NAVIGATING SECULAR IDEALS: A COMPARATIVE ANALYSIS BETWEEN POSITIVE AND NEGATIVE SECULARISM

Olivia Kingston, St. Joseph's College of Law, Bengaluru.

ABSTRACT

This paper aims to present a comparative analysis between positive and negative secularism in countries across the globe, and explore the varying impact that they have on their citizens and the rights that they are offered. Multiculturalism is a growing phenomenon and different governments have chosen their own approaches to dealing with it in order to promote the welfare of its citizens. The study seeks to clarify the complexities involved with these two types of secularism, as well as its implications for governance, societal cohesion, and individual liberties.

By curbing the freedom that its citizens have to publicly profess their faith, a country may intend to reduce the possibility of wedges being driven between communities. However well-intentioned these practices may be, forcing the people to remain uniform in the name of public welfare does not promote growth and open-mindedness. Diversity should be celebrated, and it is harmful to attempt to conceal the differences in people simply to maintain order in the nation.

Through this paper, the author intends to point out the benefits to allowing individuals of a country to be able to express their faith in public, and not have to hide their beliefs away in the name of peace. If the people of a country are unable to accept that their beliefs are not the only possible choice, then this points to a larger issue regarding their opinions about people outside of their own community, which can only result in more unrest in the future.

HYPOTHESIS:

Countries that endorse positive secularism promote a more comprehensive and respectful acknowledgement of the diversity present among its citizens, as compared to negative secularism.

RESEARCH QUESTIONS:

1. To what extent does positive secularism aid in fostering religious tolerance and respect for diversity, and how does negative secularism compare?

2. How do positive and negative secularism affect the relationship between state institutions and religious organisations?

3. How does the conceptualisation and implementation of positive and negative secularism differ across the range of cultural and historical contexts?

4. What impact do positive and negative secularism have on the individual freedoms of the citizens?

SCOPE OF RESEARCH:

This research paper aims to conduct a comparative analysis between positive and negative secularism as demonstrated by countries around the world. The paper considers secularism in various forms in the United States of America, France, Turkey, India, and South Korea.

These countries were chosen as there exists a major portion of their populations that belongs to the same religion, and yet the countries have chosen to remain secular. However, their implementation differs. Some countries have elected that while they have not declared a specific religion, every citizen has the right to publicly profess and practice whichever faith they follow. On the other hand, other countries have decreed that it is against the law and public morality to make public professions about their religion. These differing points of view will be examined and a comparative analysis will be drawn between the two schools of secularism.

By scrutinizing the contrasting approaches to secularism, the paper seeks to draw a comparative analysis, shedding light on how these nations navigate the complex interplay of religion,

governance, and individual freedoms. This comparative exploration provides valuable insights into the diverse manifestations of secularism in distinct cultural, legal, and historical settings.

METHODOLOGY:

This paper employs the doctrinal method of research in order to source its information. Data has been collected from secondary sources, both from publications as well as reputable online sources.

INTRODUCTION:

A country that is as vast and culturally diverse as India is bound to have more than its fair share of history of communalism and issues regarding the varying differences among its people. Other countries with similar problems have taken different approaches in attempting to mitigate tensions and promote unity. One such method is declaring the nation to be secular, which can be defined as state neutrality in matters of religion[1]. The state does not promote the following of any particular religion, maintains neutrality and provides equal protection to the practice of all religions.[2]

This research paper uses the examples of India, South Korea, and the United States of America to discuss positive secularism, and analyses negative secularism using France and Turkey. With the exception of South Korea, where most of the population identifies as irreligious[3], all of the countries chosen have a large majority in terms of the most commonly followed religion within the nation, and yet have made the decision to declare neutrality in relation to religion.

BODY:

Conceptualisation and Implementation of Positive and Negative Secularism

India is an extremely diverse country that compromises myriad cultures that aim to co-exist with one another. Though the word 'secular' was not originally mentioned, and was added by the 42nd Amendment to the document, the values of secularism have always been woven into

---

[1] MP Jain, *Indian Constitutional Law,* pg 1297
[2] Ibid, pg 1298.
[3] STATISTA, https://www.statista.com/statistics/996013/south-korea-population-distribution-by-religion/ (last opened 23rd April, 2024)

the fabric of the Constitution of India.[4] Articles 25 to 28 of the Constitution of India discuss the rights given to all persons in India regarding religion. These rights are not limited to the citizens of the nation, and include all individuals in the country. By declaring secularism as one of the core principles of the Constitution, its presence is integral to the welfare of the public, and it can never be denied to any person. The very concept encourages respect for all religions and equal protection for all. Presently, however, the government is facing allegations regarding attempts towards forced uniformity in the name of equality, which goes against its fundamental concepts of equity as a basic principle of equality.

In the United States of America, the Constitution begins in the name of the people instead of using that of any God. The First Amendment explicitly forbids the creation of any law that respects the establishment of religion, or prohibits the free exercise thereof.[5] It was the view of many founding fathers, including George Washington, Thomas Jefferson, and James Madison, that the state should be kept separate from the church, and advocated for the government's non-interference with religion.

Article 20 of the Constitution of South Korea provides for the right of all citizens to enjoy freedom of religion. No state religion is to be recognised and religion and state are kept distinct from one another. Historically, the country has always been religious, transitioning from shamanism to Buddhism to Confucianism to Christianity over the span of many dynasties, but has elected to remain secular in the modern age in order to mitigate risk of corruption and perversion of religion impacting public welfare.

The current separation of religion and State in France is majorly thanks to a law that emerged in 1905 after an arduous battle to restrict the political power of the Church.[6] This law created the concept of "laïcité", later introduced explicitly in 1958, which broadly translates to secularism, and has been used as a defining principle for its current stance on religious expression. The country aims to promote unity in its people by removing the differences between them and thus making them equal to all.

---

[4] Rather, A. Y. . (2021) "Secularism in India Myth or Reality: an Explanatory Study", Journal of Psychology and Political Science(JPPS) ISSN 2799-1024, 1(02), pp. 35–41. doi: 10.55529/jpps.12.35.41.
[5] Bill of Rights, *The National Archives.* (http://www.archives.gov/exhibits/ charters/ constitution_ transcript. html)
[6] THE ATLANTIC, https://www.theatlantic.com/magazine/archive/2021/12/france-god-religion-secularism/620528/ (last opened 20th April, 2024)

Turkey's Kemalist regime laid the foundation for the country's current treatment of religion.[7] Turkey has been declared a secular state by means of multiple constitutional amendments. In addition to this, several legal systems and educational policies have been introduced to support it. The country has been on the receiving end of criticisms of speculative authoritarianism, and prioritising principles over the true welfare of its people.

Role of Secularism in Fostering Religious Tolerance and Respect for Diversity

By choosing to promote positive secularism, countries such as India, the United States of America, and South Korea aim to foster religious tolerance and acceptance of diversity. Every person is given the right to openly practice and follow their beliefs, with reasonable restrictions. The state stays separate from religious matters, and equal protection is given to all faiths to continue their practices. The central idea behind this form of secularism is to promote the peaceful co-existence of different religious communities. While allowing free expression and practice of any and all beliefs, the state does not promote or condemn any specific faith, and provides equal treatment to all.

On the other hand, negative secularism, as demonstrated in countries like Turkey and France, do not encourage the display and open practice of any religious beliefs. The legality of doing so may differ based upon the country and its policies, but the general attitude of the state is unsupportive towards such expression. For example, France has currently banned the wearing of abaya in state-run schools as it violates "laïcité".[8] The opinion of the French government is that in order to promote equality, all people must be treated alike, and no distinctions should be made between them, going so far as to forbid the expression of any disparity. This is an unconducive environment for acceptance of diversity in the name of uniformity.

Effects of Secularism on the Relationship between State Institutions and Religious Organisations

By keeping state institutions separate from any religious organisations, countries aim to prevent the government from unfairly supporting certain religious beliefs over others, and must instead

---

[7] THE CENTURY FOUNDATION, https://tcf.org/content/report/turkeys-troubled-experiment-secularism/ (last opened 20th April, 2024)
[8] THE HINDU, https://www.thehindu.com/specials/text-and-context/understanding-la%C3%AFcit%C3%A9-the-french-principle-of-secularism/article67270106.ece (last opened 20th April, 2024)

remain as a neutral party.

The impact of secularism on the relationship between state institutions and religious bodies is pervasive and multi-dimensional. From adopting an uninvolved stance in matters regarding religious disputes to the prevention of provision of certain benefits that unfairly elevate one belief over others, this separation intends to focus on the upholding of democratic values and the common good of the people.

This separation also goes hand-in-hand with the safeguarding of basic human rights, including the right to freedom of expression and freedom of association. It aids in preventing discrimination based on religious beliefs and promotes inclusivity and acceptance.

In practice, the exclusivity of statutory bodies and religious institutions manifests in various ways, including the lack of funding provided by the State to these institutions, no official promotion of a certain religion by the government, and no State involvement in the private practices of individuals within reasonable limitations (i.e. without threatening public order and morality).

Though the concept of keeping apart governmental organisations and religious bodies is common to both positive and negative secularism, the extent to which this lack of involvement extends varies from country to country. For example, in India, personal laws include religion-specific laws, such as Hindu Law and Muslim Law, which co-exist with secular laws, and their application differs on a case-to-case basis. However, in the United States, there are no such provisions, and every citizen is bound by the same laws irrespective of their faith.

Impact of Positive and Negative Secularism on the Individual Freedoms of the Citizens

Though on paper both forms of secularism aim to promote understanding and cohesion among the people, the methods employed by them differ greatly both in their conceptualisation as well as in the impacts they have. Positive secularism actively focuses on promoting equality, tolerance towards diversity, and protection of human rights, while negative secularism aims to erase differences and disparities entirely to create a sense of equality. State institutions bear the onus of adopting and implementing an approach that respects the rights and freedoms of their citizens while also upholding democracy and multiculturalism.

By implementing a system that propagates positive secularism, citizens are allowed to freely

worship, express their beliefs, and observe their religious rituals without undue interference from the government. This system protects their rights, though they may be only exercised to a certain extent, and reasonable restrictions should be set to protect the interests of society as a whole. This allows for the people to enjoy participating in public life without the fear of facing prejudice or discrimination based upon their religious beliefs. They are able to interact with diverse perspectives and take part in interfaith activities without fear, which also encourages tolerance, mutual respect, and an open dialogue about differences.

On the other hand, when state institutions attempt to enforce strict policies that limit visibility of religious articles or symbols, or prevent the public practice of their rituals, there is a significant risk of infringement on the rights of individuals to freely express their identity. By hiding the existence and diminishing the importance of understanding different religious perspectives, states may alienate religious communities and foster resentment among the people. It may even worsen social divisions and conflicts, causing larger problems than the issues it intends to handle.

CONCLUSION:

Through this paper, the author intends to discuss the differences between positive and negative secularism, and conduct an analysis of how the applications of these forms of secularism differ from one country to another. By doing so, the author aimed to draw a conclusion about which form of secularism truly benefits the public more, and promotes their welfare and well-being.

Both forms of secularism operate based upon the theory of equal, unbiased treatment of all, though negative secularism chooses to implement this concept by refusing to take into consideration religious differences at all. This results in restriction of religious expression, a marginalisation of religion in public discourse, and could lead to erosion of fundamental rights. On the other hand, positive secularism aspires to uphold the principles of fairness and pluralism, and promotes the ideal of free conduct of all religious practices without fear of discrimination or persecution. However, positive secularism is only effective so long as reasonable limitations are imposed upon the public, and these rights are not misused. A balance must be maintained such that democratic values are upheld while protecting the rights and freedoms of the people, and thus create a society in which all can live according to their beliefs without interference and with the dignity owed to them.

REFERENCES:

BOOKS

1. MP Jain, *Indian Constitutional Law*, 8th edition, LexisNexis.

ARTICLES

1. Ahmad, Dr. Nehaluddin, "The Modern Concept of Secularism and Islamic Jurisprudence: A Comparative Analysis," Annual Survey of International & Comparative Law: Vol. 1 (2009)

2. Koirala, S.P. and Tripathee, R.R., "Freedom of Religion and Secularism: A Comparative Study of American, Indian and Nepali Practices." (2010.)

3. Shankar, S., "India's secularism in comparative perspective." India Review. (2003)

4. Rather, A. Y. "Secularism in India Myth or Reality: an Explanatory Study", Journal of Psychology and Political Science (JPPS) ISSN 2799-1024, 1(02), pp. 35–41. (2021)

5. Majumder, Shantanu, "Understanding Of Political Secularism In A Comparative Perspective: France, USA, Turkey And India", Journal of the Asiatic Society of Bangladesh (Hum.), Vol. 58(2), 2013, pp. 217-237. (2013)

6. Divya. S, "Secularism and Uniform Civil code", 5 (1) IJLMH Page 44 - 51 (2022).

7. Kim, Sang Yong, "Religion and the Secular State in Korea", International Center for Law and Religion Studies. (2015)

8. Phillips, Gerard, "Introduction to Secularism", National Secular Society. (2011)

ONLINE SOURCES

1. EXPLORING SECULARISM, https://exploringsecularism.org/uploads/114-different-types-of-secularism-(part-2)-secularism-around-the-world.pdf (last opened 7th April, 2024)

2. THE HINDU, https://www.thehindu.com/news/national/karnataka/india-has-positive-secularism-unlike-turkey-which-has-banned-hijabs-in-public-places-petitioners-tell-karnataka-high-court/article65053262.ece (last opened 8th April, 2024)

3. THE ATLANTIC, https://www.theatlantic.com/magazine/archive/2021/12/france-god-religion-secularism/620528/ (last opened 20th April, 2024)

4. STATISTA, https://www.statista.com/statistics/996013/south-korea-population-distribution-by-religion/ (last opened 23rd April, 2024)

5. THE CENTURY FOUNDATION, https://tcf.org/content/report/turkeys-troubled-experiment-secularism/ (last opened 20th April, 2024)

6. THE HINDU, https://www.thehindu.com/specials/text-and-context/understanding-la%C3%AFcit%C3%A9-the-french-principle-of-secularism/article67270106.ece (last opened 20th April, 2024)