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# Freedom of Religion: Under Indian Context

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## ABSTRACT

*“Right to freedom of religion is not only a right guaranteed by the constitution but also at the same time is a duty expected to be followed, for the betterment and overall growth of the society.” The flexibility of religion does not imply that each individual can do what he feels under the shroud of the religion. It doesn’t imply that the religion is wild, free. The framers of the Constitution given some limitation on the flexibility of religion, with the goal that the profitable right of the opportunity of religion may not be abused. Religion is an indispensable part of human existence. Freedom of religion is considered as the third most important civil liberty after the right to life and personal liberty and the freedom of speech and expression. The Indian Constitution guarantees freedom of religion and acknowledges the individual’s autonomy in his or her relationship with God. As the establishing fathers were composing the Constitution, they trusted that administration should have been mainstream so as to keep the peace between religious groups, and they put forth an admirable attempt to make a statement with no religious desires.*

**Keywords:** *Constitution, Religion, Secularism, Tolerance, Flexibility, Liberty, Right, General Public, Morality, Public Health*

*“A RELIGION THAT IS SMALL ENOUGH FOR US TO UNDERSTAND WOULD NOT BE LARGE ENOUGH FOR OUR NEEDS.”*

*-- GRENVILLE KLEISER*

## I. INTRODUCTION

Freedom of Religion is a principle that supports the Freedom of an individuals or community in public or private, to manifest religion or belief in teaching, practice, worship and observance. It also includes the Freedom to change one’s Religion or Beliefs. Freedom of Religion is considered by many people and most of the nations must have a Fundamental Human Right. Historically, Freedom of Religion has been used to refer to the tolerance of different theological systems of belief, while Freedom of Worship has been defined as freedom of individual action.

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India is a Pluralistic society and country of religion. It is inhabited by people of many Religions. The framers of the constitution thus desired to introduce the concept of **Secularism**. It means “State neutrality in matters of religion”. They also want to confer religious freedom on various religious groups. Religion has been a very **volatile** subject in India both before and after independence. Because of this our Constitution seeks to ensure state neutrality in this area.

The essential part of **Secularism** is religious tolerance and equal treatment of all religious groups. Regarding Religious Tolerance of our country the **DALAI LAMA**, The Tibetan leader said that

“The religious tolerance of Aryabhoomi, a reference to India found in the Mahabharat has been in existence in this country from thousands of years. Not only Hinduism, Jainism, Buddhism, Sikhism which are native religion but also Christianity and Islam have flourished here. Religious tolerance is inherent in Indian tradition.”

The Secularism concept is followed strictly in our country it means that India does not mean irreligion. It exactly means respect for all faiths, beliefs and religions of our country.

According to **Dr.S.S.Radhakrishnan** “Secularism means the state does not identify itself with the any particular religion.”

The concept of secularism is not merely a passive attitude of religious tolerance. It is positive concept of equal treatment of all religions.

According to **Justice Sawanth** “Religious tolerance and equal treatment of all religious groups and protections of their life and property and place of their worship are essential part of Secularism enshrined in our constitution.”

The **Rajni Kothari**, Founder of the Centre For The Study Of Developing societies quoted, “India is a country built on the foundations of a civilizations that is fundamentally Non-Religious.”

## II. RELIGION

Our constitution not defined the term Religion, but our Supreme Court trying to define the religion through certain judicial pronouncements. In 1954, in **Sri Lakshmindra case**, Supreme court held that “Religion is certainly a matter of faith with individuals or communities and not necessarily theistic.”

In 1995, **Moran Mar Marthoma case**, court declared that “Religion is the belief which binds spiritual nature of men to super natural being. It includes worship, belief, faith, devotion etc and extends to rituals.”

### **III. FREEDOM OF RELIGION:**

Freedom of Religion in our country is a fundamental right guaranteed by Article 15 and 25 of the constitution of India. Modern India came into existence in 1947 and the Indian constitution's preamble was amended in 1972 to state that India is a Secular state. Every citizen of India has a right to practice and promote their religion peacefully.

**Article 25** says that "All persons are equally entitled to or guarantees to every person and not only to the citizens of India the freedom of conscience and right freely to profess, practice and propogate religion."

This right is subject to Public order, Health, Morality and other provisions relating to fundamental rights.

**Freedom of Conscience** means inner freedom of an individuals to moulds his relation with god or creature in whatever way he desires.

**Right to Profess** indicates that Declarations of one's religious beliefs and faith openly and freely.

**Right to Practice** means that performance of religious worship, rituals, ceremonies and exhibition of beliefs and ideas.

**Right to Propogates** indicates that transmission and dissemination of one's religious beliefs to others.

This Article covers not only religious beliefs but also religious practices.

State is permitted to :

1. Regulate or restrict any economic, financial, political or other secular activity associated with religious practices.
2. Provides for social welfare and reforms or throw open Hindu religious institutions of a public character to all classes and sections of Hindus.

**Article 26** says that all denominations can manage their own affairs in matters of religion but subject to the public order, morality and health.

The difference between Art 25 and 26, Article 25 guarantees rights of individuals and to protect the individual freedom of religion. But Article 26 protects the collectives freedom of religion and guarantees of religious denominations.

The Supreme Court in **Pannalal Pitti vs State of Andhra Pradesh** mandated that while Article 25 and 26 grants religious freedom to minority religions such as Islam and Christianity. Yet

they do not intend to deny the same guarantees to Hindus.

Article 25 mandates that subject to public order, morality and health all persons enjoy the freedom of conscience and have the right to entertain any religious belief and propagate it.

The meaning of public order, morality and health means that article 25 and 26 are not absolute. No person can do such religious things which affect the public order, morality and health.

**Article 27** says that freedom from taxation for promotion of a religion. State should not spend the public money collected by way tax for the promotion and maintenance of any particular religion. This provision prohibits the state from favoring patronizing and supporting one religion over the other. This means that the taxes can be used for the promotion or maintenance of all religions.

No person will be compelled to pay any taxes for the promotion or maintenance of any particular religion or religious denomination.

#### **IV. CONCLUSION**

The Indian version of Secularism is a little bit different from what is understood in the western European countries. In the west, State and Religion is separate and do not intervene in each other's internal affairs. But this is not the case with India, in our country Secularism means "**Respect for all religion**" and "**Keeping a principled distance**" from each religion.

Our constitution permits the central government to intervene in religion but this intervention should be based on constitution only. If some tenets, principles or beliefs of any particular religion violate the constitution or the law of the land, then the Indian government is mandated to intervene and remedy the situation.

Our government has rare intervened in religions historically as mandated by the constitution. The enactment of Anti-Untouchability Act-1989 (SC/ST ACT) and also the recent law banning triple Talaq among the Muslim community is example of this constitutionality mandated intervention. Government also intervene Women of any religion who denied opportunities or equality guaranteed by the Indian constitution.

Right to Religion is not a absolute right, it is subject to certain limitations i.e. public order, morality and health. No person can do certain religious thing which affects the public order, morality and health. For **example** No one can use busy road or busy public place for prayer that may disturb the community.

Are rituals secured? Yes, It is protected but the state by law may regulate the economic,

financial, political or other activity which may not be a direct part of religion.

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