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A Comparative Perspective on Legal Framework and Practices relating to Secularism in France and India

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ABSTRACT

This research paper aims to provide a comparative analysis of the legal frameworks and practices concerning secularism in France and India. Secularism, as a concept, plays a crucial role in shaping the relationship between the state and religion, safeguarding individual liberties, and maintaining social harmony. France and India, both diverse democracies with rich histories, have adopted distinct approaches to secularism, reflecting their unique social, cultural, and historical contexts. Through an examination of constitutional provisions, legislation, court judgments, and societal practices, this study delves into the key similarities and differences in the legal frameworks of secularism in France and India. The paper explores how each country's legal system has sought to establish a secular state while ensuring the protection of religious freedom and addressing the challenges posed by religious diversity. Furthermore, this research investigates the practical implementation of secularism in both countries, analyzing case studies and recent controversies. It explores areas such as state neutrality, religious symbols in public spaces, education, and the relationship between the state and religious institutions. The findings of this study reveal that while France adopts a strict interpretation of secularism, known as "laïcité," with a focus on the separation of religion and state, India embraces a more inclusive and accommodative approach, known as "sarva dharma sambhava," emphasizing respect for all religions. These divergent approaches lead to contrasting legal frameworks and practices, resulting in varying degrees of state intervention in religious matters. The comparative analysis sheds light on the strengths and weaknesses of each approach, addressing the impact on individual freedoms, religious minority rights, and social cohesion. Moreover, it explores the influence of historical, political, and cultural factors in shaping secularism in each country. By critically examining the legal frameworks and practices relating to secularism in France and India, this research paper contributes to a deeper understanding of the challenges and complexities involved in balancing state neutrality and religious freedom in diverse societies. The findings can inform policy

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discussions and debates on secularism, both within the two countries and in other contexts grappling with similar issues.

Keywords: *Secularism, French Secularism, Indian Secularism, Laicite, Freedom of Religion.*

I. INTRODUCTION

The relationship between religion and state refers to the interaction and integration of religious institutions and beliefs with the political and legal systems of a country. This relationship can take various forms, ranging from a complete separation of religion and state to a close association or even a merging of the two. In some countries, religion plays a significant role in shaping the laws and policies of the state, and religious leaders are often consulted by political leaders on matters of policy and governance. In other countries, the state is completely secular, and religion is strictly prohibited from interfering in the affairs of the state. The relationship between religion and state can be complex and contentious, especially in multi-faith societies where different religious groups hold different beliefs and values. The challenge for governments is to ensure that the rights and freedoms of all citizens, regardless of their religious beliefs, are protected and respected, while also promoting social cohesion and unity.

Secularism is a political and social philosophy that advocates for the separation of religious institutions and beliefs from the state and its institutions.² It aims to create a society where individuals of all religions or beliefs are equal before the law, and where religion does not play a role in the affairs of the state. Secularism is often seen as a way to promote freedom of conscience, tolerance, and the respect for diversity in society.

The concept of secularism has been discussed and debated for centuries, with different interpretations and practices in different countries and cultures. In some societies, secularism is seen as an essential component of democracy and modernization, while in others, it is viewed as a threat to traditional values and beliefs.³ Despite these differences, secularism remains a vital aspect of many modern societies and is often considered a cornerstone of human rights and democracy.⁴

² GERARD PHILLIPS, WHAT IS SECULARISM? (National Secular Society 2011) (2011), <https://www.secularism.org.uk/uploads/an-introduction-to-secularism.pdf> (last visited May 11, 2023).

³ Ram Puniyani, *Is Secularism a threat to Traditions of India?*, THE MILLI GAZETTE — INDIAN MUSLIMS LEADING NEWS SOURCE (Mar. 20, 2021), <https://www.milligazette.com/news/Opinions/33832-is-secularism-a-threat-to-traditions-of-india/> (last visited May 11, 2023).

⁴ Haldun Güllalp, *Secularism as a Project of Free and Equal Citizenship: Reflections on the Turkish Case*, 7 FRONTIERS IN SOCIOLOGY, XXXX (2022), <https://doi.org/10.3389/fsoc.2022.902734> (last visited May 11, 2023).

Secularism, as a concept, has been interpreted and practiced differently in different countries. France and India are two countries that have adopted secularism as a fundamental principle of their constitutions. However, the implementation and practice of secularism in these countries have been vastly different due to their unique historical, cultural, and political contexts. In this essay, we will explore and compare the different dimensions of secularism in France and India, including their historical origins, legal frameworks, and current practices. By analyzing the similarities and differences between French *laïcité* and Indian secularism, we can gain a deeper understanding of the challenges and opportunities that arise when implementing secularism in different socio-cultural contexts. In this article, we will explore and compare the different dimensions of secularism in France and India, including their historical origins, legal frameworks, and current practices.

II. HISTORICAL ORIGINS

The historical origins of secularism in France and India are vastly different. In France, secularism or *laïcité* can be traced back to the French Revolution,⁵ which sought to overthrow the power of the Catholic Church and establish a secular republic. The French state sought to create a clear separation between religion and politics, which was seen as a way to prevent the Church from exerting undue influence on the state. *Laïcité* was enshrined in the French Constitution in 1905, which officially separated Church and State.

French secularism, also known as *laïcité*, is the principle of separating state and religious affairs in France. This means that the state does not endorse or support any particular religion and religion should not influence or interfere with public life and government institutions. French secularism is considered a cornerstone of French identity and has a long history in the country, dating back to the late 19th century.⁶ It aims to promote religious freedom and equality by keeping the government and religion separate, while also allowing individuals the freedom to practice their religion in private.

The origin of *laïcité* in France dates back to the late 19th century and the early 20th century, when the country was undergoing significant social and political changes. During this time, there was a growing sense of nationalism and a desire to unify the country around a common set of values and ideals. At the same time, there was a growing secular movement, which sought

⁵ Martin Evans, *What is French secularism?* | *History Today*, HISTORY TODAY | THE WORLD'S LEADING SERIOUS HISTORY MAGAZINE (Jan. 22, 2016), <https://www.historytoday.com/what-french-secularism> (last visited May 1, 2023).

⁶ Anne Kira Skowron, *Laïcité and Islam: The French Paradox*, JOURNAL ON WORLD AFFAIRS, UCLA (Mar. 26, 2021), <https://journalonworldaffairs.org/2021/03/26/laicite-and-islam-the-french-paradox/> (last visited May 3, 2023).

to separate religion from the state and public life.

Its origin can be traced to the reputed thought of Enlightenment which arose in late 17th to 18th century Europe.⁷ The Age of Enlightenment in European thinking spans the late 17th to late 18th centuries and is marked by the development of science, the rejection of dogma, and the quest for freedom in academic, governmental, and private life. Many opinions were held by the thinkers associated with this movement, but their work on church and state gave rise to a comprehensive philosophy of secularism that for the first time influenced the actual state policies. Importantly, all significant Enlightenment thinkers derived the legitimacy of government, not from God or church sanction, but from the consent of the governed.⁸ The main difference between the Christian and Enlightenment philosophies was the belief that the approval of the people was required for a government to be legitimate. Revolutionaries in two nations (viz. United States of America and France) made this concept a reality and, in doing so, founded state secularism for the first time.⁹

Although France was the birthplace of numerous Enlightenment philosophers in the 18th century, the monarch nonetheless wielded authoritarian political power. In the social and political system known as the *ancien régime*,¹⁰ this power was interwoven with dogmatic and influential Roman Catholic organisations. In 1789, when the French Revolution erupted to overthrow the old system, both the Crown and the church were equally targeted.¹¹ In response to the need for new legislation, an elected assembly prepared the *Déclaration des droits de l'homme et du citoyen* (Declaration of Human and Civic Rights).¹² Given the background of entrenched in the Enlightenment thought Article 10 of the *Déclaration des droits de l'homme et du citoyen* (Declaration of Human and Civic Rights) declares as follows: “No one may be disturbed on account of his opinions, even religious ones, as long as the manifestation of such opinions does not interfere with the established Law and Order.” This pronouncement was accompanied by the dissolution of the church's state power and the confiscation of its property. Pre-revolutionary France's largest landowner was the church, whose property has since been

⁷ Anastasia Colosimo, *Laïcité: Why French Secularism is So Hard to Grasp*, INSTITUT MONTAIGNE (Dec. 11, 2017), <https://www.institutmontaigne.org/en/expressions/laicite-why-french-secularism-so-hard-grasp> (last visited May 2, 2023).

⁸ ANDREW COPSON, *SECULARISM: A VERY SHORT INTRODUCTION* 13 (Oxford University Press, 2019).

⁹ *Id.* at 14.

¹⁰ The Editors of Encyclopaedia Britannica, *Ancien régime | French history*, ENCYCLOPEDIA BRITANNICA (Feb. 20, 2009), <https://www.britannica.com/event/ancien-regime> (last visited May 11, 2023).

¹¹ George J. Marlin, *The French Revolution and the Church - The Catholic Thing*, THE CATHOLIC THING (July 14, 2011), <https://www.thecatholicthing.org/2011/07/14/the-french-revolution-and-the-church/> (last visited May 1, 2023).

¹² LÉGIFRANCE, <https://www.legifrance.gouv.fr/contenu/menu/droit-national-en-vigueur/constitution/declaration-des-droits-de-l-homme-et-du-citoyen-de-1789> (last visited May 1, 2023).

seized by the state. Clergy, who had been the 'First Estate' (the most powerful class) under the ancien régime, were deprived of their unique powers, become public workers, and obliged to swear allegiance to the state.

In the decade (1789-1799), against the backdrop of the French Revolution, the connection between both the French state and the Catholic Church was completely severed, and France underwent what some historians refer to as an attempt at "de-Christianization" of its society and politics.¹³ With the legalisation of divorce in 1792, Christian moral standards were eliminated from the state's legal system. Church-performed institutional duties, such as the recording of births, marriages, and deaths, were assumed by new public institutions.¹⁴ As the struggle for liberation morphed into persecution of former oppressors, public Christian worship was prohibited or severely restricted. The French revolutionary government imprisoned Pope Pius VI¹⁵ after invading the Papal States in Italy¹⁶ and proclaiming a Roman Republic. Throughout the revolution, Christians and their clergy were subjected to violence. Napoleon ended de-Christianization by forging a pact with Pope Pius VII in 1801. This so-called *Concordat* was ratified by the French government in 1802.¹⁷ The Roman Catholic Church was once again recognised as "the religion of the majority of the French," but its pre-revolutionary dominance was not restored. Roman Catholicism, Protestant faiths, and Judaism were all granted state recognition and funding. The French government also instituted its own supervision over significant aspects of church activity, including the selection of bishops, the compensation of priests, and the regulation of seminaries. The government established a bureau to oversee all religious concerns.

Regarding the proper connection between church and state in France, the 1802 settlement did not provide a definitive answer. Throughout the 19th century, secularist and clerical inclinations in French politics and social life competed for power and influence. Throughout this conflict, the French term *lacidité* was coined. *Lacidité*, like the English word secularism, had and still has multiple meanings, but its primary purpose was to describe the separation of church and state along the lines that French history indicated: a republican ethic that would rid civil life of

¹³ Alberto M. Piedra, *The Dechristianization of France During the French Revolution* | the Institute of World Politics, THE INSTITUTE OF WORLD POLITICS (Jan. 12, 2018), <https://www.iwp.edu/articles/2018/01/12/the-dechristianization-of-france-during-the-french-revolution/> (last visited May 3, 2023).

¹⁴ ANDREW COPSON, *supra* note 7, at 15.

¹⁵ Cedric Ward, *Napoleon and the Pope—what Really Happened in 1798?*, MINISTRY MAGAZINE | HOME, <https://www.ministrymagazine.org/archive/1979/06/napoleon-and-the-pope-what-really-happened-in-1798> (last visited May 11, 2023).

¹⁶ *Id.*

¹⁷ *The Concordat of 1801* | *History of Western Civilization II*, LUMEN LEARNING – SIMPLE BOOK PRODUCTION, <https://courses.lumenlearning.com/suny-hccc-worldhistory2/chapter/the-concordat-of-1801/> (last visited May 2, 2023).

religious interference and guarantee freedom of conscience for all people in their capacity as citizens.

During the period of French constitutional history known as the Third Republic (1870–1940), the concept of *laïcité* became the state's defining ideology.¹⁸ This period of secularisation culminated in 1905 with the passage of a legislation "on the separation of Churches and the State." Chaplains in the military, as well as Catholic emblems on public buildings and monuments, were all eliminated. Health and education services supported by the state have been secularised. The clergy were removed from hospital and school boards and faculties. For all pupils, a new national education system without religious instruction was implemented.

As the climax of these reforms, the Separation of Churches and State Act of 1905¹⁹ declared: "The Republic guarantees freedom of conscience." It provides the free exercise of religion subject to future safeguards implemented in the interest of maintaining public order. It annulled the state support and funding of some religions established by Napoleon, revoked the Concordat of 1801 and stripped the Catholic Church of its national official position. The law from 1905 has, for the most part, persisted. It was incorporated into the Constitution of the present (Fifth) French Republic upon its creation in 1958, as was the *Déclaration* of 1789, which also emphasised intellectual liberty. As a result of these rules, France can claim to be secular because religious organisations do not dominate official institutions and the law guarantees freedom of religion or belief.

In ancient India, the promotion of *dharma* (law, duty, morality, and religion) was considered the state's primary objective. It was expected of the king to promote piety and morality and assist religious organisations. The government was not founded on dogma, and it treated the various religions with a high degree of fairness. In spite of this, the religious orientation was quite prominent. The relationship between *dharma* and the state suggested that the latter was ultimately related to the ultimate purpose of existence. In order to promote *dharma*, Hindu monarchs constructed temples, bestowed them with vast endowments, and exercised close oversight over their activities. The government was tolerant of all religions and frequently assisted all of them. The religiously tolerant Hindu state, which supported all religions equally, was one of the historical foundations of secularism.²⁰ A conception of the two forces, temporal

¹⁸ Christopher Lizotte, *Laïcité as assimilation, laïcité as negotiation: Political geographies of secularism in the French public school*, 77 POLITICAL GEOGRAPHY 102121, XXXX (2020), <https://doi.org/10.1016/j.polgeo.2019.102121> (last visited May 11, 2023).

¹⁹ *The law of 1905 - musée protestant*, MUSÉE PROTESTANT, <https://museeprotestant.org/en/notice/the-law-of-1905/> (last visited May 5, 2023).

²⁰ DONALD EUGENE SMITH, *INDIA AS A SECULAR STATE*. 57 (Princeton University Press 1963).

and spiritual, existed from the beginning of time and was backed by a divinely established social order. The Brahman symbolised spiritual authority, and only he was permitted to offer sacrifices and recite sacred incantations. The Kshatriya caste provided the monarchs and the troops, although non-Kshatriya dynasties were established over time. While the Brahman was at the pinnacle of the caste structure and spiritually superior to the Kshatriya, his only valid job was that of a priest; his superior rank did not grant him direct influence in government matters. This tradition advocates a particular facet of secularism.²¹ We have noted that the early theory of the two powers clearly divided between temporal and spiritual authority. Nonetheless, this view was founded on religious tenets and explicated in religious scriptures. It was formed from the concept of a divinely ordained social order in which each caste had a specific role to play in advancing dharma.²²

In ancient India, the government never attempted to impose a single religion on the populace. A variety of schools of thought advocated agnosticism, atheism, and materialism. Jainism, Buddhism, and subsequently Judaism, Christianity, Zoroastrianism, and Islam were allowed to preach their respective teachings, construct their respective places of worship, and create their own ways of life. The centuries-long struggle for religious liberty in Europe and the United States has no parallel in Indian history.²³

In the religious realm, the Middle Ages witnessed both extremes, liberalism and fanaticism. During the reign of Akbar, the Indian state was liberal, however during the reign of Aurangzeb, fanaticism reached its peak. Yet, neither regime was absolute, as neither fanatical nor totalitarian was adopted by all subjects. Akbar was a nonreligious ruler. He was a tolerant monarch, as evidenced by his propagation of Divine Faith and his concept of 'Ibadat,' in which Brahmin academics engaged in religious discourse in society (39). While the Deccan wars were costing him heavily, he reinstated the jiziyah tax to improve the economy. The policies were always based on the prevailing politics and economy. This is obvious from the few characteristics of Muslim rule that communal historians exploit, such as the destruction and looting of temples.

In the subsequent period of British control, the meaning of secularism changed. We might say that British policies established the historical foundation for India's secularism. These strategies integrated three distinct functions: the commercial motive of the British government, the traditional outlook of India, and missionary pressure. The stance of religious neutrality permitted them to refrain from interfering with people's social rituals and traditions.

²¹*Id.* at 58.

²² SMITH, *supra* note 19, at 60.

²³ SMITH, *supra* note 19, at 61.

Nonetheless, they did not strictly adhere to religious neutrality, as evidenced by the elimination of Sati by William Bentick's Castes Disabilities Removal Act and Wood's education despatch for secular education in 1855. The secular education aided in the nation's unification as well as the acquisition of Western concepts such as liberty, scientific inquiry, nationalism, etc. Steps towards secularism included the modification and codification of legislation, the establishment of the concept of rule of law, the principle of equality before the law, and uniform criminal law. On the other hand, the partition of Bengal in 1905, separate electorates under the Indian Councils Act in 1909, the Government of India Act in 1919, and the Ramsay Communal Award in 1932, which provided separate electorates for minorities, served as the foundation for the Government of India Act of 1935. Consequently, they adopted the "divide and rule" strategy, which prepared the way for antiseccular ideas. The sole purpose of such actions was to protect their personal political standing in India and to split the national independence effort. Hence, the British served both sides of the coin and employed a dubious tactic to protect their own financial and political interests.

III. LEGAL FRAMEWORK

The legal framework of French secularism is based on the concept of "laïcité", which is enshrined in the French Constitution. Laïcité is a complex and multifaceted concept that aims to ensure the separation of religious institutions and beliefs from the state and its institutions, while also protecting the rights of individuals to practice their religion or belief. The legal framework of French secularism is built on a series of laws and court decisions that have developed over the years. One of the most important laws is the 1905 Law on the Separation of Church and State, which established the principle of secularism in France and officially ended the Catholic Church's status as the state religion.²⁴

Other laws and regulations have further codified the principles of secularism in different aspects of French society, including education, public administration, and public spaces. For example, the 2004 Law on Secularity and Conspicuous Religious Symbols in Schools²⁵ prohibits students from wearing religious symbols in public schools. The French judiciary plays an essential role in interpreting and enforcing the legal framework of secularism. Courts are often called upon to resolve disputes that arise when religious beliefs come into conflict with other principles, such as freedom of expression or equality before the law. In many cases, courts have upheld the

²⁴ Lizotte, *supra* note 17.

²⁵ Law governing, in application of the principle of secularism, the wearing of signs or outfits manifesting a religious affiliation in public schools, colleges and high schools, Law No. 228, Mar. 15, 2004, XXXX (France), <https://www.legifrance.gouv.fr/dossierlegislatif/JORFDOLE000017759496/> (last visited May 4, 2023).

principles of secularism, even when they clash with religious beliefs or practices.

There are several laws in France dealing with secularism, which is a core principle of the French Republic. Here are some of the most important ones:

1. **The 1905 Law on the Separation of Church and State**²⁶: This law officially ended the Catholic Church's status as the state religion and established the principle of secularism in France. It also provided for the transfer of property from religious organizations to the state. The 1905 Law on the Separation of Church and State, also known as the "1905 Law of Separation," is a foundational law in the history of French secularism. The law officially established the principle of *laïcité* in France and mandated the separation of church and state. Under the law, the French state no longer recognized any religion as the state religion, and all religious institutions were made equal under the law. The law also abolished state funding for religious activities and education, and prohibited religious instruction in public schools. It allowed for freedom of religion and belief for individuals, but also made clear that the exercise of those freedoms must not infringe upon public order or the rights of others. The 1905 Law was a response to long-standing tensions between the French state and the Catholic Church, which had historically wielded significant political and social power in France. The law was passed during a period of intense debate and conflict between secular and religious forces in French society, and it remains a cornerstone of French secularism today. Although the law has been amended and clarified over the years, its basic principles have remained intact, and it continues to shape the relationship between religion and the state in France.
2. **The 1958 Constitution**²⁷: This constitution reaffirmed the principle of secularism and provided for the creation of the Constitutional Council, which is responsible for ensuring the constitutionality of laws and regulations. The 1958 French Constitution contains several provisions related to secularism, which reflect the principles of *laïcité* that have been central to French political and legal culture since the early 20th century. Here are some of the key provisions:

Article 1 of the Constitution declares that France is a "republican, democratic and social" state that is "indivisible, secular, democratic and social."²⁸ This language affirms the principle of secularism as a core value of the French state.

²⁶ *Supra* note 18.

²⁷ 1958 LA CONSTITUTION (Fr.)

²⁸ *Id.* art. 1.

Article 2 states that "the language of the Republic shall be French" and that "the national emblem shall be the tricolor flag, blue, white, and red."²⁹ These provisions reflect the idea that the French state is based on a common language and culture, rather than on any particular religious or ethnic identity.

Article 6 states that "the French Republic shall respect all beliefs," and that "it shall not recognize, finance or subsidize any religious denomination."³⁰ This provision affirms the principle of state neutrality with respect to religion, and reinforces the separation between church and state established by the 1905 Law on the Separation of Church and State.

Article 10 guarantees freedom of conscience and religion, as well as the freedom to express one's beliefs. However, it also states that these freedoms must be exercised "in accordance with the law" and with "respect for public order."³¹ This provision recognizes the importance of individual freedom of religion and belief, but also places limits on those freedoms in order to ensure the stability and cohesion of French society.

Overall, the provisions of the 1958 Constitution reflect the importance of secularism as a fundamental value of the French Republic, and emphasize the need for state neutrality with respect to religion in order to ensure the rights and freedoms of all citizens.

3. **The 2004 Law on Secularity and Conspicuous Religious Symbols in Schools³²:** This law prohibits students from wearing conspicuous religious symbols in public schools. also known as the "headscarf ban," was a controversial piece of legislation that prohibited students in French public schools from wearing "conspicuous" religious symbols, including the Islamic headscarf, Jewish yarmulkes, and large Christian crosses. Here are some of the salient features of the law:

- a. The law applies to all public schools in France, from elementary schools to universities.
- b. It prohibits the wearing of "conspicuous" religious symbols, which are defined as any clothing or accessory that "conspicuously" indicates the student's religious affiliation.
- c. The law applies to all religions equally, and is not limited to any particular religious group.
- d. The law provides for sanctions against students who violate the ban, including suspension or expulsion from school.

²⁹ *Id.* art. 2.

³⁰ *Id.* art. 6.

³¹ *Id.* art. 10.

³² *Supra* note 24.

- e. The law also requires teachers and other school personnel to maintain strict neutrality with respect to religion while on the job.

The 2004 law was highly controversial, with critics arguing that it violated the religious freedom of students and was discriminatory against Muslim girls who wear the headscarf. Supporters of the law, however, argued that it was necessary to ensure the secular character of French public schools and to prevent the influence of religious extremism in the classroom. Despite ongoing debates and challenges, the law remains in effect today.

4. **The 2010 Law on the Wearing of the Full-Face Veil in Public Spaces³³:** This law prohibits the wearing of the full-face veil, such as the burqa or niqab, in public spaces in France. The 2010 Law on the Wearing of the Full-Face Veil in Public Spaces, also known as the "burqa ban," is a law that prohibits the wearing of full-face veils in public spaces in France. Here are some of the important provisions of the law:
 - a. The law applies to anyone who wears a full-face veil, including the burqa and the niqab, in public spaces.
 - b. Public spaces include streets, parks, public transportation, and any other places that are accessible to the public.
 - c. The law imposes a fine of up to 150 euros on anyone who violates the ban.
 - d. The law also requires anyone who forces a woman to wear a full-face veil to face a fine of up to 30,000 euros and up to one year in prison.
 - e. The law provides for exceptions, such as for health reasons, sports activities, or artistic performances.

The 2010 law has been criticized for targeting Muslim women and violating their religious freedom. Supporters of the law argue that it is necessary for security reasons and to ensure the secular character of public spaces in France. The law has faced legal challenges, but remains in effect today.

In addition to these laws, there are also numerous court decisions and administrative regulations that further clarify and enforce the principles of secularism in France. Overall, the legal framework of secularism in France is designed to ensure the separation of religious institutions and beliefs from the state, while also protecting individual freedom of religion and belief.

³³ Law on the Wearing of the Full-Face Veil in Public Spaces, Law No. 1192, Oct. 11, 2010, XXXX (France), <https://www.legifrance.gouv.fr/loda/id/JORFTEXT000022911670> (last visited May 6, 2023).

Overall, the legal framework of French secularism is designed to protect individual freedoms while ensuring that the state remains neutral with respect to religion. While controversies and debates around the concept of *laïcité* continue, it remains a fundamental aspect of French identity and democracy.

Secularism under the Indian constitutional framework is a fundamental principle that underpins the nation's democratic values. It ensures that the state maintains an equal distance from all religions and does not favor or discriminate against any religion. The concept of secularism in India is enshrined in the Preamble of the Constitution, which declares India as a "sovereign, socialist, secular, democratic republic."

Key features of secularism in the Indian Constitution include:

1. **Preamble:** As mentioned earlier, the Preamble of the Constitution mentions secularism as one of its core principles, ensuring that the state does not have any official religion and does not favor any particular religion.
2. **Fundamental Rights³⁴:** The Constitution guarantees certain fundamental rights that uphold secularism. For example:
 - a. **Article 14:** It ensures equality before the law and equal protection of the laws for all citizens, irrespective of their religion.
 - b. **Article 15:** It prohibits discrimination on the grounds of religion, race, caste, sex, or place of birth.
 - c. **Article 16:** It guarantees equality of opportunity in matters of public employment, without any discrimination based on religion.
 - d. **Article 25:** It guarantees freedom of conscience and the right to freely profess, practice, and propagate any religion.
 - e. **Article 26:** It guarantees the right of religious denominations to manage their own affairs in matters of religion.
 - f. **Article 27:** It prohibits the state from compelling any person to pay taxes for the promotion or maintenance of any particular religion.
3. **Directive Principles of State Policy³⁵:** These are guidelines for the state to follow while formulating policies and laws. Article 44, for example, encourages the state to secure a Uniform Civil Code for all citizens, which would ensure a common set of laws governing personal matters irrespective of religion.

³⁴ INDIA CONST. arts. 14, 15, 16, 25, 26, 27.

³⁵ INDIA CONST. art. 44.

4. **Fundamental Duties**³⁶: Article 51A of the Constitution lists the fundamental duties of citizens. It mentions that it is the duty of every citizen to promote harmony and the spirit of common brotherhood amongst all the people of India, transcending religious, linguistic, and regional or sectional diversities.

While the Indian Constitution upholds secularism, it is important to note that it does not advocate atheism or irreligion. Instead, it encourages the peaceful coexistence of different religions and guarantees the freedom to practice and propagate one's faith. The Indian brand of secularism differs from the Western concept of secularism, which often means the complete separation of religion and state. In India, the state can intervene in religious matters for social reform, but it must maintain impartiality towards all religions.

IV. CURRENT PRACTICES

French secularism, known as "laïcité," is a unique approach to secularism that emphasizes the strict separation of religion and state. It is rooted in the French Revolution, the Enlightenment, and the subsequent secularist movement. Laïcité has evolved over time and is characterized by the following features in practice:

Separation of Church and State: The 1905 French law on the Separation of the Churches and the State is the foundation of French secularism. This law ensures the neutrality of the state concerning religious beliefs and practices. It guarantees freedom of religion and prohibits the state from recognizing, funding, or endorsing any religion.

Neutrality of public institutions: Public institutions, including schools and government offices, are expected to maintain a neutral stance on religious matters. This means that religious symbols and practices are generally not allowed in public institutions. The goal is to create a secular space where all citizens can interact without any religious influence.

Religious symbols and clothing: In 2004, France introduced a law that bans the wearing of conspicuous religious symbols, such as hijabs (headscarves), kippahs (skullcaps), and large crosses, in public schools. This law was further expanded in 2010 to prohibit face-covering veils (such as the burqa or niqab) in public spaces. The goal of these laws is to maintain the secular character of public spaces and institutions.

Education: Public education in France is secular, and religious instruction is not part of the public school curriculum. Instead, students learn about different religions as part of their broader education in history and social studies. Religious instruction, if desired, is provided through

³⁶ INDIA CONST. art. 51A.

private religious schools or in the home.

No state funding of religious organizations: The French state does not provide financial support to religious organizations. However, the state can provide funding for the cultural, social, or educational activities of religious organizations if those activities have a secular purpose.

Public officials and religious neutrality: Public officials in France are expected to maintain religious neutrality in the exercise of their duties. They should not display or promote their religious beliefs while on duty or use their position to further any religious agenda.

While French secularism is aimed at promoting religious freedom and maintaining a neutral public space, it has been the subject of debates and controversies. Critics argue that the strict separation of religion and state can infringe on individual religious rights and disproportionately affect minority religious groups, particularly Muslims. Proponents maintain that *laïcité* is essential to preserve the values of the French Republic and ensure social cohesion in a diverse society.

In India, the practice of secularism is based on the idea of equal respect and protection for all religions under the law. While the Constitution enshrines secular principles, the actual practice of secularism in India is influenced by the socio-political context and historical events. Here are some aspects of how secularism is practiced in India:

No state religion: India does not have an official state religion. The state is required to maintain neutrality and equal distance from all religions. This ensures that citizens of different religious backgrounds are treated fairly and without prejudice.

Protection of religious rights: The Indian Constitution guarantees the right to freedom of religion, allowing individuals to practice and propagate their faith without interference. Religious minorities, such as Christians, Muslims, Sikhs, Buddhists, Jains, and others, can freely practice their religion and maintain their places of worship.

Personal laws: In India, different religious communities are governed by their own personal laws in matters of marriage, divorce, inheritance, and adoption. These laws reflect the diversity of religious practices in India. However, calls for a Uniform Civil Code, as mentioned in the Directive Principles of State Policy, have been ongoing to ensure a common set of laws for all citizens.

Interference in religious affairs: While the Indian state is secular, it can intervene in religious matters for social reform or to maintain public order. For instance, the government has taken steps to outlaw practices like triple talaq in Muslim personal law and sati in Hindu customs. The

state also maintains and manages historical religious sites, like the management of temples through the Temple Entry Proclamation.

Educational institutions: India has a mix of both secular and religious educational institutions. Many religious institutions provide secular education alongside religious teachings. While the government financially supports religious schools, it ensures that these institutions do not discriminate against students from different religious backgrounds.

Holidays and festivals: India recognizes and celebrates the religious festivals of different communities. National holidays include major religious festivals like Diwali, Eid, Christmas, and Buddha Purnima, representing the diverse religious landscape of the country.

Political parties and secularism: Indian political parties often have diverse ideologies, with some advocating secularism while others promoting religious or cultural nationalism. The political discourse in India is influenced by the secular principles enshrined in the Constitution, but it is also shaped by the socio-political context and the aspirations of various communities.

In summary, while the Indian Constitution promotes secularism, the actual practice of secularism in India is influenced by its diverse religious landscape, historical context, and the interplay of socio-political forces. The country has made strides in promoting religious tolerance and harmony, but challenges remain, such as communal tensions and issues related to religious conversion. India's secularism is an evolving process, and the country continues to grapple with balancing religious rights and maintaining social cohesion.

V. COMPARATIVE ANALYSIS OF FRENCH AND INDIAN SECULARISM

French and Indian secularism differ in their approaches to the relationship between religion and state. Both systems aim to uphold religious freedom and maintain social cohesion, but their historical backgrounds and underlying principles lead to distinct practices. Here is a comparative analysis of French and Indian secularism:

Foundation and historical context:

French secularism (*laïcité*) is rooted in the French Revolution, the Enlightenment, and the 1905 law on the Separation of the Churches and the State, which established a clear division between religion and state affairs.

Indian secularism has its foundation in the Indian Constitution, which was framed in the context of a diverse and religiously plural society. The goal was to ensure equal treatment of all religions and prevent any religious group from dominating others.

State and religion:

French secularism emphasizes the strict separation of religion and state, with the state maintaining neutrality concerning religious beliefs and practices.

Indian secularism, on the other hand, does not advocate a complete separation of religion and state. The state maintains a principled distance from all religions while ensuring equal treatment and protection under the law. In certain cases, the state can intervene in religious matters for social reform or public order.

Religious symbols and clothing:

France enforces laws banning conspicuous religious symbols in public schools and face-covering veils in public spaces to maintain the secular character of public institutions.

In India, there is no such nationwide ban on religious symbols or clothing. Individuals are generally free to wear religious attire in public spaces and institutions, with some exceptions for security or public order reasons.

Education:

French public education is strictly secular, with religious instruction not part of the public school curriculum. Students learn about different religions as part of their broader education in history and social studies.

In India, there is a mix of secular and religious educational institutions. While religious instruction is not mandatory in public schools, many religious institutions provide secular education alongside religious teachings.

Personal laws:

France has a uniform civil code, which means that all citizens, regardless of their religious background, are subject to the same laws in matters of marriage, divorce, inheritance, and other personal matters.

India, on the other hand, follows different personal laws for different religious communities in matters of marriage, divorce, inheritance, and adoption. This system reflects the religious diversity of Indian society.

State funding of religious organizations:

French secularism prohibits the state from providing financial support to religious organizations.

In India, the state can financially support religious institutions and activities, provided they serve a broader public purpose, such as maintaining historical religious sites or promoting social

welfare.

In conclusion, French secularism emphasizes a strict separation of religion and state and seeks to create a neutral public space, whereas Indian secularism focuses on equal treatment and protection of all religions, allowing for greater interaction between the state and religious institutions. Both systems have unique challenges and continue evolving in response to changing social and political contexts.

VI. EPILOGUE: BALANCING PLURALISM AND SOCIAL COHESION

As we conclude our exploration of French and Indian secularism, it is clear that both systems have developed their unique approaches to managing the complex relationship between religion and state. While French secularism emphasizes the strict separation of religion and state to create a neutral public space, Indian secularism focuses on ensuring equal treatment and protection for all religious groups in a diverse society.

Despite their differences, both models of secularism seek to achieve a delicate balance between protecting religious freedom, fostering social cohesion, and upholding democratic values. Each system has faced its share of challenges and criticisms: French secularism has been accused of infringing on individual religious rights and disproportionately affecting minority religious groups, while Indian secularism has grappled with communal tensions and the politicization of religion.

In the 21st century, as societies around the world become increasingly diverse and interconnected, the need for a nuanced understanding of secularism becomes more critical. The French and Indian experiences offer valuable insights into the various ways countries can navigate the delicate balance between pluralism and social cohesion. They also highlight the importance of continually reassessing and refining secular policies to ensure they remain relevant, inclusive, and responsive to the changing social, cultural, and political contexts.

Ultimately, the success of any secular system depends on its ability to adapt, accommodate, and respect the rights and beliefs of all its citizens while maintaining the core democratic values that underpin the social fabric. Both French and Indian secularism have much to teach us about the challenges and opportunities of fostering unity amidst diversity, and their ongoing evolution will undoubtedly continue to shape the global discourse on secularism in the years to come.
