

# Models of secularism – Comparative Perspectives

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## Introduction

In the world, the concept of “secularism” is not objective in the sense that nation-state uses the word “secularism” in a modified manner to suit their socio-economic and geo-political conditions. Models hereby referred as the framework of which a country adheres. As, no two models are identical, most of them are covered in this research. The formulas used to identify two different models are taken in the sense under “protection of minorities”. Before, moving with the models it is important to discuss important concepts related to it.

Secularism (which is often translated as dharma-nirapeksata<sup>1</sup>) has its roots in west specifically in Europe. There "secularization"<sup>2</sup> stated to the handover of the properties of the church to the king. Likewise, transfer of church belongings to the state also considered. Later, it was used in England; "secularism" refers the project of Enlightenment and Progress through the replacement of the mythical and religious the world with the scientific and technological-industrial approach, Europe conveyed about a distinction or departure of political domain from the religious domain. Moreover to this notion of secularism – The separation of religion and politics, "secularism-secularization" also includes –

- The role of religion in state work in minimal or absent;
- The words like "sacred" and "mystical" are replaced by “rational” and “scientific”.<sup>3</sup>
- The idea that religion and its belief are human construct not created by divinely orders.<sup>4</sup>

<sup>1</sup> See S. K. Mitra, "Desecularising the State: Religion and Politics in India after Independence," Comparative Studies in Society and History (1991).

<sup>2</sup> Grover J. in Kesavananda Bharati case and Chandrachud J. in Indira Nehru Gandhi case.

<sup>3</sup> See supra note 2

<sup>4</sup> See supra note 2

While secularism is about respecting all the religion passively; secularization means assertiveness from the state to disestablish itself from any religion. These understanding of “secularism” are prevalent in the West; its usage in India is supplemented by a substantial deviation. In fact, because of the indigenous or sui generis character of Indian model of secularism, the Constitution of India in the Preamble did not have the word secular; before it was included by the 1976 amendment.<sup>5</sup> However, needless to mention that the constitution did not contain any specific provision to ascertain the notion of secularism, which gives rise to ambiguity and doubt about the secular character of the Indian state. Hence, it was the apex court in 1973<sup>6</sup>, rule that "secularism" is a feature of the basic structure<sup>7</sup> of the constitution.

The nation is divided into different ideologies on secularism, the recent statement of the vice president, which provides us the idea that how different our understanding of secularism is, The Vice President added<sup>8</sup> –

*“.....Indian secularism has been described as ameliorative whose spiritual core is incrementalism and that a citizen could well hope that this incremental approach is used to enhance social cohesion and social peace....”*

This clearly not the definition which western nations understand, which makes our point clear that nations have adopted the definition as per their socio-political situation requires. As, the word, has different understanding in different realm. The dictionary meaning of the word is *“the principle of separation of the state from religious institutions.”*<sup>9</sup> Albeit, the said definition have not been accepted by all the nation-state. But on one point, the all the nations have agreed i.e., secularism has a relation with religion and state. In western world, secularism is perceived as separation of state with the church.<sup>10</sup> That means the idea of being secular is to separate the state functioning from the theocratic hold i.e., “the church”<sup>11</sup>. Moreover, the separation can be taken as watertight chamber, what we see in the United States i.e., wall of separation<sup>12</sup> or the accommodative<sup>13</sup> form in the United Kingdom, Laïcité<sup>14</sup> of French model to name the few. But, in India, secularism is not about separation of church

<sup>5</sup> Mathew John, Decoding Secularism: Comparative Study of Legal Decisions in India and US, conomic and Political Weekly, Vol. 40, No. 18 (Apr. 30 - May 6, 2005), pp. 1901-1906.

<sup>6</sup> Kesavananda Bharati Sripadagalvaru and Ors. v. State of Kerala and Anr. (1973) 4 SCC 225)

<sup>7</sup> *Id.*,

<sup>8</sup> See, Vice-president speech on 16<sup>th</sup> Convocation of University of Jammu, at <http://www.livelaw.in/supreme-court-clarify-principles-secularism-vice-president-hamid-ansari-video-text/>. (last visited on 25/07/19)

<sup>9</sup> Black’s Law Dictionary (9th ed. 2009), available at Westlaw Blacks.

<sup>10</sup> Meera Nanda, Economic and Political Weekly, Secularism without Secularisation: Reflections on God and Politics in US and India Vol. 42, No. 1 (Jan. 6-12, 2007), pp. 39-46. (accessed on 20/05/17)

<sup>11</sup> *Id.*,

<sup>12</sup> *Id.*,

<sup>13</sup> *Id.*,

<sup>14</sup> Dr Myriam Hunter-Henin, Why the French Don’t Like the Burqa: Laïcité, National Identity and Religious Freedom. (last accessed on 21/05/17).

and state.<sup>15</sup> The definition of secularism is way complex in India. It is divided as per the ideology, right oriented people say it is ameliorative, constitutional experts say it is positive and for rightists it is pseudo-secularism.<sup>16</sup> So it is important to prove that India is a secular<sup>17</sup> nation first before moving to the discussion that what model does India follows.

### **Tolerance<sup>18</sup>**

It can be divided into secular tolerance and religious tolerance. Secular tolerance comprises; “religious tolerance based on secular grounds”<sup>19</sup>, namely, the dissociation of the state from religion and religious associations, to prevent the state tools from being used by any group to its advantage in a religious struggle. Religions are free to participate; but the state remains out of or above the affray and many such conflicts, even acts as an umpire. This form of tolerance needs to be put out from “religious tolerance on religious grounds”<sup>20</sup>, that is, the acceptance of religious tolerance because all religions are deemed equally valid. It is only to be alarmed that the state must not be engaged as a means to achieve this end.

### **The wall of separation model<sup>21</sup> –**

The secular model in the United States of America, originates from the first amendment<sup>22</sup> to the United States constitution. The first amendment<sup>23</sup> states that “*Congress shall not make a law respecting an establishment of religion, or prohibiting free exercise thereof*”.<sup>24</sup> The principles enclosed in the first amendment<sup>25</sup> take on religion are; disestablishment principle and that too with free exercise. The free exercise clause guarantees constitutional assurances for religious liberty and the establishment clause mandates neutral attitude of state with respect to religion. *In Everson Vs Board of Education*<sup>26</sup> the US Supreme Court restated that the “*wall of*

<sup>15</sup> J. Subramaniam & Ajith Kumar S., Pseudo-secularism in India, International Journal of Research in Humanities, Arts and Literature (IMPACT: IJRHAL) ISSN(E): 2321-8878; ISSN(P): 2347-4564 Vol. 2, Issue 5, May 2014, 7-12. (last accessed on 24/5/17)

<sup>16</sup> *Id.*,

<sup>17</sup> *Id.*,

<sup>18</sup> Arvind Sharma, Religious Tolerance in Three Contexts, India International Centre Quarterly, Vol. 22, No. 1, SECULARISM IN CRISIS (SPRING 1995), pp. 29-34

<sup>19</sup> *Id.*,

<sup>20</sup> *Id.*,

<sup>21</sup> Rajeev Bhargava, The Secular Imperative, India International Centre Quarterly Vol. 22, No. 1, SECULARISM IN CRISIS (SPRING 1995), pp. 3-16

<sup>22</sup> Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

<sup>23</sup> *Id.*,

<sup>24</sup> *Id.*,

<sup>25</sup> *Id.*,

<sup>26</sup> *Everson vs Board of Education of Ewing* 330 US 1 at 16-18 (1947).

*separation between church and state was to be kept high and impregnable.*<sup>27</sup> Justice Black while delivering the judgment opined that *“the first amendment mandated that neither the state nor the federal government can set up a church. Neither can pass laws which aid one religion, aid all religions, or prefer one religion over another. Neither can force nor influence a person to go to or to remain away from church against his will or force him to profess a belief or disbelief in any religion....No tax in any amount, large or small can be levied to support religious activities or institutions”*.<sup>28</sup>

The state should be neutral in dealing between inter-religions as well as between intra-religion.<sup>29</sup> Since, from 1980 there has been an effort to get rid of the establishment clause in indulgence of the free exercise clause and of religious liberal ideologies. This apart, and more importantly for our purposes, by interpreting the establishment clause to mean treating religion and non-religion alike implies a strong inviolable notion of a secular domain resistant even to the reasonable and legitimate exercise of religious liberty which is of no threat whatsoever to the material interests of the state. Outspreading this establishment clause reasoning is therefore visibly aggressive of the free exercise of faith and religion.

The United States constitutional framework seems therefore in keeping with the liberal model outlined above indicating that it might be a good example of the secular state. The United States provides the best, though perhaps not the perfect, example here. In the memorable words of Justice Frankfurter;<sup>30</sup> *“Separation means separation not something else.”*<sup>31</sup>

### **Laïcité**<sup>32</sup>

It is the French model of secularism or we can say French way of secularism as most of the act they say it “French way”. Basically, Laïcité is a combative secularism<sup>33</sup>, the most assertive<sup>34</sup> form of secularism present in the world. The 2010 ban<sup>35</sup>, on covering the face in public is the apt example to show the glimpse of their

<sup>27</sup> *Id.*,

<sup>28</sup> *Id.*,

<sup>29</sup> Rajeev Bhargava: "It Is the Only Secularism That I Know That Attends Simultaneously to Issues of Intra-religious Oppression and Inter-religious Domination" in author, *The Promise of India's Secular Democracy* (New Delhi: OUP), 2010, P69.

<sup>30</sup> *McCollum v. Board of Education*, 333 U. S. 203, 231.

<sup>31</sup> *Id.*,

<sup>32</sup> "Laïcité: La décision de M. Chirac suscite des critiques," *Le Monde*, Dec. 22, 2003.

<sup>33</sup> Rajeev Bhargava, the distinctiveness of Indian secularism, Delhi University lecture on secularism and India, [http://www.chereum.umontreal.ca/activites\\_pdf/session%202/Barghava\\_Distinctiveness%20of%20Indian.pdf](http://www.chereum.umontreal.ca/activites_pdf/session%202/Barghava_Distinctiveness%20of%20Indian.pdf).

<sup>34</sup> See, supra note 10

<sup>35</sup> The ban is about public ban of wearing face veil. Also, see supra note 10

secularism. The said law<sup>36</sup> is the clear violation of multiculturalism<sup>37</sup> or pluralism<sup>38</sup>; whereby multiculturalist society aims for absorbing all kinds of cultures in the society, the French model is assertively targets one community per se. The full veil ban or burqa (as they call it) in public places<sup>39</sup> under the said law, is a clear abuse of power and motivated by the personal discomfort. The values of republic such as equality, liberty and fraternity<sup>40</sup>, for which France is famous for is also depleting. And the reasoning given by the authorities for enacting this law is for dignity and equality of women but in reality, it is neither for equality nor for dignity of the women. As there is no clear proof<sup>41</sup> that women do not like to wear burqa or forced to wear by their religious authorities. Moreover, it can be vice-versa as what about those women who feel comfortable wearing burqa whenever they go out, there can be a possibility that now after putting ban on burqa in public they abstain themselves of coming out in public.<sup>42</sup>

### **Multiculturalism**

It was multiculturalism in the United Kingdom that was viewed as having enabled the resistance of distinction to go too far. Secularism should have been safeguarded notwithstanding what resembled the risk of American-style multiculturalism, and this need to guard the prevailing and verifiable estimations of the country state looked somewhat like the reactions of multiculturalism with regards to the United Kingdom. The Britain took different view from the France model and said “*it was not British to tell people what to wear in the street*”<sup>43</sup>. On the contrary, the 2010 ban has been shielded by its followers in France as a display of a French tradition.<sup>44</sup>

Quoting the statement by Dr. Brenna Bhandar<sup>45</sup>:

*“If multiculturalism rests on the recognition of diversity which it then seeks to accommodate whereas secularism purports to construct a transcending common unity, both multiculturalism and*

<sup>36</sup> 2010 ban on wearing full veil.

<sup>37</sup> See supra 33

<sup>38</sup> See supra 33

<sup>39</sup> See supra note 33

<sup>40</sup> During the French revolution, 1789, Liberty, Equality and Fraternity were the key elements for independence.

<sup>41</sup> See supra note 33

<sup>42</sup> See supra note 33

<sup>43</sup> See supra note 33

<sup>44</sup> See supra note 33

<sup>45</sup> Brenna Bhandar, The Ties That Bind: Multiculturalism and Secularism Reconsidered, Journal of Law and Society, Vol. 36, No. 3 (Sep., 2009), pp. 301-326.

*secularism are deployed as techniques to govern difference that is perceived to violate dominant norms and values defined in reference to the Christian cultural heritage of the nation-state.”<sup>46</sup>*

Establishing and defending mutual values is vital to both secularism and multiculturalism. The variances lie in the approaches used to defend these mutual fundamental values. Whereas the secularist nations will to an extent downgrade religious manifestation to the private realm, multiculturalist nations will not depend on the public/private domain boundary so strictly.<sup>47</sup> Albeit, they have apparent differences as political ideologies but never the less they work on the same line. This distinction is without a moment's delay social, religious, gendered, and buried in the historical backdrop of colonial experiences that formed the developing political cognizance of the subject of Enlightenment Europe. Contrasts that test the limits of the sovereign political subject are seen as a risk to be contained and overseen. Notwithstanding the vital capability, commentators of multiculturalism have indicated the routes in which the positive emphasis on contrast inside political issues of multiculturalism has many breaking points; particularly, the farthest point of enduring any distinction that is seen as trying the Anglo-European social and racial standards of political power. In the light of criticism extracted of both secularism and multiculturalism we can deduce that they act in parallel traditions; they effort to arrest alteration that others do to the prevailing culture and belief.

### **Positive secularism**

Political secularism is thus stuck between a negative model and a passive positive model. Political secularism, as they say is about “*view which promotes that religion ought to be separate from all or some aspects of political sphere.*”<sup>48</sup> Putting the observation of Professor Neera Chandoke, she said “*in India, political secularism was established in spirit if not in words, in terms of law and constitution. Secularism is not a standalone concept, in west secularism rode on the shoulders of secularization but in India it is democracy and equality. She states that secularism is an over worked concept. For all issues, we try to take up secularism instead we can approach this question as one of art 14 i.e. equality, 15 non-discrimination, 21 right to life and dignity, 25 right to religious*

<sup>46</sup> *Id.*,

<sup>47</sup> *Id.*,

<sup>48</sup> See, <http://www.the-plot.org/2015/06/17/political-secularism-religion-and-the-state/> (last visited on 09/06/19).

*freedoms instead of collapsing all of this into one work: secularism. She says that secularists have done a big disservice to secularism by using it to solve all problems.*<sup>49</sup>

Democracy based on the principle of liberty, equality, justice and rule of law has the solution to offer for the secularism. It is additionally imperative to say here that democracy and minorities are supplementary and integral to each other as we can't have a majority rule government without minorities, and where there is no majority rule government the topic of minorities accordingly can't arise. The association of minorities and democratic system can be caught on by the way that the measure of certainty and security appreciated by minorities is considered as the genuine trial of accomplishment of a democracy.

Secularism can only be constructed on their mutual interactions and sacrifices but not otherwise. In the majority-minority setting, a differential model of sacrifice may be operative: the majority community will have to make more sacrifices than the minorities to gain their confidence and trust.<sup>50</sup> However, religious minorities need to adjust with definite exteriors too.

The independent India with Nehru's understanding began with a non-sectarian positive secularism nevertheless shortly distorted into the negative model as it was trapped with a passive model of political society where individuals do not take part in resolving their disputes and are asked to subordinate them to law and state action. It was caught by a negative model followed by orthodox Marxism and a passive positive model followed by the liberals, Gandhians and socialists. Political secularism is trapped within a communal attitude. It tempts our religious elements to think likewise. It considers in manipulation of power and law for appeasement of leaders across religious communities. Ironically, old disputes are still going on and not yet resolved but new disputes have begun. The Ayodhya issue<sup>51</sup> is yet to get settled, but the issues of triple talaq, NCERT issue<sup>52</sup> and beef ban<sup>53</sup> came up. Hence, making more dents on secularism.

India is regarded as a positive secularism. As the word "positive" denotes state intervention in the positive sense that the said intervention protects minority out of secular concerns. As stated earlier, secularism in the west has

<sup>49</sup> See, <http://www.21global.ucsb.edu/global-e/february-2017/rethinking-secularism-view-india> (last visited 10/06/19).

<sup>50</sup> Arun K Patnaik, Economic and Political Weekly, Vol. 46, No. 43 (OCTOBER 22-28, 2011), pp. 19-22, a critique of India's political secularism.

<sup>51</sup> M. Ismail Farooqui's case, (AIR 1995 SC 605)

<sup>52</sup> Pratap Bhanu Mehta, Living with Difference, Hindu, September, 14, 2002.

<sup>53</sup> See, <https://thewire.in/34703/bombay-high-courts-beef-ban-judgment-marks-triumph-of-privacy-rights-over-hindu-sentiment/>. (last accessed on 19/05/19).

given emphasis on the separation of state and religion, but Indian model of secularism focuses on the equal tolerance of all religions<sup>54</sup> what we call (sarva dharma samabhava)<sup>55</sup>, although it also endorses certain distinction or comparative departure between the political and religious realm. The positive secularism establishes absorption of all the plurality existing in the country. The nation with so much diversity, it is important to quote “unity in diversity”. Referring the constitutional assembly debate on secularism<sup>56</sup>, our forefathers clearly specified that the country is secular not to separate the state from the church or simply they did not endorse the notion of western secularism. Rather, they emphasized on unity and nationalism. It was important at that time to unite India and make India free from breaking into pieces on the basis of religion and caste so they not apparently but in essence adopted the concept of secularism but with its roots with protection of minorities and spreading unity and nationalism. To establish the said guarantees specified by the constitutional assembly debate are promised under the constitution of India, 1950 with important judicial pronouncements.

## Conclusion

As there cannot be any fixed definition of secularism, so globally different models existing for the same purpose of being a secular nation. The strict wall of separation is the impregnable wall between the church and the state, it cannot be achieved if interpreted strictly as we have seen the United States model, the apt example of wall of separation but there also judiciary sometimes apply the narrow or broad meaning of wall of separation. As the wall is not clearly drawn, which leads to absurdity and ambiguity are also the problem. Laïcité, the French model of secularism, the most criticized version of secularism is actually negating the notion of secularism as it is going too far to portray the image of secular nation. Multiculturalism or pluralism are the best form of secularism as they both believe in absorbing and accepting the diversity in the culture and society. Just like the United Kingdom, believes in multiculturalism and said during the burqa ban debate the “*it is not British to decide what to wear*”, clearly shows their acceptability of different cultures. Indian model also follows multiculturalism as in our constitution we have several provision for protection of small, weak and needy minority against the majoritarian rule. That is the reason people often call India a pseudo-secular nation. But in reality, it is not so.

Two models of secularism pretend sufficiently internal uniformity to offer religious tolerance:

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<sup>54</sup> See supra note 27

<sup>55</sup> *Id.*,

<sup>56</sup> *Id.*,



(1) Neutral secularism that establishes extreme departure between the state and the religion (includes all religions) with no intervention by the state excluding on the grounds of health, morality and public order.

(2) Positive secularism with state interference in the religious affairs which has to be in uniformity in dealing all the religions. The interferences shall be very minimalist, as we see the debate over uniform civil code, with Nehruvian principles on secularism; or if maximalist, in the form of sarva dharma samabhava, along Gandhian idea of secularism.

In United Kingdom, the establishment of parliamentary democracy exists; there the officially recognized church is the Church of England. King is a Paramount of the Church. The UK has a religion. Hence, on paper the UK is not a Secular State. But in working it is Secular. This is called functional Secularism. British society is also secular in attitude.

The United States of America has no religion of its own. There exist a “wall of separation” i.e., the state and the church is mutually separated. As per this doctrine of “wall of separation” the state cannot have its own church. The doctrine is so strictly adhered in the nation that state cannot even provide aid to any religious establishment. Not even they participate in the religious affair. Neither the congress nor the senate can enact any law to favor any religion. It is said some scholars that the USA is the closest country to secularism; but one should not get trapped by the western viewpoint of any concept. As it is clear that the definition is not fixed and clear, one should not compare one’s secularism with another, it is only there model of secularism which is not the only model in the world. No doubt the America is more tolerant as compared to France Laïcité.

French Laïcité is the assertive form of secularism, the model believes in secularization of the religion. Without accepting and absorbing the diversity of the religion, the state asserts its idea of secularism. The 2004 and 2010 ban of full veil, clearly depicts the stand of the state in the matter of religious belief, they portray it as their notion of secularism. But in fact, this kind of secularism is combative one and shows the dominance of the state in religious matters.

Multiculturalist nation like India needs secularism not to assert but to respect and absorb all the diversities. India has multiculturalism not from the independence, but from ages. But in contemporary India, demands like “Hindu Rashtraya” and “Pseudo Secularism” are challenging the age-old tolerance spirit of Indian secularism. The independence struggle of India shows the importance of secularism as if not adopted the country will be divided into small fragments where people will demand for independent states on the basis of religion, ethnic group, caste, race, language and economic condition, etc.