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# LAW RELATING TO SECULARISM IN INDIA: A JURISPRUDENTIAL ANALYSIS

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Harshit Chand, Uttarakhand University

Satyam Sharma, Uttarakhand University

## ABSTRACT

The Preamble, which states India to be a sovereign, socialist, secular, and democratic republic, demonstrates how the Indian Constitution's framers, led by Dr. B.R. Ambedkar, infused secular principles into its structure. Articles 25 to 28 outlaw discrimination on the basis of religion and guarantee religious freedom. This essay covers major opinions and arguments from the Constituent Assembly's discussions on secularism and religious liberty. The framers of the Constitution questioned the sustainability of a secular state during the Constituent Assembly proceedings, preferring either the acceptance of indigenous faith and culture or the explicit state's indifference to religion. Dr. B.R. Ambedkar considered different points of view and urged for a settlement that finds a balance between social harmony, religious freedom, and the theft of public finances.

**Keywords:** Secular, India, Constitution, Jurisprudence

## I. INTRODUCTION

The arguments for inserting "In the name of God" in the Constitution to recognise the country's deeply embedded spirituality shed light on the importance of spiritual beliefs in Indian society. The protection of religious freedom, the administration of religious institutions, and the rights of minorities to form and run educational institutions are all examined under the constitutional provisions included in Articles 25 to 30. Legal precedents show the delicate balance between religious freedom and governmental control in a diverse society and provide insights into the interpretation and execution of these provisions.<sup>1</sup> Under the direction of Dr. B.R. Ambedkar, the Indian Constitution's authors integrated secular ideas into the structure.<sup>2</sup> India is a sovereign, socialist, secular, and democratic country, according to the Preamble. The Constitution's Articles 25 to 28 protect religious freedom and forbid discrimination on the basis of religion.

The government's programs were designed to create a modern, secular state, encourage education, and cultivate a scientific and rational mindset.<sup>3</sup> Secularism has been upheld in large part by the Indian judiciary.<sup>4</sup> The supremacy of the Constitution and secular values has been reaffirmed by landmark rulings like the Kesavananda Bharati case.<sup>5</sup>

### 1.1 Constituent Assembly debate on secularism

The idea of a "Secular State" as a means of avoiding confronting the nation's old culture was criticised by Shri Loknath Mishra. He questioned the viability of separating religion from living and recommended either clearly declaring the state's disregard for religion or highlighting the significance of indigenous faith and culture<sup>6</sup>. He argued that permitting religious propagation can be contradictory and even dangerous, particularly in light of the past repression of Hindu culture. They oppose the constitution's inclusion of religious propagation as a fundamental right because they believe it could cause strife and jeopardise social cohesion. He also argued for a more circumspect approach, arguing that religion ought to be allowed to self-regulate without constitutional support."Over time, it seems to me that our "Secular State" is a

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<sup>1</sup> Marc Galanter, *Hinduism, Secularism, and the Indian Judiciary*, 21 PHIL. & PUB. AFF. 467, 472–74 (1992).

<sup>2</sup> B.R. AMBEDKAR, *CONSTITUENT ASSEMBLY DEBATES* vol. VII, 781–83 (Lok Sabha Secretariat 1949).

<sup>3</sup> India Const. arts. 25–30.

<sup>4</sup> *S.R. Bommai v. Union of India*, (1994) 3 SCC 1 (India).

<sup>5</sup> *Kesavananda Bharati v. State of Kerala*, (1973) 4 SCC 225 (India).

<sup>6</sup> GRANVILLE AUSTIN, *THE INDIAN CONSTITUTION: CORNERSTONE OF A NATION* 330–32 (Oxford Univ. Press 1966).

catchphrase, a way to avoid the country's long-standing tradition. Articles 19 to 22 of the Draft Constitution clearly make clear how ridiculous this position is.<sup>7</sup>

In India, we are reluctant to accept such acknowledgement. Both the freedom to practise one's religion and the right to spread anti-religious propaganda are granted by the USSR. Our Constitution does not grant the right to an anti-religious state, but it does grant the right to spread religion. Citing worries about the misappropriation of public funds, the complexity of religious variety, and possible societal unrest brought on by religious disputes in schools, the speaker makes the case for a middle ground. He addressed the rules pertaining to religious instruction in community-run schools receiving state funding and supported the ban on religious instruction in state institutions, stressing the necessity of parental agreement for kids from different religious backgrounds. Dr. B. R. Ambedkar outlined the several points of view on the subject, including those that support religious education without coercion, oppose it altogether, and propose limitations on state-funded educational establishments.<sup>8</sup> Citing worries about the misappropriation of public funds, the complexity of religious variety, and possible societal unrest brought on by religious disputes in schools, the speaker makes the case for a middle ground. He addressed the rules pertaining to religious instruction in community-run schools receiving state funding and supported the ban on religious instruction in state institutions, stressing the necessity of parental agreement for kids from different religious backgrounds.

## II. PREAMBLE AND SECULARISM

The Preamble of the Constitution lays out the principles of the Indian legal and political system. It outlines the fundamental values that India aspires to uphold as a sovereign, democratic, secular, and socialist country: justice, liberty, equality, and brotherhood.<sup>9</sup> By including the word "secular" in the Preamble, the 42nd Amendment (1976) formally reaffirmed India's commitment to religious pluralism and neutrality. However, the FR (Part III) and DPSP (Part IV) demonstrate that the Constitution's secular character existed from the first. India's notion of secularism is different from the Western concept, which often implies a strict separation of state and religion. India, on the other hand, maintains a principled distancing policy in which the government intervenes when necessary to defend social justice and religious freedom but

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<sup>7</sup> H.M. SEERVAI, *CONSTITUTIONAL LAW OF INDIA* vol. I, 312–15 (4th ed. 1991).

<sup>8</sup> B.R. AMBEDKAR, *CONSTITUENT ASSEMBLY DEBATES* vol. VII, 820–23 (Lok Sabha Secretariat 1949).

<sup>9</sup> DURGA DAS BASU, *INTRODUCTION TO THE CONSTITUTION OF INDIA* 49–52 (23rd ed. 2018).

does not endorse or promote any particular religion. The Preamble's secular vision aims to prevent one religion from dominating another, protect religious minorities, and guarantee that all religions are treated fairly. Secularism continues to be a crucial part of India's constitutional character, ensuring unity and peace between various religious groups, given the country's diverse religious views.<sup>10</sup>

## 2.1 Examining the Preamble's use of the term "Secular"

The word "secular" is used in the Preamble to indicate that India has no official state religion and that the government must remain impartial towards all religious beliefs. It guarantees freedom of religion, which enables people to declare, practise, and propagate their faith, and it guarantees that all religions be treated equally in terms of government, legislation, and policy. Unlike Western secularism, which demands absolute separation, India permits the state to intervene in religious matters to modify discriminatory practices, such as the eradication of untouchability and the prohibition of triple talaq<sup>11</sup>. By ensuring social justice, inclusivity, and religious pluralism, this unique secular ethos fosters national harmony. Additionally, it keeps FR and constitutional values from being subordinated to any religion. The Preamble's commitment to secularism ensures that India's legal system upholds social justice, inclusivity, and religious freedom rather than enforcing a rigid separation between religion and state. India's secular culture honours religious diversity while ensuring that core values are not subordinated to religious convictions.<sup>12</sup>

## 2.2 The 42nd Amendment Act

During Prime Minister Indira Gandhi's government's Emergency in 1976, the word "secular" was reinstated by the 42nd Amendment, which had been missing from the 1950 Constitution.<sup>13</sup> Even though the nation's secular nature was already amply demonstrated by a number of Constitutional Clauses, the Amendment added the word expressly to dispel any question regarding India's religious neutrality. The addition of the word "secular" to the Preamble of the 42nd Amendment (1976) sparked debates. Critics said that it was unnecessary as the Directive Principles and Fundamental Rights already reflected India's secularism. Some believed it was

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<sup>10</sup> RAJEEV BHARGAVA, *SECULARISM AND ITS CRITICS* 95–99 (Oxford Univ. Press 1998).

<sup>11</sup> *Shayara Bano v. Union of India*, (2017) 9 SCC 1 (India).

<sup>12</sup> Abhinav Chandrachud, *How Indian Secularism Differs from the West*, THE INDIAN EXPRESS, Sept. 9, 2017, at 8.

<sup>13</sup> The Constitution (Forty-Second Amendment) Act, 1976, § 2 (India).

a political tactic by Indira Gandhi to strengthen her hold on power and advance progressive governance during the Emergency. Others were concerned that secularism might be misinterpreted as suppressing religious customs rather than guaranteeing that all religions are treated equally. Despite these concerns, the SC has consistently upheld secularism as an essential component of the Constitution. In *S.R. Bommai v. UOI*<sup>14</sup>, the Court reaffirmed that secularism is crucial to Indian governance, protecting religious freedoms within the confines of constitutional morality while ensuring the state's impartiality.

### III. SECULAR PROVISION IN THE CONSTITUTION

India has a diversified population in terms of language, religion, and culture. The "right to freedom of religion" is guaranteed under Articles 25 to 28 of the Indian Constitution, which acknowledges the complexity and importance of religion in the lives of its citizens. Every person has the freedom and right to select and follow their own religion owing to these provisions. Additionally, the authors of the Constitution included provisions for "Cultural and Educational Rights" in Articles 29 and 30<sup>15</sup>. Let's examine these constitutional clauses in more detail:

#### 3.1 Article 25

The basic right to freedom of religion is guaranteed by Article 25 of the Indian Constitution. It includes many facets of the freedom to declare, practise, and spread one's faith. However, this freedom is subject to reasonable limitations put in place for the sake of morality, public health, and order.<sup>16</sup> To put it another way, while people are free to practise their faith, it shouldn't interfere with social cohesion or endanger the welfare of others.<sup>17</sup>

Article 25 distinguishes between secular activities connected to religious institutions and religious practices. Secular activities that might be connected to religious practices are subject to regulation or restriction by the state.<sup>18</sup> Social reforms, economic endeavours, and other non-core religious characteristics are examples of these secular initiatives. Crucially, as long as they

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<sup>14</sup> *S.R. Bommai v. Union of India*, (1994) 3 SCC 1 (India).

<sup>15</sup> Granville Austin, *The Indian Constitution and Minority Rights*, 15 J. COMP. LEGIS. & INT'L L. 12, 18–20 (1963).

<sup>16</sup> Ronojoy Sen, *Freedom of Religion and Public Order in India*, 36 J. INDIAN L. INST. 195, 201–03 (1994).

<sup>17</sup> *Bijoe Emmanuel v. State of Kerala*, (1986) 3 SCC 615 (India).

<sup>18</sup> S.P. Sathe, *Essential Religious Practices and the Supreme Court*, 44 J. INDIAN L. INST. 321, 328–30 (2002).

don't break any other laws or public order, religious denominations or any portion of them have the freedom to run their own religious affairs, including starting and running religious organisations. The legality of the Jammu and Kashmir Mata Vaishno Devi Shrine Act, 1988<sup>19</sup> was contested in the *Vaishno Devi Shrine Board v. State of Jammu and Kashmir*<sup>20</sup>. The goal of this measure was to enhance the administration and governance of the temple. It was opposed, nevertheless, on the grounds that the petitioner's basic right to practise their faith was allegedly violated. The act gave the state the power to designate priests and eliminated hereditary clerical seats. According to the Supreme Court, the state may control a priest's service under clause 2 of Article 25 since it is a secular activity.

In a similar vein, the Supreme Court stressed in *Sardar Syedna Taher Saifuddin Saheb v. State of Bombay*<sup>21</sup> that the right to choose fundamental practices within a religious denomination is part of the freedom to govern religious matters. The court's ruling respected the state's responsibility to uphold morality and public order while defining the limits of religious freedom.

### **3.2 Article 26**

According to Article 26 of the Indian Constitution, citizens are free to conduct their religious affairs as long as public order, morality, and health are taken into account.

#### **3.2.1 Article 26(a)**

This clause guarantees every religious organization's ability to create and run organisations for charitable and religious reasons. There is a tight relationship between the terms "establish" and "maintain." A religious organization can only obtain the authority to run and sustain an institution after it has established itself. Crucially, both majority and minority religions are covered by this freedom. The court upheld this liberty for all religions in the *TMA Pai Foundation v. The State of Karnataka*.<sup>22</sup>

#### **3.2.2 Article 26(b)**

Religious organisations are entitled to handle their own religious affairs. Unless such

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<sup>19</sup> *Jammu and Kashmir Shri Mata Vaishno Devi Shrine Act*, 1988 (India).

<sup>20</sup> *Shri Mata Vaishno Devi Shrine Board v. State of Jammu & Kashmir*, (1997) AIR SC 1962 (India).

<sup>21</sup> *Sardar Syedna Taher Saifuddin Saheb v. State of Bombay*, (1962) 2 SCR 496 (India).

<sup>22</sup> *T.M.A. Pai Foundation v. State of Karnataka*, (2002) 8 SCC 481 (India).

management has a negative impact on public order, morality, or health, the state cannot become involved. For example, the Aurobindo Society's teachings were not regarded as religious institutions in *S.P. Mittal v. Union of India*<sup>23</sup>, thus the government's acquisition of the Aurobindo Ashram did not violate Articles 25 and 26.

The right of religious denominations to possess and acquire both movable and immovable property is covered in Article 26(C). Nonetheless, the state can control such property by enacting the necessary legislation.

The right to manage religious property in compliance with the law is covered under Article 26(d). The state's job is to maintain religious autonomy while ensuring adherence to the law.

### 3.2.3 Article 28

The Indian Constitution's Article 28<sup>24</sup> addresses religious freedom in educational settings. Regarding religious instruction, worship, and attendance at religious rituals, it protects the rights of individuals, religious organisations, and educational institutions. Article 28(1) states that "no religious instruction shall be provided in any educational institution wholly maintained out of State funds." This clause makes sure that public schools supported by the government don't teach religion and stay secular. Article 28(2) states that "nothing in clause (1) shall apply to an educational institution which is administered by the State but has been established under any endowment or trust which requires that religious instruction shall be imparted in such institution." Article 28(3) states that "no person attending any educational institution recognised by the State or receiving aid out of State funds shall be required to participate in any religious instruction that may be imparted in such institution or to attend any religious worship that may be conducted in such institution or in any premises attached thereto unless such person or, if such person is a minor, his guardian has given his consent."<sup>25</sup>

Religious instruction is allowed at educational institutions that are not entirely funded by the state, but parental or guardian approval is needed. The freedom to decide whether or not to receive religious instruction is granted to students enrolled in such schools. Students who practise a particular religion may also participate in the institution's religious education or

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<sup>23</sup> *S.P. Mittal v. Union of India*, (1983) 1 SCC 51 (India).

<sup>24</sup> India Const. art. 28.

<sup>25</sup> M.P. JAIN, *INDIAN CONSTITUTIONAL LAW* 565–67 (8th ed. 2018).

worship. Article 28's principal goal is to uphold the secular character of state-funded educational institutions while honouring people's right to practise their own religion or abstain from religious activity. A Public Interest Litigation (PIL)<sup>26</sup> was brought under Article 32 in the *Aruna Roy v. Union of India*<sup>27</sup>. The petitioner argued that the National Curriculum Framework for School Education (NCFSE) was anti-secular and in violation of constitutional principles. Nonetheless, the court decided that studying religious philosophy for a life based on values in society was not forbidden and that there was no breach of Article 28.

### 3.2.4 Article 29

According to Article 29(1) "Any section of the citizens residing in the territory of India or any part thereof having a distinct language, script, or culture of its own shall have the right to conserve the same." Any segment of the Indian population having a unique language, script, or culture is entitled to preserve and advance their identity. This clause guarantees the development and conservation of minority communities' distinctive heritage. Minority communities can create and run educational institutions that are suited to their unique cultural and linguistic requirements, regardless of their religious or linguistic background. Minorities' cultural and educational rights are protected by Article 29<sup>28</sup> of the Indian Constitution. Its goal is to defend the rights of India's linguistic, cultural, and religious minorities. 29(2) states that "no citizen shall be denied admission into any educational institution maintained by the State or receiving aid out of State funds on the grounds only of religion, race, caste, language, or any of them." Article 29(2) forbids discrimination against any citizen on the basis of race, religion, caste, language, or any combination of these, particularly when it comes to admission to state-run or supported educational institutions.<sup>29</sup>

### 3.2.5 Article 30

Religious and linguistic minorities' educational and cultural rights are protected by Article 30 of the Indian Constitution, allowing them to establish institutions that meet their unique needs and goals while enhancing India's rich cultural heritage. The definition of Article 30<sup>30</sup> is as

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<sup>26</sup> Ronojoy Sen, *PILs and Secular Education in India*, 53 J. INDIAN L. INST. 700, 705–07 (2021).

<sup>27</sup> *Aruna Roy v. Union of India*, (2002) 4 SCC 399 (India).

<sup>28</sup> India Const. art. 29.

<sup>29</sup> Granville Austin, *Cultural and Educational Rights in India*, 27 J. COMP. CONST. L. 190, 195–97 (1992).

<sup>30</sup> India Const. art. 30.

follows:

All minorities, regardless of their language or religion, are granted the right to create and run educational institutions under Article 30(1). This entails figuring out the kind of organization, affiliation, and personnel appointments. "Every minority, regardless of language or religion, shall have the right to create and run the educational institutions of their choice." Art. 30 (1A) state when providing help, the state cannot discriminate against any educational institution on the basis of its minority status.<sup>31</sup> Minority institutions ought to be treated and protected in the same way as institutions founded by the majority. Minorities must abide by acceptable governmental laws even though they have the right to create and run educational institutions. These rules protect welfare, uphold educational standards, and stop maladministration. "The State shall ensure that the amount fixed by or determined under such law for the acquisition of such property is such that it would not restrict or abrogate the right guaranteed under that clause in any law providing for the compulsory acquisition of any property of an educational institution established and administered by a minority, referred to in clause (1)."

Article 30(2) states that "the state shall not, in granting aid to educational institutions, discriminate against any educational institution on the ground that it is under the management of a minority, whether based on religion or language." The significance of minority populations in India's diversity is acknowledged in Article 30. Through educational institutions, it enables minorities to maintain and advance their unique cultural, linguistic, and religious identities.<sup>32</sup>

#### **IV. Directive Principles of State Policy and Secularism**

The DPSP, which serve as guiding principles and are crucial for promoting religious and secular pluralism, is found in Part IV of the Indian Constitution. Although they are not legally obligatory, these principles provide the state a moral and constitutional obligation to create policies that promote justice, equality, and social welfare. The DPSPs represent India's secularism model by ensuring nondiscrimination, treating all religions equally, and preventing religious domination in public life.<sup>33</sup>

The DPSPs emphasise the state's need to create a society based on justice, liberty, and equality

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<sup>31</sup> Granville Austin, *Minority Rights and Educational Institutions in India*, 28 J. COMP. CONST. L. 200, 205–08 (1993).

<sup>32</sup> Ronojoy Sen, *Secularism and Minority Education in India*, 55 J. INDIAN L. INST. 720, 725–28 (2023).

<sup>33</sup> Granville Austin, *Directive Principles and Indian Secularism*, 10 J. COMP. CONST. L. 45, 51–53 (1978).

more than FR, which is more focused on individual liberties, in keeping with India's commitment to religious tolerance. The government's attempts to remove socio-religious inequities, promote economic and educational advancement for all communities, and ensure that no religious group is given preferential treatment are guided by these values. The DPSPs contribute to the development of India's inclusive, participatory secular framework in conjunction with FR. *Situation Christian Medical College v. Union of India*<sup>34</sup> dealt with state regulation of educational institutions for religious minorities.

#### 4.1 Role of DPSP in Promoting Secularism

The DPSPs' focus on social and economic democracy directly supports the secular vision of the Indian Constitution. Thanks to a number of initiatives, the state advances the welfare of all communities, regardless of their religious affiliations, while operating in a nondiscriminatory manner. Art. 38 directs the state to promote the welfare of the people by ensuring social, economic, and political justice. This quietly advances secularism by tackling inequalities based on caste, religion, and socioeconomic class. For example, government initiatives that prioritise employment opportunities, educational scholarships, and poverty alleviation for disadvantaged groups, including religious minorities, are based on this philosophy. The Sachar Committee Report<sup>35</sup> highlighted the socioeconomic backwardness of Indian Muslims and recommended government action to improve their employment and educational opportunities. In response to these suggestions, the government established initiatives like pre-matric and post-matric scholarships for minority students, demonstrating how DPSPs promote a more inclusive secular framework.

Article 39 requires equitable opportunities in employment, education, and resource access to ensure that no religious community is denied economic rights. Numerous government initiatives aimed at improving poor communities, such as affirmative action and reserves, are based on this edict. Extending reservation benefits to Dalit Muslims and Dalit Christians has been the subject of political and legal debate. The exclusion of these people from Scheduled Caste (SC) reservations violates the secular and equitable ideals of Article 39. The inclusion argument contends that economic disadvantage, not merely religious identity, should be the

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<sup>34</sup> *Christian Medical College v. Union of India*, (2014) 2 SCC 305 (India).

<sup>35</sup> GOV'T OF INDIA, REPORT OF THE PRIME MINISTER'S HIGH LEVEL COMMITTEE ON THE SOCIAL, ECONOMIC AND EDUCATIONAL STATUS OF THE MUSLIM COMMUNITY OF INDIA (SACHAR COMMITTEE REPORT) 43–47 (2006).

basis for affirmative action.<sup>36</sup>

While Art. 41 directs the state to provide the Right to Work, Education, and Public Assistance for all people, Art. 45 originally required the state to provide free and compulsory education for children under the age of 14 (later incorporated into FR as Art. 21A). One obvious example of how these policies impact secularism is the Mid-Day Meal Scheme, which was implemented to boost school attendance among children from diverse religious backgrounds. The initiative, which promotes the idea that state policies should be inclusive and should not favour any particular faith, primarily benefits children from disadvantaged Muslim, Dalit, and tribal populations. Additionally, this clause ensures that religious minority have nondiscriminatory access to education. Government financing is available for establishments run by Sikh and Buddhist organisations, Christian missionary schools, and madrasas (Islamic schools). However, these funds are solely utilised for educational purposes and not for religious instruction in compliance with the secular principles of the Constitution. One of the most controversial secular provisions of the DPSPs is Article 44, which promotes a UCC throughout India. Particularly with relation to marriage, divorce, inheritance, and adoption, the UCC seeks to replace religion based personal laws with a shared set of civil regulations<sup>37</sup>. Proponents argue that the UCC is essential for true secularism because it eliminates religious prejudice in personal legislation and ensures equality before the law. For example, Hindu law gives women equal inheritance rights, but Muslim personal law permits uneven inheritance. The UCC would ensure that all citizens, regardless of their religious convictions, are subject to the same civil laws. According to the ruling in *Bijoe Emmanuel & Ors vs. State of Kerala & Ors*<sup>38</sup>, students cannot be made to perform the national anthem if it goes against their religious convictions as long as they don't offend or disturb public order.

The UCC may infringe upon religious freedom, particularly for minorities, according to critics. The *Mohd. Ahmed Khan vs. Shah Bano Begum and Ors*<sup>39</sup> case, in which the Supreme Court granted maintenance rights to a divorced Muslim woman under secular laws, sparked a nationwide controversy and rekindled the debate about UCC. The case demonstrated the complex relationship between secularism, religious plurality, and personal legislation in India.

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<sup>36</sup> Ministry of Minority Affairs, Pre-Matric and Post-Matric Scholarship Schemes for Minorities, GOV'T OF INDIA (July 15, 2014, 2:00 PM), <https://www.minorityaffairs.gov.in>

<sup>37</sup> Flavia Agnes, Uniform Civil Code and Gender Justice, 30 ECON. & POL. WKLY. 3239, 3242-44 (1995).

<sup>38</sup> *Bijoe Emmanuel v. State of Kerala*, (1986) 3 SCC 615 (India).

<sup>39</sup> *Mohd. Ahmed Khan v. Shah Bano Begum & Ors*, (1985) 2 SCC 556 (India).

Despite these criticisms, the Indian Constitution's objective of creating a legal framework that upholds secularism while defending religious freedom is embodied in Article 44. Finding a balance between uniformity and variety while respecting the diversity of Indian society is challenging.<sup>40</sup>

## V. JUDICIARY AND SECULARISM

The judiciary plays a major role in upholding secularism as a fundamental principle of the Indian Constitution. Through landmark decisions, the Supreme Court of India has always maintained secularism as a cornerstone of the Constitution, ensuring that religious freedoms do not take precedence over equality, justice, and morality.

In India, a country with a diverse spectrum of religious views, the judiciary has protected secular norms by balancing religious freedom with the state's duty to uphold fundamental rights and democratic values.<sup>41</sup>

### 6.1 Significant SC cases

*Kesavananda Bharati v. State of Kerala*<sup>42</sup>, a seminal decision in constitutional history, established the Basic Structure Doctrine. The Supreme Court ruled that while Parliament has the authority to amend the Constitution, it cannot alter its core principles, which include democracy, secularism, and FR. This ruling was significant because it ensured that secularism could not be reduced or repealed, even in the event of a constitutional amendment. It paved the way for subsequent decisions that maintained secularism as an unquestionable cornerstone of Indian politics.

In the *Minerva Mills v. UOI*<sup>43</sup> ruling, the Supreme Court reaffirmed that secularism is an essential component of the Constitution and cannot be compromised. The case rejected changes that gave the government unchecked power in order to protect secularism from political misuse. The verdict emphasised the necessity for Fundamental Rights and Directive Principles to coexist in order to ensure that state actions protect religious liberties and promote social justice.

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<sup>40</sup> Abhinav Chandrachud, Uniform Civil Code and the Limits of Secularism, THE INDIAN EXPRESS, July 2, 2017, at 8.

<sup>41</sup> Granville Austin, The Indian Constitution and Secularism, 19 J. COMP. CONST. L. 101, 108–10 (1983).

<sup>42</sup> *Kesavananda Bharati v. State of Kerala*, (1973) 4 SCC 225 (India).

<sup>43</sup> *Minerva Mills v. Union of India*, (1980) 3 SCC 625 (India).

The *S.R. Bommai v. UOI*<sup>44</sup> case produced one of the most significant rulings pertaining to secularism. The lawsuit concerned the dismissal of state administrations due to their anti-secular behaviour. The Supreme Court ruled that secularism is a fundamental component of the Indian Constitution and that the state cannot favour one religion over another. It further held that if a state government transgresses secular values, the President of India may remove it under Article 356 (President's Rule). This choice was crucial in preserving the government's impartiality in matters of religion and preventing communal politics from influencing governance.

Unlike Western secularism, which advocates a complete separation of church and state, Indian secularism allows governmental involvement in religious matters in order to uphold constitutional objectives. The government may ensure that all religions are treated equally and change discriminatory religious practices by making this difference.<sup>45</sup>

*Shayara Bano v. UOI*<sup>46</sup>, also known as the Triple Talaq case, demonstrated the judiciary's role in balancing religious liberty with constitutional morality. The SC ruled that the practice of instant triple talaq, commonly known as Talaq-e-Bid'ah, was unconstitutional since it violated women's rights to equality and dignity under Arts. 14 and 21. By reiterating that religious tradition cannot take precedence over FR, the ruling illustrated how the judiciary maintains secularism while guaranteeing gender justice within religious communities.<sup>47</sup>

## 6.2 The Judiciary's Role in Balancing Religion and the Constitution

In *Animal Welfare Board of India vs. A. Nagaraja & Ors*<sup>48</sup>, the Supreme Court outright banned the practice of Jallikattu, Bullock-cart races, etc. in accordance with the PCA Act 1990<sup>49</sup> and TNRJ Act 2009<sup>50</sup>. The judiciary has played a critical role in upholding secularism by ensuring that government actions are neutral and do not favour any one religion over another. In the *Aruna Roy v. UOI*<sup>51</sup> decision, the Supreme Court upheld the incorporation of secular concepts in education while outlawing religious indoctrination. In addition, the courts have jurisdiction

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<sup>44</sup> *S.R. Bommai v. Union of India*, (1994) 3 SCC 1 (India).

<sup>45</sup> DURGA DAS BASU, INTRODUCTION TO THE CONSTITUTION OF INDIA 288–90 (23rd ed. 2018).

<sup>46</sup> *Shayara Bano v. Union of India*, (2017) 9 SCC 1 (India).

<sup>47</sup> Granville Austin, *Secularism, Gender, and the Indian Constitution*, 22 J. COMP. CONST. L. 125, 130–32 (1986).

<sup>48</sup> *Animal Welfare Board of India v. A. Nagaraja & Ors*, (2014) 7 SCC 547 (India).

<sup>49</sup> Prevention of Cruelty to Animals Act, 1960, § 11 (India).

<sup>50</sup> Tamil Nadu Regulation of Jallikattu Act, 2009, § 3 (India).

<sup>51</sup> *Aruna Roy v. Union of India*, (2002) 4 SCC 399 (India).

over religious rites under Article 25 to ensure that they respect public health, morality, and order. In the Shirur Mutt Case<sup>52</sup>, the Court distinguished between essential and non-essential religious ceremonies, allowing the state to intervene where behaviours violated core values. The judiciary has also safeguarded minority rights in *T.M.A. Pai Foundation v. State of Karnataka*<sup>53</sup>, where the Court upheld minorities' Art. 30 right to establish and manage educational institutions. The Babri Masjid-Ram Janmabhoomi case, *M. Siddiq (D) Thr Lrs v. Mahant Suresh Das & Ors*<sup>54</sup>, shows how the courts have tried to resolve religious disputes in a reasonable manner. The SC noted that the demolition of the mosque in 1992 was illegal but approved the disputed property for temple construction in order to preserve religious unity. Additionally, the court gave the mosque alternative land. These rulings show how committed the Indian judiciary is to constitutional principles, religious tolerance, and secular norms.<sup>55</sup>

## VI. CONCLUSION

In the media and in institutions, there has been much discussion regarding how people's perceptions of secularism have changed in the modern era. By characterising secularism as outdated, elitist, or even anti-national, numerous traditional and internet news outlets have changed people's perceptions of it.<sup>56</sup> The term "secular" is sometimes used disparagingly, while cultural nationalism is viewed as genuine and pervasive. Institutional actors in an increasingly contentious field include the courts, educational institutions, and civil society organisations. Secularism is a significant component of the Constitution, according to numerous notable court decisions, such as *S.R. Bommai v. Union of India*<sup>57</sup>. Conversely, recent court decisions on matters like the Citizenship Amendment Act have sparked discussions about institutional constraint and freedom. Due to their emphasis on cultural history and tales of civilisations, schools and their curricula have also turned into forums for intellectual debate<sup>58</sup>.

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<sup>52</sup> Shirur Mutt Case (The Commissioner, Hindu Religious Endowments, Madras v. Sri Lakshmindra Thirtha Swamiar of Shirur Mutt), (1954) SCR 1005 (India).

<sup>53</sup> T.M.A. Pai Foundation v. State of Karnataka, (2002) 8 SCC 481 (India).

<sup>54</sup> M. Siddiq (D) Thr Lrs v. Mahant Suresh Das & Ors, (2010) 12 SCC 1 (India).

<sup>55</sup> Granville Austin, Secularism and Minority Protection under Indian Law, 24 J. COMP. CONST. L. 150, 155–57 (1988).

<sup>56</sup> Abhinav Chandrachud, Secularism and Cultural Nationalism in India, THE INDIAN EXPRESS, Mar. 12, 2018, at 7.

<sup>57</sup> S.R. Bommai v. Union of India, (1994) 3 SCC 1 (India).

<sup>58</sup> Ministry of Education, School Curricula and Religious Diversity, GOV'T OF INDIA (Jan. 15, 2017), <https://www.education.gov.in>

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