

## Secularism in India and South Africa: A Comparative study

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### **Abstract:**

This paper will undertake a comparative constitutional analysis of secularism and its historic trajectory in India and South Africa. These two sovereign democracies have paved way for secularism despite its complex historical legacies of colonialism and other social divisions. This paper will highlight the different legal frameworks and approaches towards these nations pluralistic society and protected freedom of religion and adopted the concept of secularism. Drawing upon constitutional law, courts interpretations and other scholarly articles, this paper will examine how despite colonial governance and social divide in both these nations, they have adopted secularism in different strides. The analysis also highlights stark different approaches like India's model of principles distance of states indulgence with religion and south Africa's transformative constitutional secularism emerged after apartheid period, committed towards freedom of religion, protection of dignity and equality. Special attention will be focused on how these two nations different democracies, how laws around freedom of religion developed and how secular principles shaped and what is the role of state in maintaining this principle of secularism. The research will also explore constitutional neutrality of secularism in both India and South Africa and the intervention of state in religious matters. By analysing both these nations and putting them in a broader comparative framework, the paper will contrite to research on non-western models of secularism and highlight contextual nature of constitutional secular arrangement in diverse democratic societies.

**Keywords:** *India, South Africa, Secularism, constitutionalism, cultural diversity, liberalism, government policies, secular.*

### **1. Conceptualizing the Concept of Secularism**

After the end of colonialism, the concept of secularism was shaped for both Indian and South Africa. Secularism as a doctrine is not easy to define, it does not have a single meaning. Its meaning differs in different jurisdictions. Secularism is thought to be an essential premise of the constitution, but a profound study of its rules reveals clearly that the definition is restricted. Secularism travelled as a governance technique and not as a value neutral constitutionalism. In the following legendary terms, the Indian Supreme Court once mentioned India's religious, linguistic, and cultural diversity:

*“India is the most popular country of the word. The people living this huge profess different religions and speak a different language. Despite the diversity of religion and language, there runs through the Nation's fabric the golden theme of a basic innate unity. It is a mosaic of different religions, languages, and cultures. Each of them has made a mark on the Indian policy, and India today signifies a synthesis of them all.”*<sup>4</sup>

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<sup>4</sup> Ahmedabad St. Xavier's College Society v. State of Gujarat, AIR 1974 SC 1389 (Supreme Court of India).

While studying secularism in these two nations of India and Africa, first it is imperative to understand to establish the theoretical underpinnings of this concept of secularism as a political doctrine. This doctrine should be studied with respect to historical changes and other socio-cultural contexts of particular state<sup>5</sup> only and both India and south Africa should be viewed as producers of this doctrine and not as a mere adopter or consumer of the same. Indian position of secularism evolved in an attempt to solve conflicts between state and religion and have differentiated itself from the strict separation theory followed in America. In India, the state reserve the right to selectively intervene in religious affairs to reform discriminatory practices, thereby aiming to attain substantive equality in opposition to mere non-interference. This unique framework is often termed as the principled model approach<sup>6</sup>, which help us understand the states pluralism and constitutional protection provided in the constitution of India under Article 25. In south Africa, post-apartheid society witnessed cooperative secularism model which in one scenario separates religious institutions from state while on other scenario allows religious expressions in public sphere<sup>7</sup>.

### 1.1 Indian secularism

In 1976, the Preamble to the Constitution stated that India is a secular country with the 42nd amended Indian Constitution. However, after the Republic's establishment, India was declared secular by the Supreme Court of India in *S. R. Bommai v. Union of India*. The judgement found that state and religion are separated. It said "Religion has no place in state affairs. And if the Constitution allows the State to be secular in thinking and doing so, then political parties have the same obligation. The Constitution does not accept; it does not allow the combination of religion and the State's power. This is the civil order. No one else can say something if this Constitution governs the country. There can be no mixture of policy and religion. Any government that pursues policies or action in a non-secular manner contravenes the constitutional mandate and becomes ready to rule under Article 356 "There was a mistake. Besides, the legally forbidden impartation of religious instructions by government educative institutes and the use of taxpayers' money to support any religion are prohibited in Article 27 of the constitution. Secularism still officially influenced contemporary India<sup>8</sup>. But secularism in India does not distinguish between state and religion. The Indian Constitution allowed the State to intervene extensively in religious matters. Since the founding of the Republic, several courts and executive orders vary the degree of independence between the state and religion. However, the Code of Law applies in modern India and India's laws on matters of marriage, divorce, adoption, alimony depend on the individual's religion (an individual may apply secular legislation if he or she wishes) (secular legislation). The Indian Constitution provides for partial funding of religious colleges and the financing of state facilities and religious buildings. Indian government administrates and operates the Council of Islamic Central Wakf and several Hindu temples of significant spiritual connotations. The pursuit of unfair law has led to India's numerous problems, like appropriateness of polygamy, unequal inheritance, extra unilateral judicial divorce privileges advantageous to some males, and contradictory religious book interpretations.

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<sup>5</sup> Rao, B. (2006). *The variant meanings of secularism in India: Notes toward conceptual clarifications*. *Journal of Church and State*, 48(1), 47–70. <https://doi.org/10.1093/jcs/48.1.47>

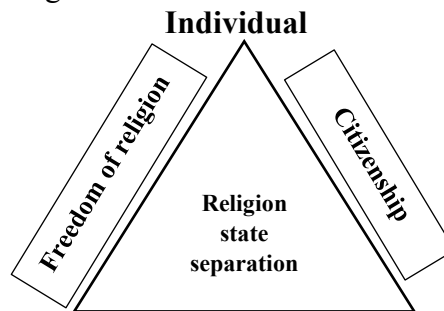
<sup>6</sup> Pantham, T. (1997). *Indian secularism and its critics: Some reflections*. *The Review of Politics*, 59(3), 523–540. <https://doi.org/10.1017/S0034670500027704>

<sup>7</sup> Duncan, G. A. (2023). *The ecclesiastical crisis of human sexuality: 'Critical solidarity', 'critical distance' or 'critical engagement.'* *HTS Theologiese Studies / Theological Studies*, 79(1). <https://doi.org/10.4102/hts.v79i1.8713>

<sup>8</sup> Upadhyaya, P. C. (1992). *The politics of Indian secularism*. *Modern Asian Studies*, 26(4), 815–853.

Secularism is a philosophy that claims that religion is not social, political, economic, and cultural. Religion is accessible to all and is offered without any other treatment as a personal option. The Indian preamble, where the term "Secular" is read, is expressed in the first face of secularism. In its fundamental rights (Article 25-28), Indian secularism is also reflective, guaranteeing every person a right to practise any religion.<sup>9</sup> However, the constitutional right is accorded to Indian people to religion, subject to order, morality, and public health. With its perspective, India focuses on intra-religious issues and is trying, if any, to eliminate the stigma attached to society by any religion. There are interreligious tensions because of the accessibility of many faiths, and the Indian administration must interfere to preserve peace and harmony. In India, the government must concentrate on both because of the existence of various religions and cultures. For example, both religious minorities and linguistic minorities are protected in Article 29<sup>10</sup>. The Indian Supreme Court has confirmed that secularism is an essential part of the constitutional framework. The nature of the Court's stance can be found in its many rulings.

Donald Smith's definition refers to three interconnected connections that are necessary for creating a secular state, including:<sup>11</sup>



**Fig. 1.** Inter-related sets of relationship.

- Religion and the individual (freedom of religion).
- The State and the individual (citizenship).
- The State and religion (separation of state and religion).

Secularism in India via constitution Articles

**I. Article 25<sup>12</sup> (Freedom of conscience and free profession, practise, and propagation of religion)**

The right of faith, freedom of conscience, the freedom to profess, practice, spread the religion throughout all people is guaranteed under Article 25.

- The freedoms listed above are regulated by public order, health, and morality.
- This article also stipulates that the State can legislate:
- This governs and limits any religious practice related to financial, economic, political, or other secular activities.
- This allows for social security and change or opening to all parts and groups of the Hindus of Hindu religious organizations with a public character. Under this clause, Hindus are construed to include individuals who profess the Sikh, Jain or Buddhist religions and Hindu institutions.

<sup>9</sup> Pantham, T. (1997). *Indian secularism and its critics: Some reflections. The Review of Politics*, 59(3), 523–540.

<sup>10</sup> (Pantham, 1997)

<sup>11</sup> Smith, D. E. (2015). *South Asian politics and religion. Princeton University Press.*

<sup>12</sup> *Const. of India, Art. 25*

- People of the Sikh faith who wear and bear kirpan shall be regarded as part of the Sikh religion profession.

## II. Article 26<sup>13</sup> (Freedom to manage religious affairs)

This Article specifies that each religious denomination has, according to morality, health and public order, the following meanings.

1. The freedom to establish and maintain charitable and religious institutions.
2. The right to deal with one's religious affairs.
3. The right to purchase property, either moveable or immovable.
4. The law permits the administration of such property.

## III. Article 27<sup>14</sup> (Freedom as to payment of taxes for promotion of any religion)

Article 27 of the Constitution does not provide for taxation, whose revenues are explicitly used to promote or maintain some religion or religion.

## IV. Article 28<sup>15</sup> (Freedom as to attendance at religious instruction or religious worship in certain educational institutions)

This article allows religious organisations to propagate religious education in educational institutions.

- This provides that religious education in state-run academic institutions shall not be offered.
- The state-managed educational institutions founded under any faith or endowment requiring religion to be given in such institutions shall be excluded from the provision (that no religious instruction shall be provided).
- An individual attending a state educational institution, or receiving government assistance, shall not be obliged, unless the person has given his/her permission, to engage in religious instruction in such an institution or participate in any worship services in such institutions. The safeguards should have granted the same license in the case of minors<sup>16</sup>.

## 1.2 Religious Demographics in India

This chart here is not intended to serve as just a descriptive enumeration of different religious communities, but as a analytical foundation for understanding the structural conditions under which secularism in India operates. In a plural society, the demographic distribution of religious community helps shape constitutional design, judicial interpretations, other factors surrounding secularism.

First, this chart represents why India choose principled<sup>17</sup> distance model rather than the strict separation one. The percentage predominance of one community along with other in minorities needed a governance capable of accommodating diversity while preventing dominance. Second, analysing minority rights is important when we look at constitutional order. And lastly, demographic data enables comparative framework with south Africa by focusing how different demographic configurations generate distinct secular trajectories. Like in South Africa even though plural, does not exhibit similar degree of demographic

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<sup>13</sup> *Const. of India, Art. 26*

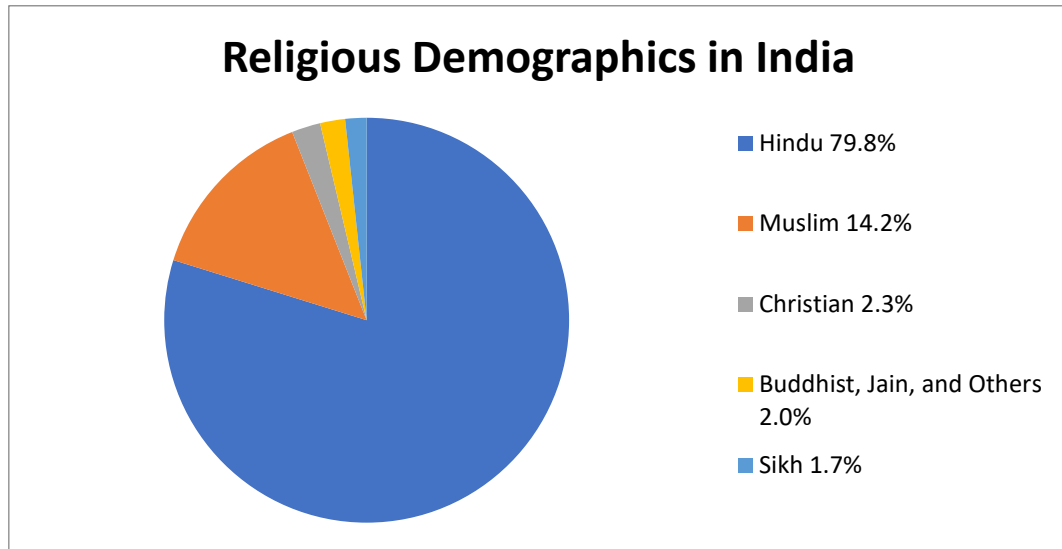
<sup>14</sup> *Const. of India, Art. 27*

<sup>15</sup> *Const. of India, Art. 28*

<sup>16</sup> Gupta, C. (2009). *[Hindu women, Muslim men: conversion]. Economic and Political Weekly, 44(51), 13–15.*

<sup>17</sup> Bhargava, R., & Srinivasan, T. N. (2007). The distinctiveness of Indian secularism. In R. Bhargava (Ed.), *The future of secularism* (pp. 20–35). Oxford University Press.

dominance by a single faith tradition. India's composition influenced states approach in favour of accommodation, judicial intervention. Therefore, this chart thus helps and functions as comparative tool rather than sociological tool.



Source: Census of India, 2011.

**Fig. 2.** Religious Demographics in India.

India's tradition of religious freedom has occasionally and sometimes catastrophically suffered fatal gaps. A Hindu majority of approximately 80 per cent and a sizeable Muslim minority of around 185 million is about 1.3 billion. There are some 1.3 billion people in India. More than 2 per cent (approximately 30 million) of the population is Christian, and less than 2 per cent is Sikh (about 22 million). The other 2% are Buddhists, Jains, and others (see Figure 2). The present-day demographics reflect a constant, long-term shift: the Hindu majority of India constituted around 85% of its demographic after independence and the Muslim population about 10%.

### 1.3 South African secularism

Secularism on South African constitution guarantees freedom of religion and belief and it does prohibit any kind of discrimination on any religious grounds. But in practice, the state does not follow a static model of separation rather it is a contested and evolving governance framework i.e. a transformative model ultimately shaped by hierarchy, exclusion and coercion historically legitimized through religious authority. After a lot of historically transformation, and post-apartheid constitutional order, the focus of south African constitution prioritized on equality, freedom and most importantly dignity of an individual and on the other side a deeply religious and plural society was sustaining<sup>18</sup>.

The constitution of South Africa guarantees freedom of conscience, religion, thought, belief and opinion under Section 15 of Bill of Rights<sup>19</sup>. The section states the following:

*“Freedom of religion, belief and opinion*

*15. (1) Everyone has the right to freedom of conscience, religion, thought, belief and opinion.*

<sup>18</sup> Henrico, R. (2017). *Revisiting a culture of tolerance relating to religious unfair discrimination in South Africa (Part 1)*. *Obiter*, 38(2), 253–270. <https://doi.org/10.17159/obiter.v38i2.11437>

<sup>19</sup> Republic of South Africa. (1996). *Constitution of the Republic of South Africa, 1996: Chapter 2 – Bill of Rights*. Department of Justice and Constitutional Development. <https://www.justice.gov.za/constitution/chp02.html>

(2) Religious observances may be conducted at state or state-aided institutions, provided that—

(a) those observances follow rules made by the appropriate public authorities;

(b) they are conducted on an equitable basis; and

(c) attendance at them is free and voluntary.

(3) (a) This section does not prevent legislation recognising—

(i) marriages concluded under any tradition, or a system of religious, personal or family law; or

(ii) systems of personal and family law under any tradition, or adhered to by persons professing a particular religion.

(b) Recognition in terms of paragraph (a) must be consistent with this section and the other provisions of the Constitution.”

Section 15 of Bill of Rights Act not only guarantees freedom of religion, conscience, thought, belief, opinion<sup>20</sup> but also ensures that the state does not adopt any one religion as state religion<sup>21</sup>. The guarantees are embedded into a broader framework of constitution that subordinates all other rights mentioned in it including religion and cultural rights to the comprehensive values of dignity, equality, and freedom. This chain of events represents a deliberate departure from the apartheid era of intermingling of state power and Christian nationalism. The apartheid policy which followed Christian ideals, the post-apartheid period the state embraced religious pluralism and recognised the multi-faiths including African traditional religions along with religions like Hinduism, Islam, Judaism, Christianity<sup>22</sup>. The 1996 constitution further put more emphasis on this by codifying this by prohibiting the state from discrimination unfairly either directly or indirectly on grounds of religion<sup>23</sup> while sanctioning that all religious expressions or practices are subject to equality and dignity of an individual. The constitution itself put a limitation on the same via Section 36<sup>24</sup> of South African constitution allows rights to be limited only by law and this restriction is based on the connotations of reasonableness and justifiable to dignity, equality and freedom<sup>25</sup> Therefore, the south African secularism works to regulate pluralism rather than excluding religion from public life. Apart from these limitation which is provided by the constitution, no law may curtail the rights guaranteed by the Bill of Rights.

## 2. Similarities between India and South Africa trajectory of Secularism

Both the nations even though have different historic trajectories, experiences, constitutional texts but theory exhibit noteworthy similarities when it comes to this doctrine of secularism. In both the democracies secularism evolved as a less rigid/strict doctrine of separation, there is no wall of separation and it is more context driven which aims to put plural societies on a rightful side marked by its personal histories, religious diversities and competing claims of identities.

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<sup>20</sup> Dyani-Mhango, N. (2024). South Africa and the “Othering” of the “Non-Euro-Christian” Religions. *AJIL Unbound*, 118, 124. <https://doi.org/10.1017/aju.2024.18>

<sup>21</sup> Pretorius, S. P. (2007). Opposing abuse in religious high-demand groups in South Africa: the case study of the “prophet” of Hertzogville. *Verbum et Ecclesia*, 28(2), 602. <https://doi.org/10.4102/ve.v28i2.1927>

<sup>22</sup> Thinane, J. S. (2024). Challenging the Gates: Religious Freedom and Access in South Africa’s Theology Faculties. *Wawasan Jurnal Ilmiah Agama Dan Sosial Budaya*, 8(2), 101. <https://doi.org/10.15575/jw.v8i2.23940>

<sup>23</sup> Benson, I. T. (2013). Religious interfaith work in Canada and South Africa with particular focus on the drafting of a South African Charter of Religious Rights and Freedoms. *HTS Teologiese Studies / Theological Studies*, 69(1). <https://doi.org/10.4102/hts.v69i1.1319>

<sup>24</sup> Constitution of the Republic of South Africa, 1996, s. 36

<sup>25</sup> Wallace, D. (2020). Resurgent Fundamentalism, Politics, and the Anti-Liberal Agenda: Challenges for South Africa’s Constitutional Democracy. *Journal for the Study of Religion*, 33(1). <https://doi.org/10.17159/2413-3027/2020/v33n1a4>

Both these nations experienced the emergence of secularism as an aftermath of colonial rule and constructed a new constitutional order capable of accommodating diversity while preventing dominance. Colonial period for both these nations had used religion as an instrument wither as communal categorization in India or Christians legitimization of apartheid in South Africa. This made sure secularism became its own colour with the histories of these nations<sup>26</sup>. Both nations focus on freedom of religion and it became a constitutional right for them but it is also imperative to mention that it is not an absolute right, conditioned by public order, morality health and other constitutional values. This shared value and common understanding that freedom of religion must coexist with equality of an individual. It is also important to point out that religious pluralism is acknowledged by both nations as a defining feature of society and focused on endorsing and inclusive constitutional framework that recognized plural religions. In a way, secularism in India and South Africa has taken a space to manage diversity, rather than suppressing it. Both nations rejected the classical west model of strict separation of church and state and adopted a degree of interaction between religion and public sphere, keeping in mind this interaction does not result in state endorsement of particular religion. The courts in both the nations play a mediator role between religion and constitutional order.

### **3. Comparative Analysis of Secularism in India and South Africa: Principled Distance V. Transformative Constitutionalism**

The comparative analysis of these two nations reveals that the laws of both these nations have included secular principles in its spirits. Both nations guarantees freedom of religion and conscience within their respective bill of rights and constitution ensuring multi religious state<sup>27</sup>. Section 15 of Bill of Rights recognises the validity of persons laws which contemplates legislation recognizing systems of personal and family law adhered to by persons professing particular religions in South Africa. Similarly article 25 to 28 of Indian constitution expressly mentions right to freedom of religion while permitting state to regulate secular activities in religious practice<sup>28</sup>. However these groundwork reveals the different approaches in philosophical foundations of the two states. Indian states model of principled distance which allows state interventions in secular activities whereas in south Africa they follow a stricter approach where state's prevented from favouring or entangling with religious affairs post-apartheid<sup>29</sup>. This diverse approaches can be further witnessed in the how judiciary interprets the same like in south Africa, the judiciary adopted 'living tree' methodology, considering constitution as a dynamic instruments that allows rights to evolve with social change in the society whereas in India courts apply the essential practice test to religious or secular activities. Therefore, it can be observed that the conceptualization and the operation of secularism is different in significance and systems.

The focus on Indian secularism is more towards managing religious pluralism with the help of accommodation, negotiation rather than adopting a stricter stance of total separation. India's approach is more of a 'principled distance' one, which permits selective state intervention in religious matters with a single purpose of social reform and still maintain deference to religious

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<sup>26</sup> Burchardt, M., Wohlrab-Sahr, M., & Wegert, U. (2013). 'Multiple secularities': Postcolonial variations and guiding ideas in India and South Africa. *International Sociology*, 28(6), 612. <https://doi.org/10.1177/0268580913491439>

<sup>27</sup> Mann, 2019; Osman & effendi, 2022

<sup>28</sup> Henrico, R. (2023). JUDICIAL REVIEW IN SOUTH AFRICA AND INDIA: ADVANCING CONSTITUTIONALISM OR UNDUE ACTIVISM? *Obiter*, 43(4). <https://doi.org/10.17159/obiter.v43i4.15412>

<sup>29</sup> Mann, J. (2019). *Multiculturalism in the British Commonwealth: comparative perspectives on theory and practice*. *Journal of Multilingual and Multicultural Development*, 41(9), 823. <https://doi.org/10.1080/01434632.2019.1704969>

autonomy in another contexts<sup>30</sup>. As many decisions of courts have delivered judgements in this matter, it can be noted that this approach has uneven patterns of intervention, which can sometimes lead to questions on consistency and neutrality. The courts play a vital role in shaping the secularism in both nations, Indian courts has developed doctrine called the ‘essential practice test’<sup>31</sup>, which is extended only to determine which religious practices have merit for constitutional protection under Article 25 to 28. The test was introduced by supreme court in *The Commissioner, Hindu Religious Endowments, Madras v. Sri Lakshmindra Thirtha Swamiar of Sri Shirur Mutt*<sup>32</sup> which held that only essential practices should be protected under constitution. courts assess religious doctrines to distinguish religious essentials from secular practices by applying this test. while balancing both individual freedom, religious freedom and social reforms- the court assess the authenticity of the particular practice and decide accordingly. Whereas, in South Africa’s constitutionalism was developed to dismantle a racial domination system that was previous legitimised via religious doctrines. Later the doctrine was used as a transformational instrument to ensure that religion cannot be mobilized to reproduce hierarchy or exclusion of one against the other. South African engagement of state and religion is characterized by institutional separation clubbed with constitutional supervision. Here the state generally avoid any kind of involvement in doctrinal content of religious institutions, it interferes only where religious practices violates constitutional rights. This approach is more of a regulator for social consequences of religious conducts and not explaining what the religious norms stand for. The courts in south Africa abstains from any doctrinal inquiries, they apply a right based analysis which help them evaluate this question ‘whether the religious practices unjustifiably limit the right of others or not?’. This methodology refrains from defining religion but it focuses on constitutional values.

The comparative analyses of both India and South Africa indicates that secularism in post-colonial democracies is not a uniform doctrine. It differs in many aspects like historic experiences, plural society, multi religiosity, constitutions, state interventions, demographic compositions, normative priorities and approach of courts. India reflects an accommodation oriented approach where state enables selective intervention to manage religious diversity, whereas in South Africa the model gives priority to constitutional transformation and other constitutional protections like equality. Both these descriptions shows limitations of universalist secular theories and pay importance to contextual constitutional analysis rather than putting one universal formula of the west in this doctrine.

Table 1: gives comparison for India and South Africa

Difference	INDIA	SOUTH AFRICA
<b>Foundational context</b>	In Law: Emerged post Partition aims at preserving unity through accommodation.	In Law: Emerges from apartheid, aims at dismantling racial and religious hierarchy

<sup>30</sup> Mallick, S. (2024). *The Constitutional Framework of Secularism in India: A Legal and Historical Perspective*. SSRN Electronic Journal. <https://doi.org/10.2139/ssrn.4971354>

<sup>31</sup> Bhatia, G. (2017). *The transformation of the essential religious practices test*. *Indian Law Review*, 1(3), 1–24

<sup>32</sup> *The Commissioner, Hindu Religious Endowments, Madras v. Sri Lakshmindra Thirtha Swamiar of Sri Shirur Mutt*, AIR 1954 SC 282 (India)

	In Society: Deeply shaped by religious identity in everyday social and political life. Religion is in public life.	In Society: Religion remains socially influential but normatively constrained by constitutional culture
<b>Core Objective</b>	In Law: Management of religious pluralism through principled distance  In Society: Maintenance of coexistence amid demographic asymmetry	In Law: Transformation toward equality and dignity  In Society: Prevention of domination while allowing plural religious expression
<b>Model of Secularism</b>	Principled distance model	Transformative model
<b>Status of religion in public sphere</b>	Constitutionally permissible and publicly visible	Constitutionally permissible on equitable basis
<b>State-religion relationship</b>	Selective engagement	Institutional separation with constitutional oversight
<b>Role of Judiciary</b>	Court has developed essential practice test	Courts avoid doctrinal determination

#### 4. Reimagining Secularism in Pluralistic Constitutional Democracies

In pluralistic religious nations marked by deep religious diversities, historic injustices and ongoing identity based contestations, it is difficult for secularism to function effectively. The suggestion is to reconceptualize the same to include more context sensitive constitutional practice which is more oriented towards diversity management and equally safeguarding other rights with it. Traditional models of secularism presupposes that religion is a matter of private life only and its interference with public life is restricted. This assumption fails when we look at pluralistic societies where religion operates as a collective identity or a sole source of social organization. Both India and south Africa experiences points out that a rigid secularism will fail to captures the lived realities of post-colonial societies, where religion still is fully present in public life. Hence, moving beyond this binary framework of strict separation and focusing more on models that exhibits religion as a legitimate social presence while denying its cohesive powers within the constitutional order is needed.

In diverse religious nations, secularism functions properly when understood as a governance strategy and not as an abstract idea. Both India and south Africa demonstrate secularism functions via institutional practices of judicial interpretations, administrative regulations and legislative frameworks and not just constitutional texts. This allows secularism to adapt to evolving concepts of equality and human dignity and not just neutrality. The reimagining of secularism is an alternative suggestion to universalist secular theories. It focus that secularism is a dynamic doctrine which focuses on demographic location, history of the nation and constitutional purpose of that nation. And it does not just focus on abstract benchmarks derived from a limited set of western models. This approach will help navigate religious diversities

without sacrificing constitutional integrity. Secularism, thus when reimagined does not become doctrine of exclusion but a constitutional condition for inclusive citizenship.

## 5. Conclusion

Secularism is the fundamental constitutional structure. This article has undertaken a comparative approach of secularism in India as well as South Africa to show how secularism works post-colonial era and how it is not a uniform concept world-wide. Both these nations imbibe freedom of religion as a core fundamental right enshrined in the constitution and prohibit discrimination on any religious grounds, their trajectories still differs with respect to their histories post partition of India and apartheid in south Africa. The analysis shows that India is characterised by a principled distance model which was used as a strategy to manage religious pluralism in multireligious society<sup>33</sup>. South Africa by contract, emerged as a transformative constitutionalism model of secularism which was designed to ensure religious equality by ensuring equality and human dignity. Despite these differences exhibiting in this articles for both nations, both rejected west model of strict separation and agreed that religion remains a socially and politically salient force in constitutional governance and have to be accommodated and not ignored completely.

Secularism is part of the fundamental law and basic framework of the both Political System to provide all its citizens with socioeconomic and material prosperity and political justice, which are necessary for human excellence. By examining constitutional provisions, legislative focus and judicial interventions, this article has highlighted how this doctrine actually functions in these jurisdictions as a context sensitive governance framework. This paper, also argues for a reimagining of secularism as a changing constitutional doctrine grounded in equality, individual freedom, dignity, constitutional framework. In a broader comparison, the experiences of both nations i.e. India and South Africa offered some insightful points for multireligious democracies, especially in Africa and Asia<sup>34</sup>, where constitutional freedom must confirm to history of the said nation. This paper contributes to a comparative constitutional research that illustrates durability of a secular governance apart from the model west secularism. This paper also highlights how emerging forms of religious nationalism reshape the boundaries of secularism and how constitution can respond to these challenges and developments while maintain foundational commitments of equality and freedom of individuals.

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<sup>33</sup> Singh, K. (2024). *Rethinking Secularism: An Inquiry into its Viability and Adaptation in the Indian Context*. SSRN Electronic Journal. <https://doi.org/10.2139/ssrn.4853411>

<sup>34</sup> Shah, D. A. H. (2018). *The Law and Politics of Religion and Constitutional Practices in Asia*. *Asian Journal of Comparative Law*, 13(2), 207. <https://doi.org/10.1017/asjcl.2019.3>