According to political sociology studies, identity-based voting diminishes voter autonomy by subjugating electoral decisions to group affiliations instead of individual preferences.⁶¹ Such transformation also erodes the deliberative capacity of democracy and weakens accountability, as political parties turn to symbolic appeals at the expense of effective governance.

⁵⁸ Constituency data on Bhatkal Assembly, Karnataka., available at: https://en.wikipedia.org/wiki/Bhatkal_Assembly_constituency? (last visited on 29 Apr. 2026)

⁵⁹ "India Election: Religious Polarisation in Karnataka," *The Guardian* (2024).

⁵⁹ Election data, Manipur General Elections 2024., available at: https://en.wikipedia.org/wiki/2024_Indian_general_election_in_Manipur? (last visited on 29 Apr. 2026)

⁶⁰ Pratap Bhanu Mehta, "Religious Democracy and Its Discontents," *Indian Journal of Constitutional Law* (2015).

⁶¹ Arun Singh, "Religion and Voting Behaviour in India" *NEHU Journal* Vol. XIX (2021).

Another reality that testifies to the impact of religious mobilisation is the incidence of “defensive voting” among minority communities. In constituencies with large minority populations, voters tend to rally around candidates that they view as able to defeat a powerful majority-backed party, irrespective of the ideological alignment.⁶² This rational strategic voting behaviour, while benefiting the pluralists in the long run polarised environment, deepens communal differences even further and shrinks political space for inter-communal political engagement. The Sachar Committee Report (2006) though primarily focused on the socio-economic conditions of Muslims, but also highlighted the political marginalisation of Muslims along with strategic voting patterns by minority communities in response to majoritarian politics.⁶³

The politicisation of religion has also impacted political discourse in a way that communal rhetoric has been normalised. Campaign speeches, slogans and media narratives increasingly draw on religious symbols, historical grievances and cultural identity markers.⁶⁴ The changing reality of the new India has become audible in other more recent controversies such as the Gyanvapi mosque dispute, the Sabarimala judgment and, most recently, the hijab ban controversy in Karnataka which have echoed through the electoral landscape.⁶⁶ Some of these issues, though originating in legal and constitutional debates, are reformulated within electoral settings for sectarian voter mobilisation.

The implications are also massive from a governance point of view. Where electoral success is linked to religious mobilisation, political incentives are more likely to tilt towards policies that favour one community over the broader public interest.⁶⁷ This may result in selective welfare measures, symbolic legislation or bureaucratic choices that continue the politics of identity. In the long run, such practices have the potential to erode the principle of equal citizenship guaranteed under Articles 14 and 15 of the Constitution.

These consequences are further amplified by the role of media and digital platforms.

Some prominent examples of such types include the spread of targeted political

⁶² Ashutosh Varshney, *Ethnic Conflict and Civic Life* 89 (Yale University Press, 2002).

⁶³ Government of India, “Sachar Committee Report” (2006).

⁶⁴ Upendra Baxi, “The Crisis of Indian Secularism,” *Economic and Political Weekly* Vol. 30 (1995).

⁶⁶ Rishav Kumar, “Religion and Politics in Contemporary India,” IJAMSR Conference Paper (2025).

⁶⁷ Rajeev Bhargava, *Secularism and Its Critics* 486 (Oxford University Press, New Delhi, 1998).

advertisements, especially with communal undertones on social media.⁶⁵ The fastspreading nature of misinformation and emotionally charged content can skew voter perceptions and further increase polarisation. The Election Commission and Press Information Bureau have recognised the challenge that digital campaigning poses, as content is often anonymous, ephemeral and widely circulated and thus difficult to be regulated.

But even after, we must also recognise that the effect of religion on electoral politics is not uniform across the country. In many parts of the country, voters still prefer development issues and performance of the government over identity-based appeals.⁶⁶ But the increasing salience of religious mobilisation in major electoral battle ground states represents a wider trend that cannot be overlooked.

Contemporary Trends in Electoral Secularism

Time has changed the face of electoral politics in India owing to many factors and development in recent years including new technologies, changing campaign practices and socio-political elements. Each of these transformations has deeply affected the coping between religion and elections, opening up new challenges for secularism's survival.

Among the most prominent trends, there is an increased reliance on digital platforms and data-driven campaigning. Political parties now use sophisticated tools like microtargeting, algorithmic messaging and data analytics to reach particular voter groups.⁶⁷ And these methods enable highly targeted and customised communication, often tailored to the cultural or religious sensibilities of particular communities. These tactics increase campaign efficiency but they also stir concerns over the clandestine deployment of religious narratives and voter-perception manipulation.

The increasing role of social media has also intensified the importance of religion in electoral talk. Platforms like WhatsApp, Facebook and YouTube have moved to the center of political communication — enabling swift responses dissemination from campaigns that go unchecked by traditional regulatory oversight. Evidences of communal misinformation and polarising content during election periods have been recorded in studies and reports, especially during the

⁶⁵ Election Commission of India, “Social Media Guidelines” (2020).

⁶⁶ Sumit Ganguly, “The Crisis of Indian Secularism,” 14 *Journal of Democracy* 11 (2003).

⁶⁷ Election Commission of India, “Use of Technology in Elections” (2024).

2019 and 2024 General Elections.⁶⁸ The aspects of anonymity and virality in digital content makes its tracing accountability challenging, which obstructs enforcement efforts.

One more emerging pattern of an electoral campaign is the strategy exercise of legal and cultural controversies. Debates, including those around the Gyanvapi mosque controversy, hijab ban in Karnataka and the Shayara Bano case on triple talaq have been inducted into political narratives to mobilise voters.⁶⁹ These issues, while grounded in constitutional and legal debates, are frequently reframed as religious identity and community interests that take centre stage. The alignment of law and the campaign has implications for how legal discourse overlaps with electoral strategy, and where these interests converge.

The significance of leadership and political rhetoric has changed as well. Often campaign speech suits references to religious heritage, cultural identity, and historical grievance into a narrative framework that appeals voters on an emotional level.⁷⁰ And while such rhetoric may not always amount to a direct breach of electoral law, it feeds into the larger process of communalisation of politics.

Electoral data also shows these trends. In several constituencies, notably in states such as Uttar Pradesh, Bihar and West Bengal, voting behaviour in recent elections have indicated unmistakable signs of religious consolidation.⁷¹ Indeed, in closely divided electoral districts analysts note that election outcomes are determined by even marginal vote swings by the electorate in a given community making it rational for political agents to engage in identity-based mobilisation.

Concurrently, those developments have received heightened judicial and institutional scrutiny. There are also guidelines as well as directives issued by the Supreme Court and Election Commission to curb hate speeches and regulate digital campaigning.⁷² Yet, these measures have limited efficacy due to the scale of technological change.

CONCLUSION

The increasing participation of independent watchdog organisations and civil society is a step

⁶⁸ Press Information Bureau, “Social Media and General Elections 2019 & 2024” (2024).

⁶⁹ Rishav Kumar, “Religion and Politics in Contemporary India,” IJAMSR Conference Paper (2025).

⁷⁰ Supra note 54.

⁷¹ Election Commission of India, Statistical Reports (2019 & 2024).

⁷² *Pravasi Bhalai Sangathan v. Union of India*, (2014) 11 SCC 477.

in the right direction. In recent years, initiatives to monitor hate speech, encourage voter awareness and promote issue-based voting have taken off. These efforts, though limited in scope, are part of a developing process whereby democracy itself is being fortified; thus countering the adverse impacts of communal mobilisation.

In essence, contemporary trends in electoral politics observe a multifaceted relationship intertwining technology, identity, and governance. With the constitutional assurance of secularism broadly intact, its implementation in more quotidian fields, especially electoral politics, faces fresh and evolving threats. In a response to all these issues, we must adopt holistic approaches that not only encourage political inclusion, legal reform, institutional innovation and societal engagement but also work towards bridging the gap between communities within our democracy.

In conclusion, the social and political consequence of religion-based electoral mobilisation extend beyond the immediate context of elections, affecting the very foundations of India's secular democracy. By fostering communal polarisation, distorting democratic choice, and reshaping political discourse, such parties pose a significant challenge to the constitutional vision of an inclusive and pluralistic polity. Addressing these consequences requires not only legal reforms but also a broader commitment to democratic values and civic engagement.

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