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Secularism in India in the Modern Age: Constitutional Foundations, Judicial Interpretations, and Contemporary Challenges

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Abstract

Secularism is a unique and controversial principle of India's constitutional framework in the field of comparative constitutional law. Secularism in India, the result of a process of gradual evolution over seven decades resulting from judicial interpretation, legislative struggle, political unrest and a democratic history of plural civilizations, is a distinctive characteristic. Secularism is a distinctive feature of the history of India which has developed over the past 70 years, sometimes at a snail's pace, through judicial interpretation, legislative debate, political and has codified through a careful constitutional structure. The paper explores the underlying philosophy and history of Indian secularism, its institutional framework as provided in the Constitution, the landmark judgments of the Supreme Court spanning the initial years of the post-colonial state to the most recent ones that are currently being argued in Parliament, and major issues that confront the secular ideal today in the wake of the erosion of outlawing communism, the Ayodhya verdict, the Citizenship Amendment Act 2019, and the Waqf Act (Amendment) 2025. Drawing upon the works of seminal scholars as well as primary constitutional and judicial sources, this paper argues that Indian secularism represents both a success and a limitation. While it reflects the influence of Western liberal constitutional ideals, its implementation has encountered significant challenges. Consequently, Indian secularism should be understood not merely as a successful constitutional transplant or a failed experiment, but as an evolving and contested constitutional commitment. It remains a dynamic and unfinished project that requires continuous preservation,

reinterpretation, and refinement in order to effectively respond to the changing social, political, and constitutional challenges of the contemporary era.

Keywords: Secularism, Indian Constitution, Basic Structure Doctrine, Judicial Interpretation, Ayodhya, Waqf Amendment Act 2025, Fundamental Right.

I. INTRODUCTION

Secularism is a fundamental value of a secular state, and the foundation of the Indian republic. The links between religion and world politics have been hotly disputed everywhere since 9/11 in 2001. For those negotiating the process of developing a democracy, the question has become especially pressing: how should a country that contains some of the world's greatest religions run its public realm without favouring any particular religion? This question has never been an abstract one for India, a country of religious diversity and the world's most populous democratic nation. It has been played out in constituent assemblies, in parliamentary debates, violent and blood-soaked communal streets, and the chamber of the Supreme Court of India.

Adopted on 26th January 1950, Indian Constitution became the first constitution of the developing world to be adopted after the Universal Declaration of Human Rights. The essence of secularism in India was already laid down in the Constitution from its very inception, in Articles 14, 15, 16, 25-30 and 44, even though the term 'secular' has only been introduced in the Preamble by the Constitution (Forty-Second Amendment) Act, 1976. Since then, in the important decisions of *Kesavananda Bharati* (1973) and *S.R. Bommai* (1994), it has been confirmed by the Supreme Court that secularism is part of the basic structure of the Constitution so fundamental that even Parliament cannot take away it.

But the nature and future of Secularism in India is no settled one. Indian secularism has been under siege in ways that are unprecedented over the past few years and more significantly since the early 1990s and at an ever increasing pace since 2014, from four angles: secularism in a political mobilization of religious identity, secularism in a judicial legitimization of majoritarian cultural claims, secularism in a legislative difference in treatment of religious groups and secularism in a demand for a Uniform Civil Code. These are the reasons why we urgently need to rethink the state of the secular constitutional order in India under the pressure of the majoritarianism.

This paper consists of 5 sections. The focus in Part II is on the comparative and historical perspectives of Indian secularism. Part III focuses on the constitutional provisions and constitutional construction as such. Part IV maps the important jurisprudential milestones since the *Shah Bano* (1985) case up till the *Ayodhya Title Suit* (2019). The Citizenship Amendment Act 2019 and Waqf (Amendment) Act 2025 amongst some of the other pressing contemporary challenges that threaten Indian secularism in the contemporary context is analysed in part V. The book ends with a normative evaluation and an appeal for a re-thought defence of Indian secularism in the context.

II. THE CONCEPTUAL AND HISTORICAL FRAMEWORK OF INDIAN SECULARISM

2.1. The Origins of Secularism: A Non-Western Reframing

The Latin word *saeculum* means 'age' or 'generation', and was the origin of the word 'secular' in Christian Latin with its meaning of 'the temporal world'. Secularism has a rich legacy in the Protestant tradition of church-secular state relations in the West, and in many cases has been misunderstood as being inherently opposed to religious orientations. Yet, as Yildirim has persuasively maintained, the very purpose of secularism was to ward off the encroaching power of an increasingly centralised state to believers and others. In fact, it is part of a protective and context-specific rheistory instead of an anti-religion ideology.

This is a typical Khairan Qayyasan and is essential if one is to grasp Indian secularism. Multiple persons opposed to secularism in India (up to Hindu nationalists and some leaders within the Muslim community) have termed secularism a "foreign element" that entered India from abroad and is not part of its religious and cultural landscape. This critique, however, mixes the origin of the idea in its history with the idea as it is understood in its normative usage. What secularism demands from the state are: no establishment, no discrimination and principled equality with all religions – all of which are more demanding in a multi-religious society like India, and which is not even a dream in the relatively homogenous societies of Western Europe in which the idea emerged.

Another distinction, which has been drawn by the scholars of Indian constitutional law, is between idea of secularism and system of secularization. The concept refers to the new awareness of the people that the role of the state and religion is different. The idea is placed at the highest institutional or legislative level by a governing elite and is implemented by this system - the governing elite. The two were more or less contemporarily in western Europe. Western-educated elites with a secular perspective, often ahead of the prevalent phenomenological consciousness of the masses they ruled, brought a new system of secularisation to most post-colonial societies, including India. It has been precisely this difference between the system and the idea which has kept secularism in India permanently under contestation. It was because of this difference between the system and the idea that secularism in India remained a topic of perpetual contestation till today.

2.2. The genesis of Indian Civilizational Antecedents

India at Independence did have a keen awareness of the secular in it, unlike many postcolonial states. The rulers or emperors in the Indian subcontinent had possessed a separate religious authority over their subjects from the political one. Up to this time, rulers of the Mughals and the British had colonies on the Indian subcontinent which had a religious realm or sphere of authority distinct from the political one. The Mughal Emperor was a secular ruler, rather than theocratic like the Turkish Sultan, the Ottoman Caliph; the British Crown may have been Christian in name but ruled secularly through administrative and legal codes. Therefore, this difference between temporal and

religious authority has already been known to the masses in India and is the germ of the secular idea.

Secular institutions were also laid seed in the British colonial law system. The series of Sewanapatti and Pulsuliyanna amendments and the separate drafting of the American Constitution in 1787 led to a gradual development of a uniform secular judiciary system which was gradually codified, resulting in civil, criminal and commercial law. In 1882, all laws, save personal, were under secular codes. This fragmentary secular legalism was not completely innocent either: the colonial effort to 'modernise' personal law from the essence of religious tradition were 'Islamic' because British law assumed that Muslim personal law was centred exclusively on Islam, and 'Sanskrit' because British law assumed that 'Hindu' personal law was centred exclusively on Hinduism—introduced rigidities into religious personal law that endure to this day. This means that the legacy of colonialism is very ambivalent in the West Indian secular legal system.

III. THE CONSTITUTIONAL FRAMEWORK OF INDIAN SECULARISM

3.1. The Preamble and the Basic Structure Doctrine

So, India is defined as 'SOVEREIGN SOCIALIST SECULAR DEMOCRATIC REPUBLIC' in the Preamble to the constitution of India that was framed in 1976. The Constituent Assembly which drew up the Constitution in 1949-1950 had been elected by the Provincial Assemblies highlighting the wonderful ethnic, religious and linguistic diversity of the country. In the original Preamble, secularism was never mentioned, but the constitutional structure for secularism was present in the original since the beginning.

In *Kesavananda Bharati v State of Kerala* (1973) the Supreme Court invoked the words of the Constitution and declared that states can never take away any of its essential features by constitutional amendment – this is known as the Basic Structure Doctrine. Secularism was later identified as another characteristic in the case *S.R. Bommai v. Union of India* (1994), where the nine-judge Constitution Bench ruled that religion freedom meant not merely tolerant attitude towards religion rather, that the state must treat all religions in an equal way. The Bench also observed that any state government that takes steps that go against secularism is breaching the Constitution of India and could be removed because of Article 356.

The holding has no real constitutional significance. Just by introducing a secular feature into the basic structure, the Supreme Court has ensured that it is spared a significant lawmaking change by majority of legislation. Legally the secular character of the Indian republic which is the essence of its constitution cannot be done away with by any Parliament – no matter how big its majority is, not by any Government – no matter how strong its political mandate is. It is the mechanism guaranteed in our Constitution which will keep India religiously pluralistic and preserve the supremacy of the minority.

3.2. Fundamental Rights Provisions: Articles 25 to 30

The religious freedom regime in India is anchored in the four fundamental clauses namely: Article 25, 26, 29 and 30 of the Constitution. The Article 25(1) of the Constitution provides the right of all persons to freedom of conscience, and the right to

enjoy freely the practice and profession of religion in accordance with public order, morality and health. Article 25(2) reserves to the State the right to regulate secular activities associated with religious practices and to legislate for social welfare and reform of Hindu institutions. Article 26 gives all religious denominations the right to acquire and administer property and to control religious affairs as they see fit.

Articles 29 and 30 guarantee cultural and educational rights of minorities: Article 29 protects the right of any minority with a distinct language, script or culture to preserve the same; Article 30 ensures the right to establish and administer any minority educational institution of their choice. These clauses combine to constitute a constitutional architecture that, as such, ensures the freedom of religion to individual persons, while reserving autonomy to the various religious groups and the protection for minorities—one that sets Indian secularism apart from the American version of strict separationism.

3.3. The Directive Principles and the Uniform Civil Code

Part of the Directives Principles of State Policy, the state is compelled under article 44 of the Constitution to try to provide for the citizens a uniform civil code on the territory of the Republic of India, a directive which is not enforceable by judiciary. The UCC debate has been one of the most politically polarized issues in secularism in India for more than seven decades.

This is because at the time of independence, community was based on religious identity and therefore, a UCC was not enacted by the framers of the Constitution. Accordingly, they maintained separate religious personal law (for Hindu, Muslim, Christian and Parsi marriage, divorce, inheritance and adoption) and hinted at its future uniformisation (through the directive principle) albeit it was not obligatory. The Indian Parliament partially overhauled the personal law of the Hindus by the Hindu Code Bills (1955-56); it ended polygamy and allowed for the divorce of the Hindu, while, on the other hand, the Muslim personal law was not substantially overhauled with the Hindu Code Bills (1955-56) and the UCC debate always reared its head to highlight the tension between secularism and minority rights.

IV. MAJOR JUDICIAL LANDMARKS IN INDIAN SECULAR JURISPRUDENCE

4.1. The Essential Practices Doctrine

The 'essential religious practices' doctrine is a constituent feature of the Supreme Court's adjudication on religious freedom claims that was first formulated in *Commissioner, Hindu Religious Endowments, Madras v. Sri Lakshmindra Thirtha Swamiar* (1954) and recognized by the Court to be forms of religious practices recognized as necessary to a religion by examining its doctrines. The doctrine has proved useful to the Court in deciding the theological substance of religious activities, an inherently problematic task that critics have contended brings about political judgement and puts the secular court in an uncomfortable position of assessing the authenticity of religion.

The year of 1958 brought the Quareshi cow-slaughter case, and the conflict was borne out more than ever. Muslim butchers did campaign against a state bill restricting cow slaughter arguing that the ban has infringed their right to slaughter a cow during the Bakr Id festival. They argued that the Quran didn't require the cow to be slaughtered regardless of the economic basis, and the legislation was just on economic grounds. The Court agreed with their reasoning, concluding that the ban was valid in both instances. The ruling has been hailed as a death knell to the practice of Islam in the country and received strong criticism from the Muslim community for undermining religious freedom, in addition to signaling the Court's struggle with remaining principled between the country's religious communities.

The nationalism versus religious hindrances question, however, was illustrated with greater vividness and succour in *Bijoe Emmanuel v State of Kerala* (1987), where the court had further held that there is a right on the part of the minority religious group to state its conscientious objection, in this case the children of the Jehovah's Witness minority, on the issue of political anthem and its performance with religious notability. Inconsistencies and differences in judicial practice characterize both decisions and the Court's general jurisprudence on religion-which is called as "coherence, consistency, and impartiality.

4.2. Shah Bano and the Personal Law Crisis

The Shah Bano case (1985) may be the most important and controversial felicitation by the Supreme Court within the area of secular-religious law. The arrested woman, who was a Muslim, applied for maintenance under Section 125 of the Criminal Procedure of Trials Code (CPPTC). Chief Justice Chandrachud in his opinion gave her a right to maintenance after iddat that was based on a scriptural interpretation in Islam, as well as on secular procedural law. The judgment extended to introducing a Uniform Civil Code. This case highlighted the basic fault with India's dualistic approach to law which assigned a duty of interpreting conflict issues in Islamic law to judges who were trained in secular law, where expert legal scholars disagreed on fundamentals of Islamic law. This brought about a crisis of legitimacy of the state which was tremendous in nature. Protests the violations of the Muslims were universal. Parliament cited this in turn and enacted Muslim Women (Protection of Rights on Divorce) Act, 1986 which negated the requirement of Muslim spouses to comply with Section 125 of CrPC. This turnabout in legislation was roundly faulted as rationale renunciation of the pressure from religious groups and an illustration of the Indian State's often-biased approach to secularism (that allows it to review the rules of one religion, but not the others).

However, the Supreme Court has been adamant in enforcing constitutional control over Muslim personal law. In another landmark case (*Daniel Latifi v. Union of India* 2001), the Court also applied the Muslim Women Act flexibly, giving another constitutional interpretation that was essentially a nullification of what the 1986 law took away, with the conclusions that a Muslim husband is "responsible for making reasonable and fair provision" for his divorced wife should include the entire span of her life. The decision showed the Court's ability to rely on its interpretative powers to sustain constitutional ideals despite the pressure of the communal community imposed on Parliament.

4.3. The Hindutva Controversy

The verdict of the Supreme Court in *Prabhoo v. Prabhakar Kasinathe Kunte* (1996) the Hindutva case - is considered one of the biggest judicial humiliations to the secularism cause in India since Independence. The case had come from a challenge to election speeches made by the candidates of right-wing Hindu parties under Section 123(3) of the Representation of the People Act, 1951 which bars an electoral appeal based on religious grounds. The Court also rejected the suggestions that it was a corrupt practice for political parties to use the word Hindutva in their election propaganda as it was perceived to imply 'way of life of the Indian people' and not communalism.

The ruling has long been the target of academic condemnation. By separating the issues that touch on its religious and cultural aspects, the Court tacitly allowed the electoral use of the idea of 'Hindutva' and insulated the dominant religious narrative from constitutional protections given to other religious appeals. Underlined the Constitutional underpinning of allowing minority religious groups a legal and political space to define themselves in their own terms, before the Court's 'unwillingness to deny the dominant religious group's attempts to define the cultural fabric of India herself.

The ruling of Hindutva is now law, and it continues to influence litigation in electoral matters in the country. However, successive efforts through bigger bench references have failed to challenge it, and it has had a great impact on the public sphere in India as a normalising regime of religious identity acceptable for the electoral process.

4.4. The Ayodhya Title Suit: M. Siddiq v. Mahant Suresh Das (2019)

The Ayodhya title suit, decided by a five-judge Constitution Bench in November 2019, was the culmination of a legal and political dispute that had lasted over a century. The case concerned title to the 2.77-acre disputed site in Ayodhya, believed by Hindus to be the birthplace of Lord Ram, and where the Babri Masjid had stood until its destruction by a mob of Hindu nationalists on 6 December 1992. The unanimous judgment of the Court awarded the disputed land to a trust for the construction of a Hindu temple, directing the government to allot an alternative five-acre plot to the Sunni Waqf Board for a mosque.

The judgment has deeply divided opinion among constitutional scholars and observers. Proponents have argued that the Court arrived at a pragmatic resolution of a dispute that had poisoned India's communal relations for decades, distinguishing between the illegality of the 1992 demolition (which the Court condemned) and the ultimate question of title. Critics, however, have contended that the decision privileged faith over law, noting that the Sunni Waqf Board had actually established a stronger legal title to the disputed land under the applicable principles of limitation and adverse possession, and that rewarding possession obtained through mob violence—even if only inferentially—set a dangerous precedent for the protection of minority religious property rights.

The construction of the Ram Mandir and its consecration ceremony in January 2024, presided over by the Prime Minister of India, further blurred the constitutional boundary between the state and religion. The active participation of the highest constitutional executive in a religious ceremony at a site that had been the subject of a Supreme Court

civil title dispute raised serious questions about India's commitment to the principle of state equidistance from religion that lies at the heart of the constitutional secular compact.

V. CONTEMPORARY CHALLENGES TO INDIAN SECULARISM (2014–2026)

5.1. The Rise of Majoritarianism and the Political Use of Religion

The politics of India since 2014 has been marked by the election wins of Bharatiya Janata Party (BJP) and its ideological parent organization Rashtriya Swayamsevak Sangh (RSS), which are linked to the Hindutva ideology that centres Indian nationalities on Hindu cultural and religious identity. Both organisations nominally adhere to the principle of secularism which has been enshrined in their constitutions but critics allege that their political programmes in government have systematically been undermining the principle of equidistance from religion and have been repressing minority and Muslim communities.

The impact on Indian secularism has been felt in various forms – rise of cow vigilantism and communal violence against the minority communities, allaying of the Indian identity with the Hindu cultural identity, politicisation of religious festival and pilgrimage, and rise of hate speech against religious minorities. The developments have been heralded as an increasing divergence between institutional secularism of the Constitution and social reality for the religious minorities in India.

5.2. The Citizenship Amendment Act, 2019

One of the more obvious laws undermining the idea of religious non-discrimination at the heart of Indian secularism is the Citizenship (Amendment) Act, 2019 (CAA). The Act offers an accelerated route to Indian citizenship for those belonging to six religions who were persecuted for religious beliefs in Afghanistan, Bangladesh, and Pakistan. The Act gives six religious groups—the Hindus, Sikhs, Buddhists, Jains, Parsis, and Christians—to strive for a golden age of citizenship in India, where they would enjoy the freedoms they had seen denied in their home countries. Surprisingly, it does not make provision for Muslim migrants from these countries, which includes minority groups of Muslims (including Ahmadis, who are severely persecuted in the countries of origin).

The argument before the Supreme Court against the Constitutionality of the CAA primarily includes Article 14 (Equality before the law), of Article 15 (prohibition on discrimination on Grounds of Religion) and the “Basic Structure Doctrine”. The petitioners contend that classification of the act on religious lines – and Muslims excluded from it – constitutes unconstitutional action and that the Constitution was supposed to be secular. The defence put up by the government has been that the Act tries to deal with the “peculiar circumstances” of religious minorities suffering systematic persecution by the state in the officially Islamic states where Pakistan was a part of undivided India and classification is not discriminatory but of a remedial nature. As of this writing, Supreme Court has no say on the constitutionality of the CAA, and thus it remains up for grabs.

The CAA was drafted as part of the National Register of Citizens (NRC) and sparked mass protests in late 2019 and early 2020 in India, who was seen as an attempt by the government to make Muslims a second class citizen in a nominally secular nation. The episode is of the fact of how fragile the constitutional secular guarantee can be if the political organs of the government are testing it.

5.3. The Challenge to the Secular Preamble (2024)

In November 2024, petitions were filed before the Supreme Court to eliminate the words 'socialist' and 'secular' from the Preamble of the Constitution that were added by the Constitution (Forty-Second Amendment) Act, 1976 during the Emergency. The Court ruled there was no 'legitimate cause or justification' to attack a constitutional amendment that has been in effect for almost four and a half decades. The judgment again reiterated that a secular character of the republic, appointed in the Preamble and reflected in Basic structure of the constitution is enshrined in the constitution and cannot be challenged through litigations or legislation.

Politically, this litigation is quite significant though. The renewed effort to challenge the secular nature of the preamble by a faction of our Constitution, which appeared at least from one guile willing to the ruling party, demonstrates the general ideological campaign to get our Constitution cater pitted for a different function where it appears to be more favorable to the Hindu nationalist politics. The Court's robust objection to this challenge is welcome, but that it had to be raised underscores how deep is a current pressure on the secular constitutional edifice in India.

5.4. The Waqf (Amendment) Act, 2025

There has been what may well be the most important religious-freedom case of the modern age since the Waqf (Amendment) Act, 2025 took effect. In the context of the Act, the core amendments in the Waqf Act, 1995, include inter alia, the mandatory requirement for including the non-Muslim members in Waqf Boards and the Central Waqf Council, abolition of waqf by user doctrine in future waqf dedication, enhanced role of government in relief and administration of waqfs and transfers of power on addressing the disputes arising from waqf to the revenue officers.

More than 70 petitions had been filed in the Supreme Court raising objections against the constitutionality of the Act on various grounds, including violation of Articles 14, 15, 25, 26, 29 and 300A of the Constitution. The Kerala State Waqf Board declared the Act 'Unconstitutional and discriminatory, thereby bringing a certain disrespectfulness to secularism'. It has been condemned by critics as an increased level of government interference in the administration of Muslim Religious Trusts and Muslim Religious Endowments which has no parallel in the treatment of Hindu or Christian Religious Trusts and Hindu Religious Endowments as it oversteps the bounds of Indian secularism's principled equidistance.

The government's defense is that the amendment is focused on transparency, anti-corruption and improved governance of waqf properties rather than the religious endowment, which is a secular administration issue to which government has powers under the Article 25(2)(a). The issue of a neutral stance of the state towards religious

institutions runs of the Hindu secularism that essentially pitted the sector's "neutrality" towards religious bodies against the state's reform mission in Article 25(2)(b).

The Supreme Court, as of May 2026, has been keeping alive the matter, as it has in a significant way "restricted" the Government of India from enacting steps for denotification of "waqf" properties until adjudication. This litigation will be a momentous test of Indian secularism, not only because failure to institute or enforce Article 26 protections on minorities' religious institutions would undermine the fundamental right of all citizens to free exercise of their faith, but also because the doctrine of "equal treatment of religions" has no real or practical substance in India's modern political context.

5.5. The Uniform Civil Code: Renewed Demands and Rajasthan Experimentation

The demand for a Uniform Civil Code, dormant for much of the post-independence period, has been revived with fresh urgency in the contemporary political climate. Uttarakhand, under the BJP government, enacted the Uniform Civil Code (Uttarakhand) Act, 2024—the first state-level UCC legislation in India's history—covering matters of marriage, divorce, inheritance, and adoption. The Act has been challenged in the High Court on grounds of its constitutional validity, given that personal law is a matter in the Concurrent List and that the Act's broad provisions may conflict with minority rights under Articles 25, 26, and 30.

The UCC debate encapsulates the central paradox of Indian secularism: the same Constitution that mandates the pursuit of a uniform civil code also guarantees the right of every religious community to manage its own affairs in matters of religion. Resolving this tension requires a nuanced approach that distinguishes between the state's legitimate interest in ensuring gender equality and non-discrimination within personal law, and the community's legitimate interest in preserving the distinctive character of its religious institutions. A UCC that is genuinely secular—as distinct from one that amounts to the imposition of a reformed Hindu code on all communities—remains an aspiration rather than an accomplishment.

VI. ANALYSIS: IS INDIAN SECULARISM FAILING OR EVOLVING?

All that we see in the collage above becomes complicated and does not lend themselves easily to clichés. The idea of secularism in India isn't a simple wrong or a simple right. It is a constitutional value that is at once well anchored in the law, and poorly entrenched in society and politics.

Essentially, however, with the introduction of the Basic Structure Doctrine, secularism as a constitutional value is not something that can be legislated out of existence. An overturned Supreme Court ruling last year upholding the secular Preamble to the Constitution of India asserts that the nation's pledge to secular politics doesn't allow for wholesale changes at the top level. The decisions in *Daniel Latifi* (2001), in the case of *Noor Saba Khatoon* and in other cases have proven the Court's ability for safeguarding constitutional values despite the contrary legislative action. At its best, the Indian judiciary has played the role of a valid secular constitutional acquiesce.

The problem being, however, that the course of developments over the last ten years isn't an encouraging one. The 1996 Hindutva decision stands unchallenged and is paved the way for the religious political instrumentalisations. The final verdict of Ayodhya that was handed down in 2019, irrespective of its technical legal arguments, has been read by big portions of Indian society as judicial approval to the propagation of Hindu majoritarianism. Religious discrimination is explicit in citizenship law with the CAA of 2019. The Waqf Amendment Act, 2025, has created much uncertainty with respect to the assailable treatment of minority religious institutions. These developments are linked together and set India's constitutional framework under strain with its secular framework.

Many decades on, idea remains correct that 'Indian secularism is in distress'. The evolution of the concept of secularism has been significantly hampered by those who supported and condemned secularism painting it as Western/ Christian and abhorring it as foreign to/ outside India. The Supreme Court instead has betrayed its duty to preserve the "secular purpose" of the Constitution. Over the last several decades, although this crisis has grown more complex, some of the tensions, which she had identified in the 1950s, remain unsolved.

Secularism what India urgently requires is, first up a systematic effort to educate India's population on secularism's real or core meaning and purpose: not of it as a foreign import, odd to religion, but that it is a home-grown commitment that lies within the Constitution, which safeguards every citizen's right to live according to his or her faith, free from the government imposing its own religious preferences. Second, it demands a Supreme Court that is eager to similarly apply the principle of principled equidistance, consistently and fairly, as well as state interference is brought into scrutiny, and state sensitivity is brought into deference, with respect to cow slaughter, for instance. Third, it needs a culture of the political in which a secular guarantor of legitimacy, such as the constitutional contract, holds actual weight – not the weight of foreigners to be thrown away in exchange for using the Western vote as a lightning rod for populist discontent. This is re-articulation in the light of the observation of Amartya Sen that the Indian secularism must be interpreted from the Indian intellectual framework of pluralism and coexistence, and not as a transplant of the European liberalism. The secular tradition in India did not emerge with the Constitution, but is manifested in the philosophy of Ashoka, the culture of the Mughal court, the universalist philosophy of Rammohan Roy and the philosophy of the Constituent Assembly and Nehru and Ambedkar. There is no better path to securing a renewal of the secular concept among a people who have been credulously led to believe that it is a fiat of Western, Wiccan (or Western Wiccan) influence than to recapture this practice, purveyed in the name of secularism as the genuine Indian concept.

VII. CONCLUSION

The modern Indian State is at a juncture today on the subject of secularism in India. Its constitutional structure is formally sound: the Basic Structure Doctrine, the religious freedom provisions of Part III, and the secularism of the judiciary which regularly

restates it is a strong legal bulwark. But the political and social forces opposing a genuinely equal, principled and secularism have strengthened.

Challenges discussed in this paper are each a manifestation of a certain kind of pressure being brought to bear on the constitutional secular ideal and they are all distinct. In both the cases they highlight the difference between the state's theory of 'secularism' and the lived experience of the religious minorities.

The solution to this situation has nothing to do with a rejection of secularism but with its recuperation. The secularism in the Indian state has been formally committed to India's majority religion and any other option than secularism would be fatal in such an extraordinarily religious society. Secularism as defined by the Indian Constitution is not the elimination of religion or religious practices, but the protection of them – the ensuring of equal treatment by the State to all citizens, regardless of religion, and of freedom to act on their beliefs. But the job for Indian constitution and the judiciary and for the engaged citizens is to make this guarantee visible to the 1.4 billion people for whose benefit it was forged. That is what secularism has to face in modern India.

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