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Learn in a Minute: Secularism and the Right to Freedom of Religion in India

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Read this article to learn more about Secularism and the Right to Freedom of Religion in India.

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Introduction

India's secularism, rooted in the principles of equality and non-discrimination, is integral to its democratic ethos. Unlike the rigid separation between church and state in Western secular models, Indian secularism embraces a pluralistic approach, ensuring state neutrality toward all religions while allowing for state intervention to uphold constitutional values.

The right to freedom of religion, enshrined in Articles 25-28 of the Indian Constitution, embodies this balance, safeguarding individual liberty while maintaining public order and societal harmony.

Understanding Indian Secularism

Indian secularism, as adopted in the constitutional framework, is sui generis. It seeks to ensure that religion remains a personal affair while public institutions operate free from religious bias.

This principle is underscored by the inclusion of "secular" in the Preamble through the **42nd Amendment Act of 1976**, affirming the state's commitment to treating all religions equally without endorsing or opposing any.

Secularism in India is not a rejection of religion but a commitment to the peaceful coexistence of all faiths. The judiciary has often emphasized this unique interpretation, as seen in **S.R. Bommai v. Union of India**, where the Supreme Court held that secularism is a basic feature of the

Constitution, inviolable even through constitutional amendments.

Articles 25–28 of Indian Constitution

The **right to freedom of religion**, encapsulated in Articles 25 to 28 of the Constitution, is a fundamental right that ensures religious liberty for all citizens. However, this freedom is not absolute and is subject to reasonable restrictions based on public order, morality, and health.

Article 25: Freedom of Conscience and Religious Practice

Article 25 guarantees individuals the right to freely profess, practice, and propagate their religion. This provision safeguards individual autonomy in matters of faith, while restrictions ensure that religious practices do not disrupt public order or infringe upon the rights of others.

The Supreme Court has played a pivotal role in interpreting this article, particularly in cases like **Bijoe Emmanuel v. State of Kerala**, where it upheld the rights of Jehovah's Witnesses to refrain from singing the national anthem on grounds of religious conscience.

Article 26: Rights of Religious Denominations

Article 26 grants religious denominations the autonomy to manage their own affairs in matters of religion, establish institutions, and administer property. However, this autonomy is subject to compliance with public order, morality, and health.

The courts have intervened where religious practices conflict with constitutional principles, as in **Shirur Mutt Case**, where the Supreme Court laid down the "essential religious practices" doctrine to determine the scope of religious freedoms.

Article 27: Freedom from Taxation for Religious Purposes

This article ensures that no individual is compelled to pay taxes specifically appropriated for the promotion of a particular religion. It embodies the principle of neutrality, preventing state funds from being used to favor any religious group.

Article 28: Religious Instruction in Educational Institutions

Article 28 prohibits religious instruction in wholly state-funded institutions, reflecting the secular character of public education. However, institutions administered by religious communities are

allowed to impart religious education, provided attendance is voluntary. Religious instruction can be provided in state-administered institutions that were established under an endowment or trust that requires religious instruction.

Judicial Interpretation and Evolution

In the **Shirur Mutt Case**, the Supreme Court held that religious denominations have the right to manage their own religious affairs under Article 26(b), including the administration of their property, subject to public order, morality, and health.

The Court introduced the **"essential religious practices doctrine"**, stating that only practices integral to the religion are protected under Articles 25 and 26. Secular activities connected to religious institutions, such as financial management, could be regulated by the state.

Indian Young Lawyers Association v. State of Kerala (2018) involved a challenge to the centuries-old custom of prohibiting women aged 10 to 50 from entering the Sabarimala temple in Kerala. The petitioners argued that the practice violated Articles 14, 15, and 25.

The Supreme Court ruled in a 4:1 majority that the practice violated constitutional principles, including the right to equality and dignity of women. It also ruled that the exclusion of women from the Sabarimala temple was not an essential religious practice, thus upholding gender equality.

In **Bijoe Emmanuel v. State of Kerala**, 3 children belonging to the Jehovah's Witnesses faith refused to sing the national anthem in school, citing religious beliefs. They were expelled, and their parents challenged the expulsion as a violation of Article 25.

The Supreme Court ruled in favor of the students, holding that their fundamental right to freedom of conscience under Article 25 had been violated. The Court emphasized that the students showed no disrespect to the national anthem but merely refrained from participating due to their beliefs.

In **Ahmedabad St. Xavier's College v. State of Gujarat**, the Supreme Court held that while religious institutions have autonomy, this freedom does not extend to activities that threaten public order or undermine constitutional values.

The Supreme Court's ruling in **Kesavananda Bharati v. State of Kerala** underscored that secularism is part of the basic structure of the Constitution, immune from legislative or executive

encroachments.

The Way Forward

To fortify secularism and uphold the right to freedom of religion, a multi-dimensional approach is required:

1. Strengthening Constitutional Morality: Courts must continue to interpret religious freedoms in line with constitutional values, ensuring that individual rights are prioritized over regressive traditions.
2. Promoting constitutional literacy among citizens can foster a deeper understanding of secularism and religious liberty.
3. Political actors must refrain from using religion as a tool for electoral gains, focusing instead on governance and development.

Conclusion

Secularism and the right to freedom of religion form the bedrock of India’s constitutional democracy. They safeguard individual liberties, promote social harmony, and ensure the equal treatment of all faiths. While challenges persist, India’s commitment to its secular ideals remains steadfast, providing a beacon of hope in an increasingly polarized world.