



Religious Freedom in the United States, France, and India: A Comparative Analysis

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Abstract

Religious freedom is one of the most fundamental human rights recognized in democratic constitutional systems across the world. Different nations, however, adopt different constitutional and legal approaches to regulate the relationship between religion and the State. The United States follows a strict separation model based on the Establishment Clause and Free Exercise Clause of the First Amendment. France adopts the doctrine of *laïcité*, emphasizing strict secularism and exclusion of religion from the public sphere. India follows a unique model of positive secularism that permits State engagement with religion to ensure equality, reform, and social justice. This research paper undertakes a comparative analysis of religious freedom in the United States, France, and India. It examines constitutional provisions, judicial interpretations, secular philosophies, landmark cases, and contemporary challenges relating to religious liberty. The paper further evaluates the strengths and limitations of each model and argues that the protection of religious freedom must balance individual liberty, public order, equality, and constitutional morality. The study concludes that despite differences in constitutional traditions, all three democracies continue to struggle with tensions between religious liberty and State regulation in increasingly pluralistic societies.

Keywords: Religious Freedom, Secularism, *Laïcité*, Constitutional Law, Human Rights, Comparative Constitutionalism, First Amendment, Indian Secularism.

Introduction

Religion has historically shaped civilizations, political systems, and social institutions. In modern constitutional democracies, however, the challenge lies in balancing religious liberty with public order, equality, and secular governance. Religious freedom includes the liberty to believe, practice, propagate, or reject religion without coercion or discrimination. It is recognized internationally under Article 18 of the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.



Different countries interpret religious freedom differently depending upon historical experiences, political philosophy, and constitutional development. The United States emphasizes institutional separation between church and state. France promotes *laïcité*, a strict form of secularism designed to exclude religious influence from public institutions. India adopts a pluralistic model based on equal respect for all religions and limited State intervention for social reform.

The comparative study of these systems is important because debates regarding religious symbols, minority rights, State neutrality, and constitutional morality continue to dominate legal and political discourse globally. Contemporary democracies face increasing challenges concerning multiculturalism, migration, religious extremism, and identity politics. Judicial interpretation has therefore become central in defining the scope and limits of religious freedom. This paper critically examines the constitutional foundations, judicial approaches, and practical operation of religious freedom in the United States, France, and India.

Meaning and Scope of Religious Freedom

Religious freedom refers to the liberty of individuals and groups to hold beliefs, practice religion, establish institutions, and manifest faith without State interference. It includes:

- Freedom of conscience.
- Freedom to profess religion.
- Freedom to practice religion.
- Freedom to propagate religion.
- Freedom from religious discrimination.
- Freedom not to follow religion.

Religious freedom is not absolute. Most constitutional systems permit reasonable restrictions in the interests of public order, morality, health, security, and rights of others.

The concept of secularism plays a significant role in defining the relationship between religion and State power. However, secularism does not possess a universal meaning. The United States, France, and India each interpret secularism differently according to their constitutional traditions.

Religious Freedom in the United States

Religious freedom in the United States is one of the most strongly protected constitutional rights and forms a fundamental aspect of American democracy. The constitutional basis of religious liberty is found in the First Amendment to the Constitution of the United States, which provides:

“Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof.”

This provision contains two essential clauses that collectively shape the American approach toward religion and State relations: the Establishment Clause and the Free Exercise Clause.

The Establishment Clause prohibits the government from establishing an official religion or giving preference to one religion over another. Its primary purpose is to maintain governmental neutrality in religious matters and prevent the emergence of a State sponsored religion. Historically, this principle emerged from the experiences of early American settlers who sought



freedom from religious persecution and compulsory religious practices prevalent in Europe. The clause therefore ensures that the government cannot compel citizens to follow any religious belief, finance religious activities unfairly, or promote religious doctrines through public institutions.

The Free Exercise Clause, on the other hand, guarantees individuals the freedom to practice, profess, and observe their religion without unnecessary governmental interference. This protection extends not only to religious beliefs but also, to a significant extent, to religious practices. Individuals are free to worship according to their conscience, establish religious institutions, and express their faith publicly, provided that such practices do not violate public laws or constitutional principles.

The American constitutional model is largely based on the principle of separation of church and state. This concept was famously articulated by Thomas Jefferson, who described the relationship between religion and government as a “wall of separation.” According to this philosophy, religion should remain independent from governmental control, while the State must avoid interference in purely religious matters. This separation is intended to protect both religious liberty and democratic governance.

Over time, the United States Supreme Court has played a crucial role in interpreting these constitutional provisions. Judicial decisions have clarified the limits of government involvement in religion, including issues relating to school prayer, religious symbols, public funding of religious institutions, and religious exemptions from general laws. The constitutional framework thus seeks to balance religious freedom with public order, equality, and constitutional governance.

The American approach to religious freedom has significantly influenced constitutional democracies worldwide and remains a central model in discussions concerning secularism and human rights.

Judicial Interpretation in the United States

Reynolds v. United States (1879)

In *Reynolds v. United States*, the Supreme Court distinguished between religious belief and religious practice. While beliefs were absolutely protected, practices contrary to law could be regulated.

Everson v. Board of Education (1947)

In *Everson v. Board of Education*, the Court emphasized strict separation between church and state while permitting indirect public benefits to religious institutions.

Engel v. Vitale (1962)

In *Engel v. Vitale*, the Supreme Court held that State sponsored prayer in public schools violated the Establishment Clause. This judgment reinforced governmental neutrality toward religion.

Employment Division v. Smith (1990)

In *Employment Division v. Smith*, the Court ruled that neutral laws of general applicability may incidentally burden religious practices without violating the Constitution. The decision generated significant controversy and led to the enactment of the Religious Freedom Restoration Act, 1993.



Burwell v. Hobby Lobby Stores (2014)

In *Burwell v. Hobby Lobby Stores*, the Court allowed closely held corporations to claim religious exemptions under federal law. The judgment expanded religious liberty claims in commercial contexts.

Features of the American Model

- Strong protection of individual liberty.
- Institutional separation between church and state.
- Judicial protection of minority faiths.
- Limited State involvement in religion.
- Broad protection for religious expression.

Religious Freedom in France

French secularism developed primarily from the anticlerical movement that emerged during the French Revolution of 1789. Before the Revolution, the Catholic Church exercised enormous political, social, and economic influence in France. The Church enjoyed special privileges, controlled educational institutions, and maintained close relations with the monarchy. Revolutionary thinkers viewed this dominance as inconsistent with liberty, equality, and democratic governance. Consequently, the French Republic sought to reduce religious authority over public institutions and establish a secular political order.

The principle of *laïcité* gradually became central to French constitutional identity. The concept reflects the idea that the State must remain completely neutral in matters of religion and must prevent religious influence from interfering with public administration and civic life. French secularism was therefore designed not only to guarantee freedom of religion but also to protect the Republic from religious domination.

A major milestone in the development of French secularism was the enactment of the Law of 1905 on the Separation of Churches and State. This law formally ended official recognition and financial support of religious institutions by the State. It established a clear separation between religious organizations and governmental authority and remains one of the foundations of modern French secularism.

The term *laïcité* refers to strict State neutrality toward religion and the exclusion of religious influence from public institutions. Unlike the American model, which focuses primarily on protecting religious liberty and preventing establishment of religion, French secularism also seeks freedom from visible religious influence in the public sphere. Public institutions such as schools and government offices are expected to remain religiously neutral.

The French Constitution further strengthens this principle by declaring France to be an “indivisible, secular, democratic, and social Republic.” Thus, *laïcité* represents both a constitutional principle and a national value aimed at preserving equality, neutrality, and unity within French society.



Regulation of Religious Symbols

Headscarf Ban (2004)

France enacted legislation prohibiting conspicuous religious symbols in public schools, including:

- Islamic hijabs.
- Large Christian crosses.
- Jewish kippahs.
- Sikh turbans.

The law was justified on grounds of secularism and neutrality.

Face Covering Ban (2010)

France prohibited face coverings in public spaces, including the burqa and niqab. Supporters argued that the ban protected secularism and public security, while critics viewed it as discriminatory toward Muslims.

Judicial Approach in France

French courts generally prioritize secular neutrality over public religious expression. The European Court of Human Rights has often upheld French restrictions under the “margin of appreciation” doctrine.

Criticism of French Secularism

Critics argue that laïcité may disproportionately affect minority religious communities, particularly Muslims. Major criticisms include:

- Restriction of personal liberty.
- Marginalization of minorities.
- Excessive State control over public religious expression.
- Cultural assimilation pressures.

Religious Freedom in India

India follows a unique model of positive secularism based on equal respect for all religions. Unlike the strict separation model adopted in some Western countries, Indian secularism permits constructive engagement between the State and religion while ensuring neutrality and equality among all faiths. The Constitution of India guarantees religious freedom primarily through Articles 25 to 28 under Part III dealing with Fundamental Rights.

Article 25

Article 25 guarantees freedom of conscience and the right freely to profess, practice, and propagate religion. Freedom of conscience means that every individual has the liberty to believe in any religion or not to follow any religion according to personal choice. The right to profess religion allows individuals to openly declare and express their religious beliefs. The right to practice religion includes performing rituals, ceremonies, and observances connected with faith, while the right to propagate religion permits individuals to spread and communicate their religious beliefs to others.



However, these freedoms are not absolute. Article 25 makes religious freedom subject to public order, morality, health, and other Fundamental Rights. The State may therefore impose reasonable restrictions where religious practices threaten social harmony, public safety, or constitutional values. Article 25 also empowers the State to enact laws for social welfare and reform.

Article 26

Article 26 grants religious denominations important collective rights. Every religious denomination has the right to establish and maintain institutions for religious and charitable purposes, manage its own affairs in matters of religion, own and acquire property, and administer such property in accordance with law. These rights ensure institutional autonomy for religious communities while allowing the State to regulate secular and administrative matters relating to religious institutions.

Articles 27 and 28

Article 27 prohibits the State from compelling any person to pay taxes specifically for the promotion or maintenance of a particular religion. This provision reflects the constitutional principle of State neutrality in religious matters. Article 28 regulates religious instruction in educational institutions and prohibits religious teaching in institutions wholly funded by the State, thereby maintaining secular character in public education.

Together, Articles 25 to 28 establish the constitutional foundation of religious freedom and secularism in India.

Indian Secularism

Indian secularism differs from both the American and French models. The Indian State does not maintain strict separation from religion. Instead, it may intervene to:

- Ensure social reform.
- Eliminate discrimination.
- Regulate secular administration of religious institutions.
- Protect minority rights.

Judicial Interpretation in India

Shirur Mutt Case (1954)

In *The Commissioner, Hindu Religious Endowments, Madras v. Sri Lakshmindra Thirtha Swamiar of Shirur Mutt*, the Supreme Court distinguished between essential religious practices and secular activities. The Court held that essential religious practices are constitutionally protected while secular administration may be regulated by the State.

S.R. Bommai v. Union of India (1994)

In *S.R. Bommai v. Union of India*, secularism was declared part of the Constitution's basic structure. The Court emphasized equal respect for all religions.

Bijoe Emmanuel v. State of Kerala (1986)

In *Bijoe Emmanuel v. State of Kerala*, Jehovah's Witness students were protected for refusing to sing the national anthem due to religious beliefs. The Court upheld freedom of conscience.



Indian Young Lawyers Association v. State of Kerala (2018)

In Indian Young Lawyers Association v. State of Kerala, the Supreme Court allowed entry of women into the Sabarimala temple. The Court prioritized constitutional morality and gender equality over exclusionary religious customs.

Shayara Bano v. Union of India (2017)

In Shayara Bano v. Union of India, the Supreme Court invalidated instant triple talaq. The judgment reflected judicial commitment to gender justice and constitutional reform.

Essential Religious Practices Doctrine

India developed the essential religious practices doctrine through judicial interpretation. Under this doctrine:

1. Essential practices receive constitutional protection.
2. Nonessential practices may be regulated.

The doctrine remains controversial because courts determine what constitutes an essential religious practice. Critics argue that judges lack theological expertise, while supporters believe the doctrine prevents misuse of religion.

Comparative Analysis of Secularism

Similarities among the Three Systems

- All recognize religious freedom as a constitutional value.
- All permit reasonable restrictions in public interest.
- Courts play central roles in interpreting religious liberty.
- None allow unlimited religious freedom.
- Public order and constitutional principles may override religious practices.

Differences among the Three Systems

- The United States emphasizes institutional separation.
- France prioritizes public secularism over visible religious expression.
- India balances religious freedom with social reform.
- France restricts religious symbols more aggressively.
- India permits State engagement with religion for welfare and reform.

Contemporary Challenges

- Religious Extremism All three countries face challenges relating to radicalization and religious intolerance.
- Minority Rights balancing majority culture with minority religious rights remains controversial.
- Gender Equality Religious practices affecting women's rights continue to generate litigation.
- LGBTQ+ Rights Conflicts between religious beliefs and antidiscrimination laws have increased globally.
- Immigration and Multiculturalism France and the United States particularly face challenges arising from immigration and cultural diversity.

Role of Judiciary



Courts play a decisive role in balancing religious freedom and constitutional values. Judicial functions include:

- Protecting minority rights.
- Reviewing State restrictions.
- Interpreting constitutional principles.
- Resolving conflicts between liberty and equality.

International Human Rights Perspective

International law recognizes freedom of religion under:

- Universal Declaration of Human Rights, 1948.
- International Covenant on Civil and Political Rights, 1966.
- European Convention on Human Rights.
- Article 18 of the ICCPR protects freedom of thought, conscience, and religion.

Critical Evaluation

The American model strongly protects individual liberty but struggles with religious influence in politics. The French model preserves strict secular neutrality but is criticized for limiting public religious expression. The Indian model promotes pluralism and accommodation but faces challenges relating to selective intervention and communal tensions. No constitutional system has completely resolved the tension between religion and secular governance. Comparative constitutionalism demonstrates that secularism is not a uniform doctrine but an evolving constitutional principle shaped by historical and cultural conditions.

Suggestions and Recommendations

- Strengthen protection of minority religious rights.
- Promote constitutional tolerance and pluralism.
- Ensure judicial consistency in religious freedom cases.
- Avoid excessive politicization of religion.
- Balance equality with genuine religious autonomy.
- Encourage interfaith dialogue and constitutional education.
- Ensure that secularism does not become hostility toward religion.

Conclusion

Religious freedom remains one of the most complex constitutional issues in democratic societies. The United States, France, and India represent three distinct approaches to secularism and religious liberty.

The United States prioritizes institutional separation and individual freedom. France emphasizes strict public secularism through *laïcité*. India adopts a pluralistic and reform oriented approach balancing religious autonomy with social justice.

Despite constitutional differences, all three systems seek to preserve democratic order while accommodating religious diversity. Judicial interpretation has become central in resolving conflicts between religion, equality, liberty, and public policy.



The comparative analysis demonstrates that secularism cannot be reduced to a single universal model. Each constitutional system reflects historical experiences, political philosophy, and societal needs. In increasingly multicultural societies, the future of religious freedom depends upon constitutional tolerance, judicial balance, and respect for human dignity.

The constitutional journey of religious freedom in the United States, France, and India reflects three distinct democratic experiments in balancing religion and State power. While the United States protects liberty through separation, France safeguards public secularism through *laïcité*, and India pursues harmony through pluralistic secularism. The continuing evolution of constitutional jurisprudence in these countries demonstrates that religious freedom remains dynamic, contested, and deeply connected with democracy, human dignity, and constitutional governance.

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