
INDIAN SECULARISM IN CRISIS: MODERN CHALLENGES AND JUDICIAL RESPONSES

Kutral Eswari A, The Central Law College, Salem

ABSTRACT

Indian secularism represents a constitutionally distinct model that seeks to balance religious freedom with equality, social reform, and constitutional morality. Unlike Western secularism, which politicises strict separation between religion and the State, the Indian Constitution permits regulated State engagement with religion to preserve public order and protect fundamental rights. In recent decades, however, Indian secularism has been increasingly described as being in crisis due to religious politicisation, politicisation of faith, and growing conflicts between traditional religious practices and constitutional values. Judicial intervention, particularly through the interpretation of Article 25 and the doctrine of Essential Religious Practices, has become central to addressing these conflicts. This article undertakes a doctrinal analysis of the constitutional framework of secularism, examines key judicial decisions, and critically evaluates whether judicial responses have strengthened constitutional secularism or contributed to institutional strain. The article argues that while judicial intervention has protected equality and dignity, the expanding judicial role reflects deeper structural challenges in the implementation of secularism.

Keywords: Indian Secularism, Freedom of Religion, Article 25, Essential Religious Practices, Constitutional Morality, Judicial Review.

INTRODUCTION

India is one of the most religiously diverse societies in the world. Religion in India is not merely a matter of private belief but is deeply embedded in social customs, cultural practices, and collective identity. Recognising this reality, the framers of the Indian Constitution adopted secularism as a foundational principle to ensure equality, tolerance, and peaceful coexistence among diverse religious communities. Indian secularism does not require the exclusion of religion from public life; instead, it mandates State neutrality and equal respect for all religions.

In contemporary India, however, secularism has become a highly contested constitutional concept. Disputes involving religious practices, gender equality, access to places of worship, personal laws, and public religious expression increasingly reach constitutional courts. These disputes often involve a direct conflict between religious freedom and constitutional values such as equality, dignity, and liberty. As a result, the judiciary has assumed a central role in interpreting and enforcing secularism, leading to debates on judicial overreach, institutional balance, and the limits of constitutional adjudication. This growing judicial involvement has contributed to the perception that Indian secularism is facing a constitutional crisis.

RESEARCH PROBLEM

Despite explicit constitutional guarantees of religious freedom, the operation of secularism in India remains deeply contested. The Constitution does not clearly define the scope of protection available to religious practices under Article 25, nor does it precisely demarcate the limits of State intervention.¹ This constitutional ambiguity has shifted significant interpretative responsibility to the judiciary. Judicial decisions in cases such as *Sabarimala*, *Triple Talaq*, and *Ayodhya* have generated intense public debate and social resistance, raising concerns about whether courts are safeguarding constitutional morality or intruding excessively into religious autonomy. The core problem examined in this article is whether judicial interpretation has preserved the secular character of the Constitution or contributed to institutional strain within India's secular framework.²

¹ Granville Austin, *The Indian Constitution: Cornerstone of a Nation*.

² D.D. Basu, *Introduction to the Constitution of India*

REVIEW OF LITERATURE

H.M. Seervai conceptualises Indian secularism as a principle of equal respect for all religions rather than hostility towards faith. He argues that State intervention in religious matters is constitutionally justified when it serves social reform and public welfare. Granville Austin views secularism as an integral component of the constitutional vision, closely connected with democracy, equality, and individual liberty. D.D. Basu explains that Articles 25 to 28 guarantee regulated religious freedom subject to public order, morality, and health.³

Contemporary scholars have criticised the Essential Religious Practices doctrine for granting courts excessive discretion in determining theological questions. Recent writings also note the judiciary's increasing reliance on constitutional morality, raising concerns about subjectivity and judicial overreach. This divergence in scholarship highlights the complexity of judicial intervention in religious matters.

RESEARCH OBJECTIVES

- To examine the constitutional framework governing secularism in India
- To analyse the scope and interpretation of Article 25 of the Constitution
- To study the evolution and application of the Essential Religious Practices doctrine
- To critically examine landmark judicial decisions affecting secularism
- To assess the impact of judicial intervention on the future of Indian secularism

RESEARCH QUESTIONS

- What is the nature of secularism envisaged under the Indian Constitution?
- How does Article 25 balance religious freedom with constitutional limitations?
- What is the role of the Essential Religious Practices doctrine in judicial interpretation?

³ H.M. Seervai, *Constitutional Law of India*

- How have courts responded to modern challenges to Indian secularism?
- Does increasing judicial intervention indicate a constitutional crisis or an institutional necessity?

HYPOTHESIS

This article proceeds on the hypothesis that Indian secularism is under constitutional stress due to increasing conflicts between religious practices and fundamental rights, resulting in judicial intervention that is both necessary for protecting constitutional values and controversial in its impact on religious autonomy.

SIGNIFICANCE OF THE STUDY

This study is significant because it addresses the growing constitutional debate on secularism at a time when religious freedom and constitutional morality are increasingly in conflict. By analysing Article 25, the Essential Religious Practices doctrine, and landmark judicial decisions, the article contributes to a deeper understanding of how constitutional values are balanced in practice. The study is relevant to scholars, legal practitioners, and policymakers as it evaluates whether judicial intervention acts as a safeguard of constitutional values or creates institutional tension in a pluralistic democracy.

RESEARCH METHODOLOGY

This article adopts a doctrinal research methodology. Primary sources include constitutional provisions and judgments of the Supreme Court of India. Secondary sources consist of authoritative books, journal articles, and legal commentaries. The study is analytical and evaluative in nature.

CONSTITUTIONAL FRAMEWORK OF SECULARISM IN INDIA

The Constitution of India adopts a distinctive and reform-oriented model of secularism. Although the term “secular” was explicitly inserted into the Preamble by the Forty-Second Constitutional Amendment Act, 1976, secularism was implicit in the constitutional scheme from its inception. The inclusion of the term through the amendment reaffirmed, rather than introduced, the constitutional commitment to religious neutrality.

Articles 14 and 15 guarantee equality before law and prohibit discrimination on religious grounds, thereby forming the normative foundation of secular governance. Articles 25 to 28 specifically address religious freedom and State neutrality.⁴ Article 25 guarantees freedom of conscience and the right to profess, practise, and propagate religion, subject to public order, morality, health, and other fundamental rights. This limitation reflects the constitutional understanding that religious freedom cannot override equality, dignity, or social welfare.

Article 25⁵ protects both belief and conduct, but the degree of protection differs. While freedom of conscience is inviolable, religious practices may be regulated when they conflict with constitutional values. Article 25(2) empowers the State to regulate secular activities associated with religion and enact laws for social welfare and reform. This provision forms the constitutional basis for State intervention to eradicate discriminatory practices and reform religious institutions.

The Constitution does not define what constitutes a religious practice. To address this, the judiciary developed the Essential Religious Practices doctrine, first articulated in the *Shirur Mutt* case. According to this doctrine, only those practices that are essential and integral to a religion are protected under Article 25. Over time, this doctrine has expanded judicial involvement in religious interpretation, raising concerns about theological adjudication by constitutional courts.

Article 26 grants religious denominations the right to manage their religious affairs, establish institutions, and administer property, subject to public order, morality, and health. The Supreme Court has consistently held that while matters of religion are protected, the administration of religious institutions is a secular activity capable of State regulation. Articles 27 and 28 further reinforce State neutrality by prohibiting compulsory religious taxation and restricting religious instruction in State-funded institutions.

JUDICIAL RESPONSES AND CASE LAW ANALYSIS

In *S.R. Bommai v. Union of India*⁶, the Supreme Court declared secularism to be part of the basic structure of the Constitution. The Court held that the State must maintain religious

⁴ Constitution (Forty-Second Amendment) Act, 1976.

⁵ Article 25 – Freedom of conscience and free profession, practice and propagation of religion

⁶ *S.R. Bommai vs Union of India*, (1994)

neutrality and that governance based on communal considerations violates constitutional principles. This judgment constitutionalised secularism beyond political discretion.

In *Indian Young Lawyers Association v. State of Kerala*⁷ (Sabarimala case), the Supreme Court examined the constitutional validity of the practice that prohibited women of menstruating age (between 10 and 50 years) from entering the Sabarimala temple in Kerala. The exclusion was justified on the ground of religious tradition and the celibate nature of Lord Ayyappa, and it was claimed to be an essential religious practice protected under Article 25. The Supreme Court rejected this argument and held that the practice violated Articles 14 and 15, which guarantee equality and prohibit discrimination on the basis of sex. The Court further ruled that the exclusion infringed the dignity and freedom of women and was inconsistent with constitutional morality. It was observed that religious freedom under Article 25 is subject to other fundamental rights and that practices which deny equality cannot be protected merely because they are claimed to be religious. The judgment marked a significant development in Indian secular jurisprudence by prioritising individual rights and constitutional values over discriminatory religious customs.

In *Ismail Faruqui v. Union of India (1994)*⁸, the Supreme Court examined whether certain religious practices, including cow slaughter and the offering of prayers at a mosque, constituted essential religious practices protected under Article 25 of the Constitution. The Court held that cow slaughter is not an essential or integral part of the Islamic faith, and therefore laws imposing restrictions or bans on cow slaughter do not violate the constitutional guarantee of religious freedom. The judgment clarified that Article 25 protects only those religious practices that are fundamental to a religion, and not every activity associated with religious belief. The Court further observed that while offering prayers is an important aspect of religion, performing prayers at a particular place, such as a mosque, is not indispensable if alternative places are available. This decision significantly strengthened the Essential Religious Practices doctrine and reaffirmed the authority of the State to regulate religious practices in the interest of public order, morality, and constitutional governance.

In *Shayara Bano v. Union of India (2017)*⁹, the Supreme Court invalidated instant triple talaq as arbitrary and unconstitutional. The decision reaffirmed that personal laws are subject to

⁷ Indian Young Lawyers Association v. State of Kerala

⁸ Ismail Faruqui v. Union of India (1994) 6 SCC 360

⁹ Shayara Bano v. Union of India (2017) 9 SCC 1

constitutional scrutiny and that religious freedom cannot justify gender discrimination.

In *M. Siddiq v. Mahant Suresh Das (Ayodhya case)*, the Court addressed a deeply sensitive religious dispute by balancing faith, property rights, and constitutional order. The judgment demonstrated secular adjudication while acknowledging the emotional and historical dimensions involved.

In *Bijoe Emmanuel v. State of Kerala*, the Court protected freedom of conscience by holding that refusal to sing the national anthem on sincere religious grounds did not amount to disrespect.

In *Haji Ali Dargah Trust v. Union of India*, the exclusion of women from religious spaces was struck down as unconstitutional.

In *Church of God v. K.K.R. Majestic Colony Welfare Association*¹⁰, the Court held that religious practices cannot disturb public order or health.

In *A.S. Narayana Deekshitulu v. State of Andhra Pradesh*, the Court clarified that temple administration is a secular activity subject to State regulation.

ANALYSIS

Judicial intervention has become a defining feature of Indian secularism. Courts have acted as guardians of constitutional morality by protecting equality, dignity, and individual liberty. Decisions such as *Sabarimala*, *Triple Talaq*, and *Haji Ali* reflect a reform-oriented constitutional approach that prioritises fundamental rights over discriminatory religious practices.

At the same time, the judiciary's reliance on the Essential Religious Practices doctrine has generated serious concerns. By determining religious essentiality, courts risk assuming theological authority, leading to inconsistency and doctrinal uncertainty. The increasing invocation of constitutional morality, while normatively attractive, raises questions of subjectivity and judicial overreach. These tensions are further intensified by legislative inaction, which places excessive responsibility on courts to resolve religious disputes.

¹⁰ Church of God v. K.K.R. Majestic Colony Welfare Association(2000) 7 SCC 282

The crisis of Indian secularism is therefore institutional rather than constitutional. Judicial intervention has become both necessary and problematic, reflecting deeper challenges in managing religious diversity within a democratic framework.

CONCLUSION

Indian secularism is not constitutionally weak, but it is institutionally strained. The Constitution provides a robust framework for balancing religious freedom with equality and social reform. However, rapid social change, political mobilisation of religion, and the absence of legislative clarity have shifted the burden of resolving religious conflicts to the judiciary. Judicial responses in cases such as *Sabarimala*, *Triple Talaq*, and *Ayodhya* demonstrate a strong commitment to constitutional values, particularly equality and dignity.

At the same time, the expanding scope of judicial intervention reveals the limits of adjudication in managing deeply rooted religious and social issues. Excessive judicial engagement with religious doctrine risks undermining both judicial legitimacy and religious autonomy. The future of Indian secularism depends on a careful recalibration of institutional roles, where courts act as guardians of constitutional morality without substituting democratic and legislative processes.

In conclusion, the crisis in Indian secularism lies not in the constitutional ideal itself but in its practical application. Strengthening legislative clarity, promoting public understanding of secular values, and ensuring principled judicial restraint are essential to preserving the secular character of the Indian Constitution. Only through such balanced constitutional engagement can Indian secularism continue to serve as a unifying principle in an increasingly diverse and complex society.

SUGGESTIONS

- A clearer constitutional and legislative framework is necessary to reduce excessive judicial dependence on interpretative doctrines such as Essential Religious Practices. Parliament should consider enacting guiding principles that define the scope of permissible State intervention in religious practices, especially where such practices intersect with equality, dignity, and public order. Legislative clarity would reduce uncertainty and prevent inconsistent judicial outcomes.

- Judicial interpretation of Article 25 should gradually move away from theological inquiry and focus more firmly on rights-based constitutional analysis. Courts should avoid determining what is religiously “essential” and instead examine whether a contested practice violates fundamental rights guaranteed under Articles 14, 15, and 21. Such an approach would preserve religious autonomy while ensuring constitutional supremacy.
- Greater judicial restraint is required in matters that involve purely religious doctrine without demonstrable constitutional harm. While courts must intervene to prevent discrimination and protect vulnerable groups, they should avoid substituting democratic or religious consensus with judicial opinion. A restrained approach would strengthen institutional legitimacy and public trust in secular adjudication.
- The legislature must assume greater responsibility in addressing discriminatory religious practices through democratic law-making. Reliance on courts as the primary agents of social reform places excessive constitutional pressure on the judiciary. Proactive legislative engagement would ensure that reforms reflect broader social consensus rather than isolated judicial determination.
- Public education on constitutional secularism should be strengthened through academic discourse, legal awareness programs, and civic education. Misunderstanding secularism as hostility towards religion has contributed to social resistance against constitutional reform. Promoting awareness of secularism as equal respect for all religions would reduce conflict and polarisation.
- Finally, Indian secularism must evolve through cooperative constitutional governance. Courts, legislatures, and civil society must work collectively to ensure that religious freedom coexists harmoniously with constitutional morality. Only a balanced, institutionally coordinated approach can prevent further strain on India’s secular framework and ensure its continued relevance in a rapidly changing society.

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