

CONCEPT OF SECULARISM IN AUSTRALIA, USA AND ITS COMPARISON WITH INDIA

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ABSTRACT

This research paper analyses the idea of secularism and religious freedom through a comparative study of India, the United States, Australia, and the United Kingdom. It examines how various constitutional frameworks interpret and apply secularism in light of their unique historical, political, and social contexts. While Western secularism typically promotes a clear distinction between religion and government, the Indian model offers a unique perspective that seeks equal respect for all faiths while permitting government involvement to promote social reform, equality, and public interests. The research traces the historical development of secularism, starting with its Western roots and the insights of George Holyoake, and examines how different countries' constitutional structures manage religious freedom. In the United States, the principle of secularism is chiefly based on the First Amendment.

The principle of separation of church and state exists, yet numerous state practices still show the influence of religion. Australia operates under a constitutional framework defined by Section 116 of its Constitution, which prohibits the Commonwealth from establishing a religion while allowing for a more adaptable relationship between religion and government. Although the United Kingdom guarantees religious freedom, it maintains an established church, creating a mixed model rather than a completely secular state.

In contrast, Indian secularism is defined by constitutional neutrality, religious diversity, and active government involvement to ensure equality and social harmony. This research indicates that Indian secularism is fundamentally different from Western models as it does not require a total separation of religion from the state; instead, it encourages principled engagement with all faiths.

KEYWORDS

Secularism; Religious Freedom; Indian Secularism; Separation of Church and State; Constitutional Law; Religious Equality; First Amendment; Section 116 Australian Constitution;

INTRODUCTION

This research paper provides a comparative overview of the concept of secularism and religious freedom as reflected in different constitutions. In democratic societies, personal liberties, especially those relating to religion, are often deeply rooted and challenging to alter. Around the world, some countries promote an official state religion, while others are committed to secularism. The idea of secularism originated and developed in the West, with George Holyoake—a prominent British philosopher—credited for formally introducing the term. His works, “The Secularist Principles” (1855) and “Secularism: Its Nature and Origin” (1888), laid the foundation for the modern understanding of secularism.

India’s constitutional approach to secularism differs significantly from other nations. Rather than focusing on preserving heritage, the Indian Constitution aims to drive social reform and shape society for the better. In practice, even religious freedoms can be subject to reasonable restrictions for the greater public good. Historically, Hinduism dominated ancient India, but the land has been ruled by many foreign powers—such as the Mughals (Islam), British, and Portuguese (Christianity)—bringing a variety of religious influences. When the kingship ended and India gained independence, Articles 25 to 30 of the Constitution were dedicated to religious freedom and regulation. The framers imposed reasonable restrictions on these rights, reflecting the view that national interests take priority over religious ones.

This chapter compares how secularism is portrayed in different countries, with a special focus on the constitutional frameworks of Australia, the USA, and the UK. The analysis examines the legislative approaches to secularism and religious freedom in these countries, highlighting similarities, differences, and unique features in their legal systems.

Concept of Secularism in America

The concept of secularism in the United States is closely tied to the doctrine of separation of powers, which keeps the legislative, executive, and judicial branches independent of each other. This separation extends to a clear distinction between church and state. From the adoption of its Constitution, America established itself as a secular nation, explicitly prohibiting any religious tests for holding public office. The First Amendment is central to American secularism, stating that Congress shall make no law establishing a religion, favouring one religion over another, or restricting individuals from freely practising their faith. This amendment ensures that the government remains neutral in religious matters, protecting both freedom of belief and non-belief. The First Amendment laid the groundwork for the United States to be recognised as the first truly secular federation, emphasising individual liberty, religious tolerance, and the private nature of faith.

The First Amendment imposes clear restrictions on Congress, preventing it from enacting laws on religious matters. This is a central demonstration of secularism in American governance, especially concerning religion and public freedoms. A landmark U.S. Supreme Court decision in *Everson v. Board of Education* upheld the principle that neither federal nor state governments can establish a church, pass laws that favour one religion over another, promote or inhibit any religion, or compel individuals to profess religious beliefs or disbelief. No one can be punished for their religious views or for choosing not to participate in religious

practices. Tax money cannot be used to support religious activities or institutions. Both federal and state governments are prohibited from interfering in the affairs of religious groups.

The framers of the American Constitution took significant steps to create a secular state, recognizing that a nation's progress depends on the liberty its citizens enjoy. Freedom to choose one's religion—or to choose none at all—is fundamental to individual well-being and societal welfare. The relationship between government and citizens should allow for freedom of belief and worship, making the bond between the individual and their faith a private matter.

America's progress demonstrates the positive impact of the First Amendment, which protects religious freedom and limits laws that could restrict individual rights. When people are free to choose their beliefs, society as a whole moves forward. This is the core of secularism: the state's neutrality in religious matters allows individuals to thrive personally, professionally, and socially. While the doctrine of separation is strong, the United States still recognizes and accommodates certain religious practices in public life, such as:

- Appointment of chaplains for Congress, the Army, and the Navy
- Supreme Court sessions begin with a prayer
- Witnesses in court taking oaths in the name of God
- Recitation of the Pledge of Allegiance, which references God
- Occasional national days of prayer
- U.S. currency bearing the phrase "In God We Trust"
- Tax benefits for charitable donations to religious organisations

These are a few instances of how America permits religious activities and supports them by designating specific festivals as holidays. Prayers in the name of God are recited before the start of sessions by Congress, the legislature, which is bound by spiritual ties. In reality, the separation of powers is a mirage, notwithstanding America's claims to stringent restrictions. Although Americans do not adhere to the secularism principle, which maintains that the government should always act impartially in situations pertaining to spiritual beliefs, they nonetheless like being referred to as a Secular Federation. The defence and the judiciary are the two most significant foundations of the nation and the most vital organs of the state. America's courts begin with morning prayers, and prayers in the name of God are recited before the start of sessions by Congress, the legislature, which is bound by spiritual ties. In actuality, the separation of powers is really a mirage, notwithstanding America's claims to have stringent restrictions. Although Americans do not adhere to the secularism principle, which maintains that the government should always act impartially in situations pertaining to spiritual beliefs, they nonetheless like being referred to as a Secular Federation. The defence and the judiciary are the two most significant foundations of the nation and the most vital organs of the state.

Concept of Secularism in Australia

Australia's approach to secularism is rooted in its colonial history, legal development, and multicultural society. When Australia's colonies sought to unite as a federation, their draft constitution had to be approved by the British Parliament. After amendments—including provisions for appealing legal decisions to the Privy Council—The Commonwealth of Australia Constitution Act was passed in 1900, formally establishing Australia as a federation. Initially, Australia maintained ties with Britain, especially in foreign affairs and defence, but subsequent laws (like the Westminster Act of 1943) affirmed greater constitutional independence and limited British intervention in Australian law.

Australia's religious landscape has always been diverse. The continent's Indigenous peoples practised their own spiritual traditions long before European colonisation. The arrival of the First Fleet in 1789 brought Christianity, which soon became dominant, although significant Jewish and Islamic influences also emerged over time. As immigration increased, especially during the gold rush era and after global conflicts, Australia's society became increasingly pluralistic, with various faiths and traditions coexisting.

The principle of secularism is enshrined in Section 116 of the Australian Constitution.

This section prohibits the Commonwealth from enacting laws that establish any religion, impose religious observances, or restrict the free exercise of any religion.

However, unlike the U.S. First Amendment, this restriction applies only to the federal government—not to the states. As a result, the separation of church and state in Australia is not absolute, and states have more leeway to legislate on religious matters. Judicial interpretations have clarified that Section 116 is a limitation on federal power, not a broad guarantee of religious freedom for individuals. The High Court of Australia has consistently held that this provision restricts government action, rather than affirming a general right to religious liberty. While the Constitution prevents the federal government from establishing or favoring a religion, it does not guarantee complete freedom from religious influence in public life or prevent state governments from interacting with religion.

In practice, Australia is a secular nation without an official state church. The government does not promote or fund any religion, and public policy is generally neutral toward all faiths. However, religion remains a significant aspect of Australian identity, and faith-based organizations are active in society. The legal framework ensures non-discrimination and respects Australia's multicultural character, but the extent of religious liberty and the boundaries between church and state continue to be shaped by ongoing legal and social debates.

The British Parliament's approval was crucial before the Australian colonies could unite as a federation. An Australian delegation travelled to London to present the draft Constitution.

After several revisions—including granting the right to appeal decisions from the State Supreme Courts and the High Court to the British Privy Council—the Constitution Bill was enacted in 1900. With the Queen's assent in July 1900, the Commonwealth of Australia The Constitution Act became law. Section 9 of the Act declared that New South Wales, South Australia, Queensland, and Tasmania would come together as the Commonwealth of

Australia. Shortly after, Western Australia also joined, following a successful referendum.

After federation, Australia continued to maintain close ties with Britain, especially in areas like foreign policy and defence. Over time, however, Australia gained greater constitutional independence through several legislative changes. For instance, the Statute of Westminster 1943 established that British authorities could no longer override Australian laws, marking a significant step toward full legislative autonomy.

The removal of appeals to the Privy Council further demonstrated Australia's growing independence. Australia's religious landscape is deeply rooted in the traditions of its Indigenous peoples, who have cultivated spiritual connections to the land, water, and nature for thousands of years. However, these traditions often remain outside mainstream Australian society. The arrival of the First Fleet in 1789 marked a profound transformation: Christianity became the dominant faith, influenced by both religious and Enlightenment ideals, while older Indigenous spiritualities continued to persist alongside these new influences.

Jewish settlers also arrived with the First Fleet and have remained part of Australia's diverse fabric ever since. For over 4,000 years prior to European colonization, Indigenous Australians passed down oral traditions centred on natural forces, the origins of the land and people, and the interconnectedness of spiritual and earthly realms. Notably, the earliest recorded contact between Indigenous Australians and outsiders came in the 16th century, when Muslim traders from what is now Indonesia visited northern Australia. When Europeans arrived, they brought their own religious institutions, such as churches and pastors. By the 19th century, denominations like Roman Catholicism and Baptism were established, and Christianity became the dominant faith. By the late 20th century, religious tensions—particularly between Catholics and Protestants—had become a notable part of Australian social life.

Significant waves of immigration, such as the gold rush in 1849, further diversified Australia's population. Migration from southern Europe increased after the World Wars, and throughout the 20th century, Muslims and Hindus also arrived for work opportunities, especially on cotton plantations and as divers. Early drafts of the Australian Constitution—such as the 1899 convention—debated the extent of state involvement in religious matters.

Clause 110 of the draft Constitution proposed prohibiting state interference with religion, and there were discussions about including a reference to God in the preamble. In interpreting Australia's constitutional provisions, the High Court has addressed the boundaries between church and state. Section 116 of the Constitution states that the federal government cannot make laws establishing any religion or prohibiting the free exercise of religion. In *Attorney-General (Vic) v Commonwealth*, the High Court clarified that this provision underscores the distinction between church and state. However, Section 116 does not provide a broad guarantee of religious freedom for individuals; it primarily limits the legislative powers of the Commonwealth government.

The Constitution defines the areas in which the Commonwealth can legislate, and any law made outside those powers is considered invalid. Section 116 does not grant new legislative powers; rather, it restricts the Commonwealth from making laws about religion. This means, but it does not affirm an individual's right to religious freedom. The section is a limitation on the federal government, which cannot enact laws that either

establish or prohibit religious practices, but rather government authority, not a broad personal right. In practice, Section 116 places constraints only on the federal government; no similar restrictions apply to the states. Therefore, Australia's constitutional framework does not fully guarantee the separation of church and state. Section 116 has four components:

it prohibit its the Commonwealth from establishing any religion, imposing religious observances, restricting the free exercise of any religion, and requiring religious tests for public office.

In the case of *Bible Church v. Redman*,. the court confirmed that there is no broad common law right to religious freedom in Australia and that Section 116 only limits the Commonwealth's legislative power. It does not guarantee religious liberty for individuals, and states retain significant authority to make laws affecting religious practices unless those laws conflict with federal provisions. As a result, the constitutional right to religious freedom in Australia is more limited than in some other countries, and the real-world relationship between religion and state remains a topic of ongoing debate and concern.

In Australia, religious liberty is generally well protected, and there is little pressure to change the existing approach. The consensus has been to maintain the status quo, reflecting Australia's tradition of religious tolerance. Section 116 of the Constitution, however, is seen as having limited practical effect compared to broader amendments; its primary function is to impose explicit constraints on Commonwealth legislative power, not to serve as a sweeping declaration of church-state separation. Debates during the drafting of the The Constitution show that Section 116 was intended mainly to restrict government intervention, rather than to express a universal principle of secularism.

Concept of Secularism in India

India's concept of secularism is unique and stands apart from Western models. The country has long been a centre for diverse religious traditions, with four major world religions originating there. What makes Indian secularism distinctive is its ability to integrate foreign religious influences into its own cultural fabric. In this context, secularism has become a key foundation for acknowledging India's multiculturalism. However, the contemporary use of the term "secularism" raises challenges, as its application is often debated. Indian secularism is commonly associated with religious harmony, but simply having multiple religions does not guarantee true secularism—what matters is whether all religions are treated equally in practice. The ongoing division into majority and minority communities shows that equality among faiths is still an unresolved issue. The central challenge is to define what secularism truly means for India. In the European context, secularism emerged from scepticism about the church's authority over civil affairs and its expanding political power. Traditionally, it was believed that the church should govern spiritual matters, while the state should manage civil ones. Many argued that institutions should be governed by civil society, not religion. In India, religious control over social institutions has often been maintained by upper castes, both formally and through caste systems. Experts suggest that true secularism requires religion to be kept separate from public institutions to achieve a genuinely secular social order. The role of religion should be limited in politics, culture, and organisational life to ensure open and

inclusive identities. The researcher notes that in a democratic system, dominance by any single religious community undermines true secularism.

With each problem that arises, who represents the bulk of modifications? When you speak about democracy and the concept of secularism, you're speaking about a system where different religious identities exist side by side, and these are not dominant in a secular society. Dr Thapar's views on our concept of the secular state are essential because our conception of secularism differs from those of other secularist philosophies. The dispute regarding the powers of the church and the state that arose in Europe, the state emerged from that strength by overtaking the charge from the church. Therefore, in Indian religious circumstances, there are no conditions in which religion dominates governance; as such, this is what differentiates the concept of Indian secularism from others. Clarifying the view, she states that the mere existence of various religious beliefs under one roof is not the only requirement; what is required is that each existing religion be given the same importance or status, which is somewhat absent under the Indian concept of secularism and again sm. Dividing people into majorities and minorities often deepens divisions rather than fostering unity. According to Dr Thapar, this fragmentation means that India's version of secularism falls short of the ideal. Indian society is split into numerous sects and sub-sects, undermining both unity and uniformity. In a country as diverse as India, prioritising any one religious ideology is unjustified. The strength of India's democracy lies in not identifying the nation with a majority religion; only then can all communities develop a unified, integrated national identity. By contrast, Western nations with more religious homogeneity may find it easier to grant preference to a single religion, but the complexity of India's religious diversity makes such an approach both impractical and inequitable.

Tracing the evolution of secularism in India, the Charter of 1835 was a milestone. It declared that no Indian, regardless of religion, birthplace, or colour, could be disqualified from holding public office. This provision prevented arbitrary state discrimination and limited government interference in religious matters, laying the groundwork for India's journey toward secularism. The move faced resistance from religious groups who opposed the East India The company's involvement in religious affairs. However, this was the first major step toward a secular state in India. Secularism developed as a political ideology with the core goal of separating state and religion. While religion played a significant role in human development, as Marx famously said, it could also divide people and hinder national unity.d.A secular state is defined by the separation of political and religious authority. Although the idea of secularism originated in the West, the Indian approach differs significantly. While Western secularism often insists on a strict separation between state and religion, India's model is less rigid. India's diversity means that, despite Hindus forming the majority, many minority communities continue to thrive. Thus, the Indian version of secularism accommodates religious plurality rather than enforcing a complete separation. The term "secular" was added to the Indian Constitution's Preamble through the 1976 amendment. However, India has been secular from the outset. Article 15 prohibits discrimination based on race, sex, or place of birth, and Article 14 guarantees equality before the law—key elements of secularism. These provisions establish equality as a foundational principle of the Constitution. Article 13 also ensures that any pre-existing laws inconsistent with Constitutional rights are rendered invalid.

The provisions of the Indian Constitution serve as a foundation for secularism by granting every individual the freedom to choose and practice their religion. However, this freedom is not absolute and is subject to government regulations and fundamental rights outlined in the Constitution. These safeguards are especially important for protecting the interests of vulnerable groups. The Forty-Second Amendment, which formally introduced the term “secularism,” did not create a new principle but reaffirmed that secularism is a core, long-standing feature of the Constitution.

COMPARATIVE STUDY WITH AUSTRALIA, AMERICA, UK

A comparative analysis of secularism in America, Australia, England, and India reveals important differences:

- The United States Constitution, through the First Amendment, establishes a doctrine of “Secular Federalism” and a clear separation of powers. However, in practice, the The American government sometimes blurs the lines between secularism and religion.

Examples include appointing military chaplains, opening court sessions with prayers, and using religious language on currency. These practices indicate an ongoing state involvement in religious matters, suggesting that while secularism is enshrined in the Constitution, its application is not always consistent.

- England takes a different approach. Although its laws and courts guarantee freedom to choose and practice any religion, England is not a truly secular state. The Church of England is officially established and led by the Crown, and political authority is seen as derived from God. Decisions of the head of the church are binding. Therefore, England combines elements of both secularism and an established state religion, making it a non-secular state with some secular features.

- Australia’s approach is closer to the American model. Section 116 of the Australian Constitution prohibits the establishment of a state church, reflecting the country’s secular character. Unlike England, Australia has no official state church, reinforcing its commitment to secularism.

THE CONCEPT OF SECULARISM IN OTHER COUNTRIES

Religion is a fundamental element of every culture, but its expression and practice vary greatly across societies. When a religion spreads beyond its place of origin, it adapts to the local customs and conditions of the new country. For example, Islam in India differs from Islam in the Arab world. This shows the importance of the relationship between religious belief, social customs, and the economic and political context of each society. Religion is deeply tied to personal values, often making criticism difficult and fostering strong attachments to faith. In countries like India, religion holds a central place, and followers of different faiths take pride in their beliefs. Jawaharlal Nehru noted that religion, while powerful, has sometimes instilled fear in the Indian nation and criticised its misuse. Religion can be a unifying force, as history demonstrates, but it can also divide people into subgroups and spark conflict. Historical disputes, such as those between Shias and Sunnis or Akalis are examples of this divisive potential.

Although religion is often viewed as a personal matter, it can become a source of social unrest if taken to extremes. At its best, religion shapes moral beliefs and behaviour. Its social significance is recognised in

constitutions around the world. As Christianity grew in medieval Europe and became widely accepted, it influenced the formation of states.

However, this also led to state religions and, at times, the exclusion and persecution of those who did not belong to the dominant faith, resulting in violence and even bloodshed. It has been recognized that individual faith should not be threatened. The idea of religious freedom began to gain prominence in the modern era, as societies embraced the value of tolerance and recognised the individual's right to practice their religion. However, this right is often subject to the historical and social context of each country, including limitations related to public order, morality, and similar concerns. Countries can generally be classified as either having a state religion or being secular, depending on how they approach these issues.

CRITICAL ANALYSIS OF SECULARISM

A critical review of secularism across different countries shows that, despite appearing secular, India provides a more practical and effective model. Indian secularism offers stronger protections for religious freedom and incorporates robust constitutional safeguards against discrimination. The Indian Constitution mandates equality and prohibits bias in religious matters, reflecting the values of a democratic nation.

Indian secularism adopts a proactive stance: the state is empowered to intervene when necessary to uphold equality and curb harmful religious practices, while refraining from endorsing any specific faith. By contrast, American secularism is often described as “negative,” with the state maintaining a hands-off approach to religious matters. India's model, which actively enforces secular principles through legislation and government actions, is therefore considered more comprehensive and adaptable to the needs of a pluralistic democracy.

In summary, Indian secularism is characterised by proactive state involvement to uphold equality and prevent religious discrimination, while maintaining neutrality toward all faiths.

Unlike the American “negative” model—where the state avoids engagement in religious affairs—India's “positive” approach involves active legislative and governmental measures to protect diverse religious communities and promote social harmony. This makes the Indian model particularly effective for a complex, pluralistic society.

Bibliography

1. M.P. Jain, *Indian Constitutional Law* (LexisNexis, 9th edn., 2023).
2. H.M. Seervai, *Constitutional Law of India* (Universal Law Publishing, 4th edn.).
3. Granville Austin, *The Indian Constitution: Cornerstone of a Nation* (Oxford University Press, 1966).
4. Rajeev Bhargava (ed.), *Secularism and Its Critics* (Oxford University Press, 1998).
5. Upendra Baxi, *The Future of Human Rights* (Oxford University Press, 3rd edn.).
6. Donald Eugene Smith, *India as a Secular State* (Princeton University Press, 1963).
7. Gary Jacobsohn, *The Wheel of Law: India's Secularism in Comparative Constitutional Context* (Princeton University Press, 2003).
8. A.G. Noorani, *Constitutional Questions in India* (Oxford University Press).

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